



Michigan State University Extension Land Use Series

#1B: Sample Ordinance to Create a Planning Commission

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This is a presentation of one sample of an ordinance adoption by a legislative body to create a Planning Commission in Michigan. This sample is based on Michigan Public Act 33 of 2008, as amended, (being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et. seq.*), and recommendations of the author and reviewers of this pamphlet.

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The Michigan Planning Enabling Act, adopted in 2008, changed what is needed in the Ordinance creating a planning commission, and provides new duties and power to many planning commissions in the state. The purpose of this act was to create a single set of procedures to follow regardless of whether planning is being done by a city, village, township, or county. After September 1, 2008 (the effective date of the act) only the procedures in the Michigan Planning Enabling Act should be used as the act replaces the following statutes. The act reads:

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”.

– M.C.L. 125.3811(1) (emphasis added)

*“Thirty seven million acres is
all the Michigan we will ever have”*
William G. Milliken

This is a fact sheet developed by experts on the topic(s) covered within MSU Extension. Its intent and use is to assist Michigan communities making public policy decisions on these issues. This work refers to university-based peer reviewed research, when available and conclusive, and based on the parameters of the law as it relates to the topic(s) in Michigan. This document is written for use in Michigan and is based only on Michigan law and statute. One should not assume the concepts and rules for zoning or other regulation by Michigan municipalities and counties apply in other states. In most cases they do not. This is not original research or a study proposing new findings or conclusions.

If your community has not adopted a new planning commission ordinance since September 1, 2008, the ordinance or resolution, adopted to create the planning commission, will be out-of-date. The existing ordinance will need to be amended, or replaced, to reflect the concepts contained in this sample ordinance. If the planning commission was created by adoption of a resolution, then the legislative body will need to adopt an ordinance similar to this one for the planning commission to continue.

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 team can assist with sample materials; coordinating efforts between the township, county, and the state; and providing guidelines.

This outline is not designed as a substitute for reading and understanding the Michigan Planning Enabling Act. This outline is not a substitute for legal advice or for professional planner services.

It is important to document each step of the process in planning and zoning a community. Keep detailed minutes, affidavits of publication and mailing, open meeting notices, letters of transmittal, and communications all on file so years from now they are still available.

The following is offered as sample ordinance or ordinance amendment language. It is intended as a starting point for a community to use when considering this issue. These are written in an attempt to cover most needs that may occur. Before adoption they should be reviewed, and sections which are not pertinent omitted. In the sample ordinance, below, text which appear in brackets ([]) should be replaced with the specific name, number, date, as indicated. Material in a sidebar, or box, includes additional discussion and alternatives to consider.

This is a sample, meaning that it is not a definitive recommendation by the authors or MSU Extension. A sample is a starting point for discussion and development of an ordinance, ordinance amendment, or zoning ordinance amendment that is appropriate for a particular community. Conversely a model ordinance, or amendment, would be presented as the ideal or utopia intended as a recommended approach. This is not a model ordinance, or ordinance amendment. That means any numerical standard (dimensional standard) offered in the sample zoning amendment is just a starting point for discussion. Often there is already discussion about the standard in the commentary which is intended to provide a community with information to decide what the numerical standard should be for a particular community.

This document is written for use in Michigan and is based only on Michigan law and statute. One should not assume the concepts and rules for an ordinance or zoning by Michigan municipalities and counties apply in other states. In most cases they do not.

If the ordinance is for a township: The ordinance needs to be adopted according to statute requirement for ordinance adoption by a township (MCL 41.181 *et seq.*).

If the ordinance is for a general law village: The ordinance needs to be adopted according to statute requirement for ordinance adoption by a general law village (MCL 67.1 *et seq.*).

If the ordinance is for a home rule village: The ordinance needs to be adopted according to both statute requirement for ordinance adoption by a home rule village (MCL 78.1 *et seq.*) and any further requirements found in the village charter.

If the ordinance is for a home rule city: The ordinance needs to be adopted according to statute requirement for ordinance adoption by a home rule city (MCL 117.3 *et seq.*) and any further requirements found in the city charter.

If the ordinance is for a county: Chances are the county does not have authority to adopt a police power ordinance. Enabling legislation for general ordinance powers by a county are very limited. See: http://msue.anr.msu.edu/news/county_government_powers_are_very_limited. For a county to be able to adopt an ordinance specific enabling legislation to do so must exist. Adoption of a county planning ordinance is one of the specific types of an ordinance a county can adopt. Authority to do so comes from the Michigan Planning Enabling Act (MCL 125.3801 *et seq.*). The ordinance needs to be adopted according to statute requirement for ordinance adoption by a township (MCL 46.11(j)).

If the ordinance is for a Joint Planning Commission: A Joint Planning Commission does not have any police power ordinance adoption authority. Such ordinances must be adopted by each municipality participating in the joint planning commission. The ordinance adopted by each participating municipality needs to be adopted according to statute for the respective municipality, listed above. See: http://www.canr.msu.edu/resources/sample_lo_joint_planning_commission_agreement_ordinance.

There are many different ways for an ordinance to deal with the issues outlined here. The sample provided here is just one. It is written with the assumption municipality's attorney whom is experienced in municipal law will review any proposed ordinance or amendments before they are adopted.

Following are versions of the sample ordinance with commentary.

[Local unit of government] **PLANNING COMMISSION ORDINANCE OF** [date]

[ANNOTATED]

Effective [date], as amended

WHEREAS, The People of [local unit of government] did establish the [local unit of government] Planning Commission Ordinance of [date], and it is now desired to repeal the existing ordinance and adopt this ordinance to insure proper record of the action is created, NOW THEREFORE, THE PEOPLE OF [local unit of government] DO ORDAIN THAT SAID ORDINANCE SHALL READ AS FOLLOWS:

Commentary: Alternative text for Creation of a brand new Planning Commission. §11 requires an ordinance to create a planning commission, §11(4) to continue an existing commission, or §11(1) to create a new commission which would then use this text instead:

WHEREAS, The People of [local unit of government] desire to establish a [local unit of government] Planning Commission by adoption of this Ordinance of [date], and to insure proper

record of the action is created, NOW THEREFORE, THE PEOPLE OF [local unit of government] DO ORDAIN THAT SAID ORDINANCE SHALL READ AS FOLLOWS: [End of commentary]

[local unit of government] **PLANNING COMMISSION ORDINANCE**

[Annotation: of [date].]

AN ORDINANCE to create a Planning Commission for the [local unit of government] as authorized by P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et. seq.* for the purpose of having planning and zoning in [local unit of government], to create, organize, enumerate powers and duties, and to provide for the regulation and subdivision of land, coordinated and harmonious development of the [local unit of government]; and to function in cooperation with other constituted authorities of incorporated and unincorporated areas within the state where [local unit of government] exists.

Commentary: Planning and Zoning, or just Zoning. Some communities create a planning commission just for planning, not for zoning. If that is the case this ordinance should be edited to remove references to zoning. [End of Commentary]

THE PEOPLE OF [local unit of government] DO ORDAIN:

101. Creation:

There shall be a [local unit of government] Planning Commission pursuant to P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et. seq.*, hereinafter referred to as the Commission with the powers and duties as therein set forth and as hereinafter provided and staffed Planning Department. This ordinance shall be officially known and described as the “[local unit of government] Planning Commission Ordinance.”

102. Membership:

Commentary: Membership Options

There are several membership options. One will need to be selected, and the others deleted. They are:

- A. For a township (see option A, below).
- B. For a City or home rule village with a charter, but nothing in the charter about planning, or a general law village and Township Planning Commission originally created under the Municipal Planning Act (see option B, below).
- C. For a county (see option C, below).
- D. For any of the following: a city or home rule village with a charter, but nothing in the charter about planning, or a general law village with a population less than 5,000 (see option D, below).
- E. For a city or home rule village with a charter which has provisions establishing a planning commission (see option E, below).

The ordinance, which is applicable to each form of government resumes, starting after option E, below, on page 19. [End of commentary]

Commentary, Ex Officio Planning Commission Members: While the MZEA prohibits a planning commissioner, who is also a member of the zoning board of appeals, from participating and voting on a matter they previously decided if appealed to the ZBA (MCL 125.3601(13)), there is no similar statutory prohibition preventing a planning commissioner, who is also a member of

the legislative body, from voting on the same matter if a decision is recommended to the legislative body for consideration.

The planning commission recommends a decision to the legislative body on all zoning amendments. The planning commission recommends decisions on special land use applications and master plans to the legislative body where that authority is retained by the legislative body. In these instances, a recommendation is different than a final decision, such that an ex officio member of the planning commission, also serving on the legislative body, can make a recommendation at the planning commission level and then vote on a final decision as a member of the legislative body. The ex officio member may follow their initial recommendation, but they are not required to do so. This distinction between a recommendation and a decision may not be apparent to the public. Consequently, a planning commission should consider clarifying this distinction with a motion to recommend (not a motion to approve) and document this in the meeting minutes.

Some professionals have historically recommended that communities adopt a provision in the planning commission bylaws barring an ex officio member from voting on both the planning commission recommendation and the legislative body decision (an earlier version of the MSU Extension sample bylaws for planning commissions included such a provision). This strategy is likely counter to principles of Michigan law, which reflect that local officials have a duty to vote on all questions as they arise, so long as they are free from conflicts of interest. Additionally, the MPEA states that ex officio members have full voting rights (MCL 125.3803(d)), and the Charter Township Act states that it is a requirement for all present board members to vote, unless excused by the unanimous consent of all other board members (MCL 42.7(6)). Accordingly, communities that have adopted such a provision that constrains ex officio members in this way should consider repealing that provision. Local government officials are encouraged to discuss this topic with their municipal attorney. [End of Commentary]

Commentary: Membership Option A. Use this text for a township planning commission (including charter townships). (§15(1)-15(3), 15(4)(c), 15(5), and 15(10)) [End of Commentary]

102. Membership:

- A. The Commission shall consist of ____ members appointed by the [local unit of government] [legislative body]. To be qualified to be a member and remain a member of the Planning Commission, the individual shall meet the following qualifications:

Commentary: Township Commission Membership

A township planning commission shall have 5, 7, or 9 members. The ordinance shall specify the actual number of members (not a range), so that changing the size of the planning commission requires amending the Ordinance. (§15(2))

All but one member shall be a “qualified elector” of a local unit of government’s planning commission. It is optional for a non-qualified elector to be a member. (§15(4)) [End of commentary]

1. shall be a qualified elector of [local unit of government], except that one member may be a non-qualified elector;
2. shall not hold any elected office or employment with the local unit of government, unless an ex officio member;
3. shall not be a declared candidate for any political office, except this condition shall not apply to the [legislative body] representative to the Commission;
4. after an individual’s first appointment and before reappointment shall have attended training for Commission members, pursuant to section 104 of this ordinance;
5. shall meet the conditions provided for each individual member in sections 102.B, 102.D, and 102.E of this Ordinance, except the geographical location of the individual’s residency may be considered optional.

Commentary: Membership Requirements

Residency in the local unit of government is required, except as explained in the box, above.

The other requirements (not a candidate (102.A.2.) and have taken training to be re-appointed (102.A.3.)) are not statutory requirements but recommended as best practices.

Before including section 102.A.2. about not being a candidate, check with your municipal attorney. People have a right to run for office. This does not deny that right – but requires one to resign from the planning commission first. Even that can be problematic. But when the planning commission is making administrative decisions (site plan review, special use, subdivisions) there can be good reason for membership that makes those decisions based on standards and not political election motivations.

An employee, or elected officer (except as provided) shall not be a member of a planning commission. [End of commentary]

- B. Members shall be appointed for three-year terms. However when first appointed a number of members shall be appointed to one-year, two-year, or three-year terms such that, as nearly as possible, the terms of $\frac{1}{3}$ of all commission members will expire each year. If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as provided for an original

appointment such that, as nearly as possible, the terms of $\frac{1}{3}$ of all commission members continue to expire each year.

- C. One member shall also be a member of the township board of trustees, whose term of office shall coincide with his or her elected term of office on the township board of trustees.

Commentary: Township Planning Created under Municipal Planning Act

A very small number of township planning commissions were originally created under the Municipal Planning Act (P.A. 285 of 1931, as amended, M.C.L. 125.31 *et seq.*). Only if that is the case, then 102.B. can also (1) specify the township supervisor, or (2) a member of the township board, or (3) both are members of the planning commission. (§15(5)) [End of commentary]

- D. The membership shall be representative of the 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], as follows:

1. Agriculture;
2. Natural resources;
3. Recreation;
4. Education;
5. Public health;
6. Government;
7. Transportation;
8. Industry;
9. Housing;
10. Commerce;
11. [other] _____.

Commentary: Representation

The legislative body will need to review what the specific “major interests” are in the community. The task is picking from the list provided here (including additional “major interests” which might also be considered.) (§15(3))

The ordinance shall specify the actual “major interests” chosen and assign each one (or two, or three) to one of the seats held by members of the planning commission, so that changing the list of “major interests” and seat assignments requires amending the Ordinance.

The text here, is relatively general and provides an unstructured appointment process, and likely best suited for a small rural township. However a more structured approach may be desired. If that is the case consider the approach recommended for a county planning commission on page 11 (section 102.F.). If this option is chosen, the word “county” should be replaced with the word “township” [End of commentary]

- E. The membership shall also be representative of the entire geography of the [local unit of government] to the extent practicable, and as a secondary consideration to the representation of the major interests.

Commentary: Membership Option B. Use this text for a city or home rule village with a charter, but nothing in the charter about planning, or a general law village (with any population size) planning commission and Township Planning Commission originally created under the Municipal Planning Act (§15(1)-15(3), 15(4)(a-c), 15(5), and 15(10))

102. Membership:

- A. The Commission shall consist of _____ members appointed by the [local unit of government] [legislative body]. To be qualified to be a member and remain a member of the Commission, the individual shall meet the following qualifications:

Commentary: City or home rule Village (with a charter, but nothing in the charter about planning) Commission Membership

A city or village planning commission shall have 5, 7, or 9 members. The ordinance shall specify the actual number of members (not a range), so that changing the size of the planning commission requires amending the Ordinance. (§15(2))

All but one member shall be a “qualified elector” of a city or village planning commission. However there are two exceptions to this:

1. If the city/village has a population between 2,700 and 2,800; three members may be non-qualified electors. (§15(4)(a))
2. If the city/village has a population between 0 and 5,000, except as provided in number 1, above; two may be non-qualified electors. (§15(4)(b)) [End of commentary]

1. shall be a qualified elector of [local unit of government], except _____[select 1, 2, or 3; see commentary] non-qualified elector(s) may be member(s) and one member of the commission;
2. shall not hold any elected office or employment with the local unit of government, unless an ex officio member;
3. shall not be a declared candidate for any political office, except this condition shall not apply to the [legislative body] representative to the Commission;
4. after an individual's first appointment and before reappointment shall have attended training for Commission members, pursuant to section 104 of this ordinance;

Commentary: Membership Requirements

Residency in the local unit of government is required, except as above.

The other requirements (not a candidate (102.A.2.) and have taken training to be re-appointed (102.A.3.)) are not a statutory requirements but recommended as best practices.

Before including section 102.A.2. about not being a candidate, check with your municipal attorney. People have a right to run for office. This does not deny that right – but requires one to resign from the planning commission first. Even that can be problematic. But when the planning commission is making administrative decisions (site plan review, special use, subdivisions) there can be good reason for membership that makes those decisions based on standards and not political election motivations. [End of commentary]

- B. Shall meet the conditions provided for each individual member in sections 102.B, 102.D, 102.E, and 102.F of this Ordinance, except the geographical location of the individual's residency may be considered optional.

- C. The membership shall be representative of the important geographic and interest segments of the of [local unit of government], as follows.
- D. Members shall be appointed for three-year terms. However when first appointed a number of members shall be appointed to one-year, two-year, or three-year terms such that, as nearly as possible, the terms of $\frac{1}{3}$ of all commission members will expire each year. If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment such that, as nearly as possible, the terms of $\frac{1}{3}$ of all commission members continue to expire each year.
- E. **Ex officio members shall include . . .** [Pick one of the alternative subsection “Ex officio” options to use (see side bar “City/Village Board member options” and “Township Planning Created under Municipal Planning Act”)]

Commentary: City/Village Board member options

There are three options for city/village council (“ex officio”) representation on the planning commission. In addition to the council member on the planning commission members may be: (1) the chief administrative officer or a person designated by him or her, or (2) the chief elected official (in addition to or instead of the council member on the planning commission), (3) another member of the city/village council, or (4) or any combination of the above, so long as no more than $\frac{1}{3}$ of the planning commission members are “ex officio” (§15(5)). [End of commentary]

Ex officio members shall include the chief elected official.

There shall not be any ex officio members on the planning commission.

Ex officio members shall include the chief administrative official, or a person designated by him or her.

Ex officio members shall include ___ [insert number] member(s) of the [legislative body].

Ex officio members shall include the chief administrative official, or a person designated by him or her and the chief elected official.

Ex officio members shall include the chief elected official and ___ [insert number] member(s) of the [legislative body].

Ex officio members shall include the chief administrative official, or a person designated by him or her and ___ [insert number] member(s) of the [legislative body].

Ex officio members shall include the chief administrative official, or a person designated by him or her; the chief elected official; and ___ [insert number] member(s) of the [legislative body].

Commentary: Township Planning Created under Municipal Planning Act

A very small number of township planning commissions were created under the Municipal Planning Act. Only if that is the case, then 102.D. can also (1) specify the township supervisor, or (2) a member of the township board, or (3) both are members of the planning commission (§15(5)). [End of commentary]

Ex officio members shall include the township supervisor. [this option for township planning created under the municipal planning act]

Ex officio members shall include one member of the township board. [this option for township planning created under the municipal planning act]

Ex officio members shall include the township supervisor and one other member of the township board. [this option for township planning created under the municipal planning act]

- F. The terms of office of ex officio members shall coincide with their elected terms of office on the legislative body or the term of office of the chief elected official who appointed him or her.
- G. The membership shall be representative of the important segments of the of 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], as follows:
1. Agriculture;
 2. Natural resources;
 3. Recreation;
 4. Education;
 5. Public health;
 6. Government;
 7. Transportation;
 8. Industry;
 9. Housing;
 10. Commerce;
 11. [other] _____.

Commentary: Representation

The legislative body will need to review what the specific “major interests” are in the community. The task is picking from the list provided here (including additional “major interests” which might also be considered.) (§15(3))

The ordinance shall specify the actual “major interests” chosen and assign each one (or two, or three) to one of the seats held by members of the planning commission, so that changing the list of “major interests” and seat assignments requires amending the Ordinance.

The text here, is relatively general and provides an unstructured appointment process, and likely best suited for a small village or city. However a more structured approach may be desired. If that is the case consider the approach recommended for a county planning commission on page 11 (section 102.F.). If this option is chosen, the word “county” should be replaced with the word “village” or “city”. [End of commentary]

- H. The membership shall also be representative of the entire geography of the [local unit of government] to the extent practicable, and as a secondary consideration to the representation of the major interests.
- I. A member of the [legislative body], Chief Administrative Officer, person designated by the chief administrative officer, and chief elected official of the [local unit of government] shall not be chair of the Commission.
- J. Not more than $\frac{1}{3}$ of the total membership of the Commission shall consist of, collectively, a member of the [legislative body], Chief Administrative Officer, person designated by the chief elected officer, or chief elected official of the [local unit of government].

Commentary: Membership Option C. Use this text for a county planning commission or local government with a larger population. (§15(1)-15(3), 15(4)(c), 15(5), 15(6), and 15(10))

102. Membership

- A. The Commission shall consist of ____ members appointed by the [local unit of government] [legislative body]. To be qualified to be a member and remain a member of the Planning Commission, the individual shall meet the following qualifications:

Commentary: County Commission Membership

A county planning commission shall have 5, 7, 9, or 11 members. The ordinance shall specify the actual number of members (not a range), so that changing the size of the planning commission requires amending the Ordinance. (§15(2))

All but one member shall be a “qualified elector” of a local unit of government’s planning commission. It is optional for a non-qualified elector to be a member. (§15(4)(c)) [End of commentary]

1. shall be a qualified elector of [local unit of government], except that one member may be a non-qualified elector;
2. shall not hold any elected office or employment with the with the local unit of government, unless an ex officio member;
3. shall not be a declared candidate for any political office, except this condition shall not apply to the [legislative body] representative to the Commission (section 102.E.10, of this ordinance);
4. after an individual’s first appointment and before reappointment shall have attended training for Commission members, pursuant to section 104 of this ordinance;
5. shall meet the conditions provided for each individual member in sections 102.B, 102.D, 102.E, and 102.F of this Ordinance, except the geographical location of the individual’s residency may be considered optional.

Commentary: Membership Requirements

Residency in the local unit of government is required, except as explained in the box, above.

The other requirements (not a candidate (102A.2) and have taken training to be re-appointed (102.A.3.)) are not a statutory requirements but recommended as best practices.

Before including section 102.A.2. about not being a candidate, check with your municipal attorney. People have a right to run for office. This does not deny that right – but requires one to resign from the planning commission first. Even that can be problematic. But when the planning commission is making administrative decisions (site plan review, special use, subdivisions) there can be good reason for membership that makes those decisions based on standards and not political election motivations. [End of commentary]

- B. Members shall be appointed for three-year terms. However when first appointed a number of members shall be appointed to one-year, two-year, or three-year terms such that, as nearly as possible, the terms of $\frac{1}{3}$ of all commission members will expire each year. If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment such that, as nearly as possible, the terms of $\frac{1}{3}$ of all commission members continue to expire each year.

C. Ex officio members shall include . . . [Pick one of the alternative “Ex Officio” options to use (see side bar “County Board member options”)]

There shall not be any ex officio members on the planning commission.

Ex officio members shall include the chief administrative official, or a person designated by him or her.

Ex officio members shall include the chief elected official.

Ex officio members shall include ___ [insert number] member(s) of the [legislative body].

Ex officio members shall include the chief administrative official, or a person designated by him or her and the chief elected official.

Ex officio members shall include the chief elected official and ___ [insert number] member(s) of the [legislative body].

Ex officio members shall include the chief administrative official, or a person designated by him or her and ___ [insert number] member(s) of the [legislative body].

Ex officio members shall include the chief administrative official, or a person designated by him or her; the chief elected official; and ___ [insert number] member(s) of the [legislative body].

Commentary: County Board member options

There are three options for county board (“ex officio”) representation on the county planning commission. In addition to the county board member on the planning commission there may be: (1) the chief administrative officer, or (2) the chief elected official (in addition to or instead of the county board member on the planning commission), (3) another member of the county board, or (4) any combination of the above, so long as no more than 1/3 of the planning commission members are “ex officio members” (§15(5)). [End of commentary]

D. The terms of office of ex officio members shall coincide with their elected terms of office on the legislative body or the term of office of the chief elected official who appointed him or her.

E. Every reasonable effort shall be made to insure 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.

Commentary: Representation

The legislative body will need to review what the specific “major interests” are in the community. The task is picking from the list provided here (including additional “major interests” which might also be considered.) (§15(3) and 15(6))

The list includes:

1. Agriculture;
2. Natural resources;
3. Recreation;
4. Education;
5. Public health;
6. Government;
7. Transportation;

8. Industry;
9. Housing;
10. Commerce;
11. other _____.

The ordinance shall specify the actual “major interests” chosen and assign each one (or two, or three) to one of the seats held by members of the planning commission, so that changing the list of “major interests” and seat assignments requires amending the Ordinance.

The ordinance text here, is relatively detailed, and provides a very formal system of appointment, and is likely best suited for a county. However a more informal/less structured approach may be desired if the county is very rural and small in population (less than 10,000). If that is the case consider the approach recommended for a township planning commission on page 6 (section 102.D.). [End of commentary]

- F. The membership shall be representative of the important geographic and interest segments of the of [local unit of government], as follows.
1. One citizen at-large member representing interests of [local unit of government] shall be appointed for a three year term of office, or remainder of an unexpired term of office who meet the following conditions:
 - a. shall be appointed from names submitted in response to advertisements in a newspaper with paid circulation in [local unit of government] County, and;
 - b. shall not hold any elected office or employment position in [local unit of government] County Government other than by virtue of membership on the Planning Commission; and
 - c. may, when possible, be a resident of _____ [indicate geographic area of the county].
 2. One citizen member representing the environmental interests of [local unit of government] shall be appointed for a three year term of office, or remainder of an unexpired term of office, who meet the following conditions:
 - a. shall be a member in good standing of one of the county-wide non-profit corporation(s) with their corporate office in [local unit of government] whose bonafide purpose is to be an environmental organization; and
 - b. shall be appointed from names nominated by county-wide non-profit corporations with their corporate offices within [local unit of government] whose bonafide purpose is to be environmental organizations; and
 - c. shall not hold any elected office or employment position in County Government other than by virtue of membership on the Planning Commission.
 3. One citizen member representing the agricultural, forestry, land use interests of [local unit of government] shall be appointed for a three year term of office, or remainder of an unexpired term of office, who meet the following conditions:
 - a. shall be
 - i. a member of the County Conservation District Board, or
 - ii. a member of the board of the County Chapter of Farm Bureau, or
 - iii. a professional forester with his or her business office in the county, or

- iv. an employee of the United States Forest Service, or Michigan Department of Natural Resources; and
 - b. shall be appointed by the County Board from names nominated by the County Conservation District Board, County Chapter of Farm Bureau, the United States Forest Service, Michigan Department of Natural Resources, professional foresters in the county; and
 - c. shall not hold any elected office or employment position in County Government other than by virtue of membership on the Planning Commission; and
 - d. may, when possible, be a resident of _____[indicate geographic area of the county].
- 4. One citizen member representing the governmental municipal interests of the county shall be appointed for a three year term of office, or remainder of an unexpired term of office, who meets the following conditions:
 - a. shall be appointed by the County Board from names nominated by the [name of county] Chapter of the Michigan Townships Association; and
 - b. shall not hold any elected office or employment position in County Government other than by virtue of membership on the Planning Commission; and
 - c. may, when possible, be a resident of a township (not a village or city).
- 5. One citizen member representing the educational interests of the County shall be appointed for a three year term of office, or remainder of an unexpired term of office, or an initial two year term of office, who meets the following conditions:
 - a. shall be appointed by the County Board from names nominated by school district board(s) of education included, in whole or in part, within the county's boundaries; and
 - b. shall be 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; and
 - c. shall not hold any elected office or employment position in County Government other than by virtue of membership on the Planning Commission.
- 6. One member representing recreational and tourist interests of the County shall be appointed for a three year term of office, or remainder of an unexpired term of office, who meets the following conditions:
 - a. shall be:
 - i. a member of the board for a Visitor and Convention Bureau whose corporate office is in the County, or
 - ii. who shall be a member in good standing of one of the county-wide non-profit corporations with its corporate office in the county whose bonafide purpose is to be a tourist promotion organization; and
 - b. shall be appointed by the County Board from names nominated by Visitor and Convention Bureaus whose corporate offices are in the county and county-wide non-profit corporations with their corporate offices in the County whose bonafide purpose is to be a tourist promotion organization; and
 - c. shall not hold any elected office or employment position in County Government other than by virtue of membership on the Planning Commission; and
 - d. may, when possible, be a resident of _____[indicate geographic area of the county].

7. One citizen member representing the industrial and economic interests of the county shall be appointed for a three year term of office, or remainder of an unexpired term of office, who meets the following conditions:
 - a. shall be a member in good standing of one of the county-wide non-profit corporations with its corporate office in the county, or a County funded agency, whose bonafide purpose is to promote business, commerce, and industry in the county; and
 - b. shall be appointed from names nominated by county-wide non-profit corporations with their corporate office in the County whose bonafide purpose is to promote business, commerce and industry in the county; and
 - c. shall not hold any elected office or employment position in County Government other than by virtue of membership on the Planning Commission; and
 - d. may, when possible, be a resident of _____[indicate geographic area of the county].
8. One member representing the transportation and communication interests of the county shall be appointed for a three year term of office, or remainder of an unexpired term of office, who meets the following conditions:
 - a. shall be a member of the County Board of Road Commissioners or the Manager of the County Road Commission; and
 - b. who shall be appointed from names nominated by the County Board of Road Commissioners.
9. One member representing sanitation, environmental health, housing, and human services interests of the county shall be appointed for a three year term of office, or remainder of an unexpired term of office, who meets the following conditions:
 - a. shall be
 - i. an employee of the environmental health division of the public health department, or district, which has jurisdiction in the County, or
 - ii. a member of a county housing commission or county-wide housing organization, or
 - iii. a member in good standing of a county-wide human services coordination organization; and
 - b. who shall be appointed from names nominated by the environmental health division of the public health department, or district, which has jurisdiction in the County, the housing commission, a housing organization, and a human services coordination organization.
10. One member shall be a member of the County Board of Commissioners who meets the following conditions:
 - a. shall be the county's representative to the state multiple-county regional planning agency the County is within; and
 - b. shall be the only member who is a member of the County Board; and
 - c. shall be appointed for a term of office which is concurrent with the elected position on the County Board.

Commentary: When editing, make sure provisions here (102.E.10.), do not conflict with, and are coordinated with section 102.C. [End of commentary]

- G. A member of the County Board, chief administrative officer, person appointed by the chief administrative official, or the chief elected official of the County not be chair of the Commission.

- H. Not more than $\frac{1}{3}$ of the total membership of the Commission shall consist of, collectively, a member of the County Board, chief administrative officer, person appointed by the chief administrative official, or chief elected official of the county.

Commentary: Membership Option D. Use this text for the planning commission of a city or home rule village with a charter, but nothing in the charter about planning, and a population less than 5,000; or a general law village with a population less than 5,000.

One of three options exist, only one should be selected for the ordinance to be adopted. (§15(7), 15(8), and 15(10)) [End of commentary]

102. Membership

- A. As long as the [city/village] has less than 5,000 population the Commission shall be the _____, created pursuant to P.A. ____ of ____, as amended, M.C.L. ____ *et seq.*
- B. Appointment of members shall be the same as provided for the membership of _____.

Commentary: City or home rule Village (with a charter, but nothing in the charter about planning) or a general law village (>5,000 population) Commission Membership

A city or village (with less than 5,000 population) may assign the duties of the planning commission to one of the following three boards. The ordinance shall specify which one has the assignment, so that changing the board with planning commission duties requires amending the Ordinance. (§15(7)) The choices are:

1. Board of directors of the economic development corporation of [local unit of government] created pursuant to P.A. 338 of 1974, as amended, M.C.L. 125.1601 *et seq.*
2. Board of the Downtown Development Authority created pursuant to P.A. 197 of 1975, as amended, M.C.L. 125.1651 *et seq.* (This option can only be chosen if the boundaries of the DDA are the same as the city/village boundaries.)
3. Board created under the tax increment finance authority act pursuant to P.A. 450 of 1980, as amended, M.C.L. 125.1801 *et seq.* (This option can only be chosen if the boundaries of this board are the same as the city/village boundaries.) [End of commentary]

Commentary: Membership Option E. Use this text for a city or home rule village with a charter which has provisions establishing a planning commission before September 1, 2008. (§15(7), 15(8), and 15(10))

102. Membership:

A. Membership of the planning commission shall be as set forth in the [city/village] Charter. [Insert any additional detail, as needed, here].

B. Appointment of members shall be the same as provided for in the [city/village] charter. [Insert any additional detail, as needed, here].

Commentary: City/Village with charter provisions about planning commission membership, appointment process, and organization.

The provisions of a city or home rule village which has a charter (that includes provisions on planning commission membership, appointment process, and organization) must be followed. The other options for cities and villages (option B, and option D) does not exist regardless of population or other factors.

The charter provisions are followed concerning these three issues, as the charter trumps state statute concerning:

- Membership
- Appointment process
- Organization

The state statute overrules any charter provisions for all other aspects of the planning commission. So the following issues must comply with the Michigan Planning Enabling Act:

- Selection of officers
- Meetings
- Adoption of rules (bylaws)
- Record keeping
- Appointment of employees
- Contracts for service
- Expenditures]

Commentary: Membership Options. The options (A through E) for membership ends here. Below is applicable to all planning commissions. [End of commentary]

103. Liaisons:

- A. The Commission, in its Bylaws, may name “liaisons” to the Commission. The purpose of liaisons is to provide certain [local unit of government] and quasi-[local unit of government] officials ability to participate in discussion with the Commission in addition to speaking in public participation, and nothing else. At a minimum liaisons shall include:
1. Planning Department staff, and their agents and consultants.
 2. [local unit of government] Administrator.
 3. [local unit of government] Attorney.

104. Training

- A. Appointed members of the Commission shall attend educational programs designed for training members of Michigan planning commissions if the adopted [local unit of government] budget for that fiscal year includes funds to pay for tuition, registration, and travel expenses for the training. Nothing in this paragraph shall deem a member who has not had training from finishing his term of office unless the member resigns or is removed by action of the [legislative body]. The member shall be ineligible for reappointment at the conclusion of the term of office if they did not attend training. The Commission shall include in its Bylaws what training programs qualify to meet this requirement.

105. Members, Appointment and Terms:

- A. In ____ [“A.” specify which month] ____ of each year the [local unit of government] Clerk shall determine which members’ terms of office expire, shall determine what organizations qualify to nominate members and shall contact, by first class mail, those organizations to solicit nominations.
- B. In ____ [“B.” specify one month after “A”] ____ of each year if the Clerk has not received at least two nominations for each office, then the Clerk shall discard those applications and shall place an advertisement(s) in a newspaper with paid circulation in [local unit of government] to seek different applications.
- C. In ____ [“C.” specify two months after “A”] ____ of each year the [legislative body] shall consider the applications and nominations received, and appoint members to the Commission by a majority vote for a three year term of office which shall end ____ [“D.” specify same month as “C”] ____ 30, at 9:00 a.m. of the respective year.

Commentary: Optional items. Parts of the ordinance on liaisons, training, and the appointment process, are optional, but considered best planning practice. (§15(10))

Alternative Appointment process:

In ____ [“A.” specify which month] ____ of each year the [local unit of government] Clerk shall place an advertisement(s) in a newspaper with paid circulation in [local unit of government] to seek applications for Commission members. In ____ [“B.” specify one month after “A”] ____ of each year the [legislative body] shall consider the applications and nominations received, and appoint members to the Commission by a majority vote for a three year term of office which shall end ____ [“C.” specify same month as “B”] ____ 30, at 9:00 a.m. of the respective year. [End of commentary]

106. Removal from Office:

- A. The [legislative body] may remove a member of the Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Failure to disclose a potential conflict of interest shall be considered malfeasance in office. Failure to repeatedly attend Commission meetings shall be considered nonfeasance in office.
- B. The secretary of the Planning Commission shall report any member who has missed three regular meetings in a row to the [legislative body].

Commentary: Removal from office is required. (§15(9))

Filling a vacancy is required. (§15(2)) [End of commentary]

107. Membership; Vacancies:

- A. The [legislative body] shall fill any vacancy in the membership of the Commission for the unexpired terms in the same manner as the initial appointment.

108. Membership Transition

- A. The transition from the previous [local unit of government] Planning Commission and the Commission established in this ordinance shall be gradual and shall take place over the next three years. The [legislative body] shall continue to make annual appointments, appointing approximately $\frac{1}{3}$ of the membership of the Commission as specified in this Ordinance, so that three years from the effective date of this ordinance the membership, membership representation, and number of members have completed the transition to fully comply with this Ordinance.
- B. All other aspects of this ordinance shall have immediate effect.

Commentary: Immediate Transition. Section 108.A. provides for a gradual transition over a three year period. If an immediate transition is desired, the following alternative text might be used:

“The [legislative body] shall appoint all members of the Commission as specified in Section 102. of this Ordinance in the first instance at the first [legislative body] meeting held in following the effective date of this ordinance. The terms of office of the previous Planning Commission members shall terminate upon appointment of new members as specified here.”

See §11(4), 11(5), 81(3), and 83 of the statute. [End of commentary]

109. Membership; Compensation:

- A. All members of the Planning Commission shall serve as such with compensation equal to, or less than, the per diem of the [elected body] per meeting plus mileage.

Commentary: Compensation of members is optional (§23(1)).

Meetings must take place at least four times a year (§21(1)), but monthly meetings are more typical. [End of commentary]

110. Meetings:

- A. The Commission shall meet at least once every month and a majority of the Commission shall constitute a quorum for the transaction of the ordinary business of said Commission and all questions which shall arise at their meetings shall be determined by a vote of the majority of the members of the Planning Commission.

- B. The affirmative vote of $\frac{2}{3}$ of the total number of seats for members of the Commission, regardless if vacancies or absences exist or not, shall be necessary for the adoption, or recommendation for adoption, of any plan or amendment to a plan.

111. Powers and Duties:

- A. The Commission shall have their powers and duties as set forth in P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L. 125.3801 et seq.; and P.A. 110 of the Public Acts of 2006, as amended, being the Michigan Zoning Enabling Act, (M.C.L. 125.3101 et seq.).
- B. The Commission shall be designated as a metropolitan county planning commission, pursuant to section 37(1) of P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L. 125.3837(1); and the Planning Commission shall serve as a coordinating agency for all planning committees or commissions that are now or may be within the County of [local unit of government].
- C. The Commission shall have authority to apply for and receive grants from any government agency or the federal government and to receive gifts.

Commentary: Planning and Zoning, or just Zoning

Some communities create a planning commission just for planning, not for zoning. If that is the case this ordinance should be edited to remove references to zoning.

All members of the Planning Commission shall serve as such with compensation equal to, or less than, the per diem of the [elected body] per meeting plus mileage. [End of commentary]

Commentary: Capital Improvement Program

Section III.A. refers to “all powers and duties”. This includes the annual creation of a capital improvement program (CIP). Some local units of government want the CIP to be done by the city manager, finance officer, chief elected official, or legislative body. If that is the case this ordinance needs to have a section added which specifically says who does the CIP, if not the planning commission. [End of commentary]

Commentary: Metropolitan County Planning Commission

A county has an option to create a Metropolitan County Planning Commission (§37(1)). (“Metropolitan”, as used here, refers to further coordination role, not urban v. rural.) Doing so is recommended as best planning practice. If not a county, or Metropolitan County Planning is not desired, then section III.B. and III.C. should be deleted. [End of commentary]

112. Staff:

- A. The Commission is delegated the authority to hire or dismiss a planning director within the budget provided for this purpose.
- B. The planning director shall be a department head, and shall hire or dismiss other such staff within the budget provided for this purpose.
- C. The appointment of the planning director and other such employees shall be subject to the same provisions of law, employment policies, employee roster, employee or union contracts, if any, as govern other employees of the [local unit of government].

- D. Employees that are assigned to work with the Commission shall follow the directives of the Commission in matters of planning and zoning public policy issues, but shall not be subject to Commission directives concerning employment provisions of law, employment policies, employee roster, employee or union contracts, if any.

Commentary: Staff

Section 112.A. and 112.B. on staff should be in the ordinance only if the desire is for the planning commission to have authority over hiring and firing staff. Otherwise those two sections should be deleted.

Without those sections the planning director, and staff would be handled the same way the legislative body employees all its employees. This is the “default” situation as specified in M.C.L. 125.3825(1).

Some communities wish to have the legislative body and planning commission have a shared management system over planning staff. If that is the case here is ordinance language for section 112. to provide one such approach:

A. The management of planning staff, if any, including any zoning administration staff, if any, shall be supervised by the planner.

B. The planning commission shall manage and direct the planner for purposes of prioritization of projects, planning and zoning policy, planning, annual work plan, subdivision review, capital improvement program and reviews, other matters of business which come before or are assigned to the planning commission, and evaluation of performance in these areas.

C. The management of the planner shall be under the general supervision and control of the [legislative body], or its designee, for purposes of being the sole employer, including but not limited to payroll, benefits, department head administrative and managerial duties, budget, other non-planning duties that may be assigned (e.g., EDC, Remonumentation, Recreation/Parks, Brownfield Board, etc.), compliance with [local unit of government] employee policies and evaluation of performance in these areas.

D. The management of the planner shall be under the general supervision and control of the [legislative body]. Only the [legislative body] may hire or fire the county planner.

E. The [legislative body], and its designee, shall carry out its general supervision of the planner with full consultation with the Planning Commission which shall be afforded the opportunity to consult on any planning staff management decision. [End of commentary]

113. Meetings; Records:

The Commission shall adopt Bylaws for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which records shall be a public record.

114. Approval, Ratification, and Reconfirmation.

All official actions taken by all [local unit of government] County Planning Commissions preceding the Commission created by this ordinance are hereby approved, ratified and reconfirmed. Any project, review, or process taking place at the effective date of this Ordinance shall continue with the Commission created by this ordinance, subject to the requirements of this Ordinance, and shall be deemed a continuation of any previous [local unit of government] Planning Commission. This Ordinance shall be in full force and effect from and after its adoption and publication.

Passed by the [legislative body] of the [local unit of government] on [date], at its regular meeting with _____ commissioners in attendance, __ voting aye, __ nay.

Signed: _____, [Chief Elected Official].

I hereby certify that the foregoing was duly adopted by the [local unit of government] of [local unit of government], _____ County, Michigan, at its regular meeting on the [date], that of _____ members of the [legislative body], _____ were in attendance and __ voted for the adoption of the Ordinance. I further certify that the above and foregoing ordinance is identical in form with that recorded on the [date], at page __ in the Book of Ordinances for the [local unit of government].

Signed _____, Clerk
[date]

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Appendix A - Glossary

The following terms are used in this publication, and have the following specific meanings.

§ means the section number of Public Act 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et. seq.),

Chief administrative official means the manager or other highest nonelected administrative official of a city or village.

Chief elected official means the mayor of a city, president of a village, supervisor of a township, or chair of a county board of commissioners.

Ex officio member means a member of a planning commission, with full voting rights unless otherwise specified by city or village charter, by virtue of holding another office.

Legislative Body means the county board of commissioners of a county, the board of trustees of a township, the council of a city or village, or other similar duly elected representative body of a county, township, city, or village.

Local Unit of Government means a county, township, city, or village.

Municipality means a city, village or township.

Plan means any plan adopted under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled.

Planning Commission means the local unit of government planning commission created under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled. In a few communities it may still be a “zoning board” (townships) or “zoning commission” (city and villages). Has used here, the use of the term “planning commission” includes all of these terms.

Zoning jurisdiction means the area encompassed by one of the following:

- legal boundaries of a city or village for a city or village respectively;
- legal boundaries of a township outside the limits of a city(ies) and village(s) for a township;
- legal boundaries of a county outside the limits of a city(ies) and village(s); or the county including any city(ies) and village(s) which has adopted the county plan (See §209, M.C.L. 125.3209).

Appendix B – 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.”

Michigan State University Extension Land Use Series

- 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: “#1O; Sample joint Planning Commission Ordinance and Agreement”
- 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.”
- Land Use Series, “#7: Sample Zoning Board of Appeals Rules of Procedure”
- Land Use Series, “#8: Sample Planning Commission and Zoning Board of Appeals Code of Conduct”

All of these are available at https://www.canr.msu.edu/resources/land_use_pamphlets.