

# Land Use Series

May 1, 2008

Bringing  
Knowledge  
to Life!

## Check List #1L: For Adoption of a Subdivision Ordinance or Rules Governing the Subdivision of Land in Michigan

*"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 planning, land use and zoning. This particular checklist (#1L) is for adoption of a new subdivision ordinance or rules governing the subdivision of land in Michigan. It is designed to provide a list of steps -- in order -- which leads to a well planned and zoned community.

This outline is based on Sec. 71 of the Michigan Planning Enabling Act PA 33 of 2008, as amended, MCL 125.3871 and the Land Division Act, PA 288 of 1967, as amended, MCL 560.101 et seq.

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

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

- County Planning Act, being P.A. 282 of 1945, as amended, M.C.L. 125.101 *et seq.*
- Township Planning Act, being P.A. 168 of 1959, as amended, M.C.L. 125.321 *et seq.*
- Municipal Planning Act, being P.A. 285 of 1931, as amended, M.C.L. 125.31 *et seq.* (For cities, villages, and some township planning commissions created prior to 1959.) Of the three old planning acts, this is the only one which also had references to subdivision rules.

Subdivision regulations are police power regulations that apply to the division of land into one or more lots, with the principal focus on the creation of subdivisions involving many lots for principally future residential, commercial or industrial use.

### Author:

Michael Forsyth, GRADUATE ASSISTANT, Planning and Zoning Center at MSU

Phone: (517) 432-2222

Fax: (517) 432-3222

e-mail: [forsythm@msu.edu](mailto:forsythm@msu.edu)

overland mail:

Land Policy Institute at MSU

318 Manly Miles Bldg.

1405 S. Harrison Rd.

E. Lansing, MI 48823

with review by Kurt H. Schindler, REGIONAL LAND USE EDUCATOR; Member, MSU LAND USE TEAM

Michigan State University  
Extension Land Use Team

<http://ntweb11a.ais.msu.edu/luaoe/index.asp>

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Subdivision regulations are based on a variety of public health, safety and general welfare considerations. The first is that poorly designed subdivisions, may cause harm on adjacent landowners, local units of government, and state agencies (like the Michigan Dept. of Transportation) because of strange lot sizes and shapes that force odd uses of land too close to abutting property, or

bad ingress and egress which causes unsafe traffic conditions. The second is that each new subdivision should include required public infrastructure that connects with existing public infrastructure like roads, sewer and water lines, sidewalks, street lights, etc., while adequately and safely serving the needs of those who will live, work or play within the subdivision following its approval and construction. (See *Michigan Planning Guidebook*, Ch.7 “Subdivision Regulations”).

For any step of this process, the Michigan State University Extension members of the Land Use Team can assist with sample materials; coordinating efforts between the township, county, and the state;

## Related Publications

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

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

All of these are available at <http://web1.msue.msu.edu/wexford/LU/>.

## Glossary

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

§ means the section number of Public Act 33 of 2007, as amended, (being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et. seq.*),

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

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

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

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

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

**Municipality** means a city, village or township.

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

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

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

- legal boundaries of a city or village for a city or village respectively;
- legal boundaries of a township outside the limits of a city(ies) and village(s) for a township;
- legal boundaries of a county outside the limits of a city(ies) and village(s); or the county including any city(ies) and village(s) which has adopted the county plan (See §31(1)).

and providing guidelines. This outline is not designed as a substitute for reading and understanding the Michigan Planning Enabling Act as it relates to new subdivision regulatory structure and content and new responsibilities of planning commissions to engage in subdivision regulation and plat review.

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. **Do not** attempt to adopt or amend an ordinance without an attorney.

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

This checklist is divided into three columns. The first column has a place to check when the task is done, and a place to check when the documentation has been placed in a permanent file. The second

column is the step, or task, to complete in order to adopt a proper subdivision ordinance, or amendment. The third column is what should be included in a permanent file to document the work has been done. Sometimes the middle column is further divided into two columns. The heading will indicate which **one** should be followed in your community's case. It is always a matter of doing one or the other, never both.

## Qualifier

Section 125.3881(4) of the Michigan Planning Enabling Act states,

“Unless repealed or rescinded by the legislative body, an ordinance or published rules governing the subdivision of land authorized under section 105 of the land division act, 1967 PA 288, MCL 560.105, need not be readopted under this act or amended to comply with this act but continue in effect under this act. However, if amended, the ordinance or published rules shall be amended under the procedures of this act.”

Check List	Step/Task to do	Documents to file
<input type="checkbox"/> Task is done	<p><b>Step 1.</b> A plan, or at least the land use, zoning plan, or master street plan component of a plan has been adopted following each of the proper steps (see other check lists on adopting or amending a plan, and content of a plan).</p>	<p>Copy in the permanent file</p>
<input type="checkbox"/> In the file	<p><b>Step 2.</b> A planning commission may proceed drafting a subdivision ordinance or rules governing the subdivision of land on its own initiative or upon request of the appropriate legislative body.</p>	<p>Copy of legislative body and/or planning commission minutes when the motion was made to draft subdivision ordinance or rules.</p>
<input type="checkbox"/> Task is done	<p>If a township is subject to county zoning consistent with section 209 of the Michigan zoning enabling act, 2006 PA 110, M.C.L. 125.3209, the county planning commission should draft a subdivision ordinance or rules governing the subdivision of land. (M.C.L. 125.3871(1)).</p>	
<input type="checkbox"/> In the file	<p>If a city or village is subject to county zoning pursuant to the Michigan zoning enabling act, 2006 PA 110, M.C.L. 125.3101 to 125.3702, and a contract under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, M.C.L. 124.501 to 124.512, or 1967 (Ex Sess) PA 8, M.C.L. 124.531 to 124.536, the county planning commission should draft a subdivision ordinance or rules governing the subdivision of land. (M.C.L. 125.3871(1))</p>	

Check List	Step/Task to do	Documents to file
<input type="checkbox"/> Task is done  <input type="checkbox"/> In the file	<p><b>Step 3.</b> The planning commission should author the text of the subdivision ordinance or rules governing the subdivision of land in a manner that is consistent with section 125.3871(1) of the Michigan Planning Enabling Act PA 33 of 2008 and the Land Division Act, PA 228 of 1967, as amended (MCL 560.101 et seq).</p> <p>The ordinance or rules shall include: (Sec. 71 (5), (6), and (7))</p> <ul style="list-style-type: none"> <li>• A process for holding a hearing on a proposed plat before the planning commission takes action on a subdivision, with notices provided not less than 15 days prior to the hearing to the land owner, person submitting the proposed plat and immediately adjoining land owners</li> <li>• The process for acting on the proposed plat, based on standards contained within the ordinance, rules, and MCL 560.101 et seq., with a recommendation to the legislative body of approval, approval with conditions, or disapproval of the subdivision within 63 days after the proposed plat has been submitted.</li> <li>• A clause that indicates if the planning commission does not act within 63 days, the subdivision shall be considered approved (unless the proprietor agrees to an extension of time).</li> <li>• A clause that indicates if all standards contained within the ordinance, rules, and MCL 560.101 et seq. are met that the subdivision shall be approved.</li> <li>• A clause that requires a recommendation to the legislative body for disapproval to be stated upon the records of the planning commission.</li> <li>• A procedure for recording a subdivision approval as an amendment to the master plan in the records of the master plan and on the official copies of the master plan.</li> </ul> <p>The ordinance or rules may also include (sec. 71(2)):</p> <ul style="list-style-type: none"> <li>• Standards for plat design, including arrangement of streets to other existing or planned streets and the master plan;</li> <li>• Standards for adequate and convenient open spaces for traffic, utilities, access of firefighting apparatus, recreation, light, and air;</li> <li>• Standards for avoidance of congestion of population, including minimum width and area of lots.</li> <li>• Standards for the extent to which streets shall be graded and improved as a condition or precedent to the approval of a subdivision;</li> </ul> <p>Consideration should also be given to adopting one comprehensive ordinance which includes provisions for review of subdivisions, land divisions (including bonus divisions, redivisions), and condominiumization of land (“site-condos”).</p>	<p>Copy of draft ordinance and rules in file with date</p>

Check List	Step/Task to do	Documents to file
<input type="checkbox"/> Task is done  <input type="checkbox"/> In the file	<p><b>Step 4.</b> (Optional, recommended) The planning commission should determine and author a procedure and policy for the administration and enforcement of the subdivision ordinance or rules. This should be contained in the subdivision ordinance, subdivision rules, or administrator’s manual including:</p> <ul style="list-style-type: none"> <li>• sample applications for division or platting of land;</li> <li>• published rules for of county and state agencies for carrying out requirements of the Land Division Act;</li> <li>• policy that specifies the required contents of a certified survey and map;</li> <li>• policy that specifies tax lien or assessment requirements as conditions of approval;</li> <li>• policy that requires submission of title insurance;</li> <li>• guidelines for reviewing and recording new plats and the responsibilities of parties involved;</li> <li>• where records are kept;</li> <li>• permit fees, appeals fees, special meeting fees.</li> </ul>	<p>Copy of administration manual, form, etc.</p>
<input type="checkbox"/> Task is done  <input type="checkbox"/> In the file	<p><b>Step 5.</b> (Optional) Submit the proposed ordinance for an informal review to a third party, such as a County Planning Office (if they provide such service), MSU Extension Land Use Team member, or a professional planner; and (strongly recommended) review by an attorney.</p>	<p>Copy of the review (letters, minutes, other) by county planning, MSUE or professional planner; and attorney.</p>
<input type="checkbox"/> Task is done  <input type="checkbox"/> In the file	<p><b>Step 6.</b> The planning commission acts to hold a public hearing on the proposed ordinance or rules. The notice of the public hearing shall include the time and place of the public hearing. The notice shall be given not less than 15 days before the hearing by publication in a newspaper of general circulation within the local unit of government. (M.C.L 125.3871(3)) (Note: “General circulation” means a newspaper which has a paid subscription, and does not mean a free-distribution advertiser or similar type publication.)</p>	<p>Copy of notices of hearing, affidavit of publication, list of publishers notices were sent to.</p>
<input type="checkbox"/> Task is done  <input type="checkbox"/> In the file	<p><b>Step 7.</b> The planning commission holds at least one public hearing on the subdivision ordinance.</p>	
<input type="checkbox"/> Task is done  <input type="checkbox"/> In the file	<p><b>Step 8.</b> (Optional) The planning commission prepares a response to the comments received at the public hearing which:</p> <ol style="list-style-type: none"> <li>1. Changes the proposed ordinance or rules as a result of the comments made at the hearing,</li> <li>2. Prepares a preponderance of reasons why the proposed ordinance or rules should not be changed as a result of the comment made at the hearing.</li> </ol>	<p>Minutes of planning commission.</p>

Check List	Step/Task to do	Documents to file
<input type="checkbox"/> Task is done	<b>Step 9.</b> The planning commission shall adopt a resolution recommending to the legislative body to adopt the subdivision ordinance or rules, or to not adopt the subdivision ordinance or rules (M.C.L 125.3871(1)).	Copy of subdivision ordinance or rules
<input type="checkbox"/> In the file	<b>Step 10.</b> The planning commission secretary shall submit the subdivision ordinance or rules, with its recommendation, to the legislative body (MCL 125.3871(1)).	
<input type="checkbox"/> Task is done	<b>Step 11.</b> The legislative body shall review the proposed subdivision ordinance or rules.	Minutes of legislative body.
<input type="checkbox"/> In the file	<b>Step 12.</b> (Optional and recommended) If the legislative body considers changes, additions or amendments to the proposed subdivision ordinance or rules, the changes, etc., may be referred back to the planning commission for consideration and comment within the legislative body's specified period of time.	Copy of the referral back to the planning commission.
<input type="checkbox"/> Task is done	<b>Step 13.</b> Note: The local unit of government may have policy, charter provisions, or requirements of statute which require additional steps be taken before an ordinance can be adopted. Those steps, or step, if any, should be inserted here.	Documentation these steps were taken, if any.
<input type="checkbox"/> In the file	<b>Step 14.</b> The legislative body shall vote on the adoption of the proposed ordinance or rules, with or without amendments. The vote to adopt is done with a majority vote of the members of the legislative body. The effective date of the subdivision ordinance or rules governing the subdivision of land should be made in the motion of adoption.	Copy of the legislative body minutes.
<input type="checkbox"/> Task is done	<b>Step 15.</b> A copy of the ordinance or rules, amendments and supplements shall be filed with the local unit of government's clerk and if a township, also the county clerk.	Copy of adopted ordinance in permanent file
<input type="checkbox"/> In the file	<input type="checkbox"/> Not applicable	
<input type="checkbox"/> Task is done		
<input type="checkbox"/> In the file		
<input type="checkbox"/> Task is done		
<input type="checkbox"/> In the file		

Check List	Step/Task to do	Documents to file
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file <input type="checkbox"/> Not applicable	<p><b>Step 16.</b> Note: The local unit of government may have policy, charter provisions, or requirements of statute which require additional steps be taken before an ordinance can be made effective. Those steps, or step, if any, should be inserted here:</p>	<p>Documentation these steps were taken, if any.</p>
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p><b>Step 17.</b> (Optional) Once the ordinance has taken effect, the legislative body may act to adopt a policy or procedure for administration and enforcement of the ordinance (See step 4), and/or the planning commission proceeds to amend its bylaws so they cover details on the process for reviewing, holding hearings on, conducting site plan review of, and other matters concerning the administration of adopted subdivision ordinance or rules.</p>	<p>Updated bylaws, administration manual, etc.</p>
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p><b>Step 18.</b> (Optional) The planning commission may periodically prepare a report on the operations of the subdivision ordinance or rules, recommendations for amendments, and other matters concerning subdivisions for the legislative body (§308(2), M.C.L. 125.3308(2)).</p>	

[May 1, 2008; Wexford County MSUE CED: C:\Documents and Settings\Kurt Schindler\My Documents\wp\Presentation Handouts\2008MiPlanningEnablingAct\pamphlet1L SubdivOrd.wpd]