

Land Use Series

May 1, 2008

Bringing
Knowledge
to Life!

Check List # 1D: Steps to transition an existing planning commission to comply with the Michigan Planning Enabling Act

“Thirty seven million acres is all the Michigan we will ever have.”

Former Governor
William G. Milliken

This is a step-by-step procedure for communities to use to amend their ordinance or resolution creating the planning commission to comply with the new Michigan Planning Enabling Act. This outline is based on Michigan Public Act 33 of 2008, as amended, (being the Michigan Planning Enabling Act, M.C.L. 123.3801 *et seq.*), and recommendations of the authors.

The Michigan Planning Enabling Act is a new statute, that changes how various planning procedures are done, and provides new duties and power to many planning commissions in the state. The purpose of this act was to create a single set of procedures to follow regardless of whether planning is being done by a city, village, township, or county. After September 1, 2008 (the effective date of the act) only the procedures in the Michigan Planning Enabling Act should be used as the act replaces the following statutes.

Only for matters that took place before September 1, 2008 should these old statutes still be referenced:

- County Planning Act, being P.A. 282 of 1945, as amended, M.C.L. 125.101 *et seq.* See MSU Extension Land Use Team’s *Land Use Series*, “Checklist #C1; for Adoption of a County Plan in Michigan.”
- Township Planning Act, being P.A. 168 of 1959, as amended, M.C.L. 125.321 *et seq.* See MSU Extension Land Use Team’s *Land Use Series*, “Checklist #T1; for Adoption of a Township Plan in Michigan.”
- Municipal Planning Act, being P.A. 285 of 1931, as amended, M.C.L. 125.31 *et seq.* (For cities, villages, and some township planning commissions created prior to 1959.) See MSU Extension Land Use Team’s *Land Use Series*, “Checklist #M1; for Adoption of a City and Village Plan in Michigan.”

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

Authors:

Kurt H. Schindler, REGIONAL LAND USE EDUCATOR
LAND USE AREA OF EXPERTISE

Phone: (231)779-9480

Fax: (231)779-9105

e-mail: schindl9@msu.edu

overland mail:

MSU Extension, Wexford County

401 N. Lake Street – Suite 400

Cadillac, Mich. 49601-1891

The author would like to thank the following individuals for their review and assistance with this publication:

■ Jason Ball, MSU GRADUATE STUDENT

■ Brad Neumann, LAND USE EDUCATOR, St Joseph County;

■ Jasneet Sharma, LAND USE EDUCATOR, Hillsdale and Lenawee Counties;

■ Dean Solomon, COUNTY EXTENSION DIRECTOR, LAND USE AREA OF EXPERTISE, Charlevoix County;

■ Lincoln Sweet, MSU GRADUATE STUDENT

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.

Summary of transition

1. The ordinance or resolution creating the local unit of government's planning commission, **will need to be updated**. This will need to be done by July 1, 2011, or sooner if the ordinance, or

Related Publications

There are also separate procedural checklists for performing other planning and zoning functions. They are:

- *Land Use Series*: "Check List #1A; To Create a Planning Commission or Amend an Existing Planning Commission Ordinance."
- *Land Use Series*: "#1B; Sample Ordinance to create a planning commission"
- *Land Use Series*: "#1C; Summary of changes between new Michigan Planning Enabling Act and the three old planning acts: Municipal Planning Act, County Planning Act, and Township Planning Act."
- *Land Use Series*: "Checklist #1D; Steps to Transition an Existing Planning Commission to Comply with the Michigan Planning Enabling Act"
- *Land Use Series*: "#1E; Sample Bylaws for a planning commission."
- *Land Use Series*: "Checklist #1F; What Should be in a Master Plan"
- *Land Use Series*: "Checklist #1G; For Adoption of a Plan in Michigan"
- *Land Use Series*: "Checklist #1H; The Five Year Plan Review."
- *Land Use Series*: "Checklist #1I; For Adoption of an Amendment to a Plan"
- *Land Use Series*: "Checklist #1J; Adopting and Updating a Capital Improvement Program"
- *Land Use Series*: "Checklist #1K; Review of Infrastructure and Public Capital Expenditure"
- *Land Use Series*: "Checklist #1L; Adoption or Amendment of Subdivision Rules"
- *Land Use Series*: "#1M; How Governments Make Submissions on a Neighbor's or County's Proposed Plan"
- *Land Use Series*: "#1N; How a Planning Commission Should Respond to Submissions"
- *Land Use Series*, "Checklist #2; for Adoption of a Zoning Ordinance in Michigan."
- *Land Use Series*, "Checklist #3; for Adoption of an Interim Zoning Ordinance in Michigan."
- *Land Use Series*, "Checklist #4; for Adoption of a Zoning Ordinance Amendment (Including PUD) in Michigan"
- *Land Use Series*, "Checklist #5; for Processing a Special Use Permit (Including PUD) Application in Michigan."
- *Land Use Series*, "Checklist #6; for Processing a Zoning Appeal and Variance in Michigan."

All of these are available at www.msue.msu.edu/lu/.

Glossary

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

§ means the section number of Public Act 33 of 2008, as amended, (being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et seq.*),

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

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

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

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

Local Unit of Government means a county or municipality.

Municipality means a city, village or township.

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

Planning Commission means the local unit of government planning commission created under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled.

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

- For a city or village, the legal boundaries of a city or village, respectively, and any area outside of the city or village boundary that the planning commission deems related to the planning of the city or village;
- For a township, the legal boundaries of a township outside the limits of a city(ies) and village(s);
- For a township whose 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)).

resolution, is updated/amended for any other reason at any point sooner than July 1, 2011. See the decision tree in this flyer, below.

2. The planning commission's bylaws, **will need to be updated**. This will need to be done by July 1, 2011, or sooner, if the bylaws are updated/amended for any other reason at any point sooner than July 1, 2011. See *Land Use Series*: "#1E; Sample Bylaws for a Planning Commission." and the checklist in this flyer, below.

3. Any existing plan adopted prior to the effective date of the Michigan Planning Enabling Act, no matter what it is called, **continues to be the adopted plan(s)** for a local unit of government.

Any amendments to those plan(s) must be done in conformance with the new act. Once the plan(s) are five or more years old, the planning commission shall conduct a five year review of the plan(s). See *Land Use Series*: "Checklist #1H; The Five Year Plan Review." (§81(1))

Since the ordinance or resolution creating the planning commission must comply with the Michigan Planning Enabling Act prior to **any** change to the adopted plan, including amendments to the amendments, it is recommended that local governments update the Planning Commission Ordinance sooner rather than later.

4. Any ordinance or rules which govern subdivisions of land (under authority of §105 of the Land Division Act (M.C.L. 560.105)) does not need to be readapted or amended. If a local unit of government does choose to amend or re-adopt an

ordinance or rules, then it must do so following the new act.

5. If the planning commission has had zoning powers and duties transferred to it, those powers and duties continue. Even if amendments or updates to ordinances, rules, or bylaws are not done, that authority continues. However, the updating of ordinances, rules, and bylaws still must be completed by July 1, 2011.

Decision tree

When your local unit of government first started planning and zoning, the legislative body adopted an ordinance (city, village, county) or a resolution (township) which created the planning commission. That ordinance or resolution may also have been changed by amendment from time to time.

It is important that a copy of that ordinance or resolution, with all its amendments, be found. A careful review of those documents will determine what updates are needed to comply with the Michigan Planning Enabling Act. Also, the planning commission's bylaws, as amended, will need to be found and updated for the same purpose.

These organizational documents, which create the planning commission, will need to be updated for a majority of, if not all, planning commissions in Michigan.

If the ordinance, resolution, or bylaws cannot be found, then now is the time to adopt a new version.

The following decision tree is designed to help local governments review the ordinance, resolution, and bylaws to determine what will need to be updated. This decision tree is not intended to be 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.

What type of local unit of government is your planning commission part of?

- A city with a charter which has provisions establishing a planning commission
- A home rule village with a charter which has provisions establishing a planning commission. §81(2)

- A township
- A county
- A general law village
- A city without a charter
- A city or home rule village with a charter, but nothing in the charter about planning.
- A joint planning commission

Continue to follow the charter provisions which establish the planning commission's:

- Membership
- Appointment process
- Organization

For these items, there are no changes §81(2).

The Planning Commission may continue to operate and conduct its business, but it shall do so in compliance with the MPEA, starting September 1, 2008. §83(1)

Is the planning commission created by ordinance? (Answer "no" (■) if you can not find an official copy of the ordinance or resolution.)

Review the charter, ordinance, or bylaws provisions for compliance with MPEA concerning:

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

Does the charter, ordinance and bylaws comply with MPEA? (*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".*)

yes ↓

Amend the ordinance or repeal the ordinance and adopt a new ordinance with provisions which comply with the MPEA. See *Land Use Series: "#1B; Sample Ordinance to create a planning commission".* Deadline: July 1, 2011 or when any amendment is made prior to that date, whichever comes first.

No ↓

■ (Township or any government that can not find the original paperwork) Repeal the resolution and adopt a new ordinance with provisions which comply with MPEA. See *Land Use Series, "Checklist #1A; to Create a Planning Commission or Amend an Existing Planning Commission Ordinance"* and *Land Use Series: "#1B; Sample Ordinance to Create a Planning Commission".* Deadline: July 1, 2011.

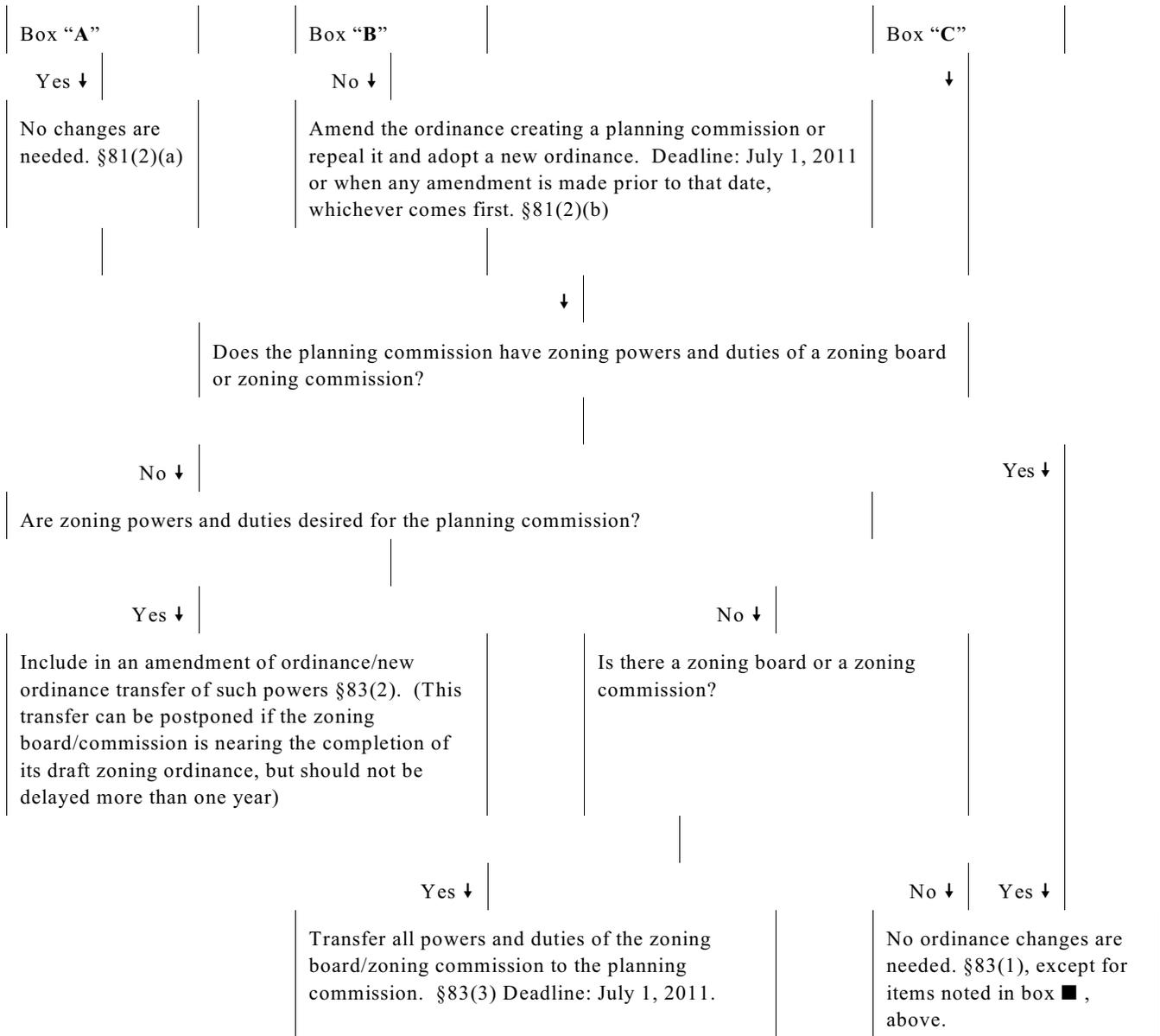
Yes ↓

No ↓

Go to next page box "A"

Go to next page box "B"

Go to next page box "C"



Checklist for transition

If, based on the decision tree above, a new ordinance or bylaws are required, see the following three items:

- *Land Use Series*, "Checklist #1A; to Create a Planning Commission or Amend an Existing Planning Commission Ordinance"
- *Land Use Series*: "#1B; Sample Ordinance to Create a Planning Commission"
- *Land Use Series*: "#1E; Sample Bylaws for a planning commission."

If an amendment to your existing ordinance is required use the same checklist and samples to review and modify the existing ordinance creating a planning commission and the planning commission's bylaws.

The **ordinance creating a planning commission** should have specific provisions for the following points:

- Organization: statement of creation of a planning commission and the statutory authority to do so (Michigan Planning Enabling Act) §11(1)
- Membership (who, representation) §15(2)-15(8)

- Membership appointment process §15(1)
- Membership, fill a vacancy §15(2)
- Provisions on the powers and duties the planning commission will have
- Provision to transfer zoning board or zoning commission powers and duties or a statement saying the planning commission does not have zoning authority §83(2), §83(3), M.C.L. 125.3301(2)
- (For counties only) provision stating the planning commission has the powers and authority of a metropolitan planning commission (or not) §37(1)
- Provision for liaisons (non-voting) members (optional)
- Requirement for continuing education (optional)
- Provisions for transition of membership from how it was done to the new system which complies with the new act
- Provision on member compensation §23(1) (optional)
- Provision on meetings §21
- Provision on keeping records §19, §43, §45(2)

For the **bylaws of the planning commission** the following topics should be covered:

- Name
- Office of record (for filing and receiving mail)
- Member duties
 - Liaisons
 - Attendance requirements
 - Training requirements
 - Incompatibility of office
 - Conflict of interest §15(9)
 - Ex Parte* contact

- Site inspections
- Not voting on the same issue twice
- Accepting gifts §23(3)
- Commission's spokesperson
- Officers (how many and their titles) §15, §17
 - Selection
 - Tenure
 - Duties
 - Vacancy appointment or succession
- Meetings
 - Regular meetings §21
 - Special meetings §21
 - Recess
 - Quorum
 - Motions
 - Voting
 - Parliamentary procedure
 - Public participation rules
 - Order of business
 - Agenda (preparation and delivery)
- Records
 - Minutes
 - Where original copies are kept
- Committees
- Mileage and per diem §23
- Hearings
- Zoning responsibilities (if applicable)
- Plan reviews §41
- Township zoning reviews (county planning commission only) M.C.L. 125.3307
- Capital improvement reviews §61, §63
- Capital Improvement Program adoption §65, §67
- Subdivision reviews §71
- Provisions for management of staff
- Other

[May 1, 2008; Wexford County MSUE CED: C:\Documents and Settings\Kurt Schindler\My Documents\wp\Presentation Handouts\2008MiPlanningEnablingAct\pamphlet1D Transition.wpd]