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Check List # M2 Adoption of a Village or City Zoning Ordinance in Michigan

This is a step-by-step procedure for planning, land use and zoning. It is designed to provide a list of steps -- in order -- which leads to a well planned and zoned township. This outline is based on Michigan Public Act 207 of 1921, as amended, (being the City and Village Zoning Act, M.C.L. 125.581 *et. seq.*), and recommendations of Kurt H. Schindler, MSU Extension Land Use and Community Development Specialist.

For any step of this process, the Michigan State University Extension members of the Land Use Area of Expertise team can assist: provide sample materials; coordinate efforts between the city and village, township, county, and the state; and provide guidelines.

This outline is not designed as a substitute for reading and understanding the act. This outline is not a substitute for legal advice. There is no substitute for hiring an attorney. DO NOT attempt to adopt or amend an ordinance without an attorney.

It is important to document each step of the process in planning and zoning a community. Keep detailed minutes, affidavits of publication and mailing, open meeting notices, letters of transmittal and communications all on file so years from now so 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 to adopt a proper plan/zoning ordinance, or amendment to either. The third column is what should be included in a permanent file to document the work has been done.

Michigan State University
Extension Land Use Team

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

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Author:

Kurt H. Schindler, COUNTY EXTENSION DIRECTOR
LAND USE AREA OF EXPERTISE

Phone: (231)779-9480

Fax: (231)779-9105

e-mail: schindlk@msue.msu.edu

overland mail:

MSU Extension, Wexford County

401 N. Lake Street

Cadillac, Mich. 49601-1891

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| <input type="checkbox"/> Task is done | <p>Step 1. A city or village plan, or at least the land use component of a city or village Plan has been adopted following each of the proper steps (see checklist # M1).</p> <p>PLANS. There is an importance to plans: Unless specified otherwise the plan adopted by a village or city under P.A. 285 of 1931, as amended, <u>is to be the basis for a zoning ordinance</u> adopted pursuant to P.A. 207 of 1921, as amended. There is dispute over the need for a formal adopted plan. A formal plan may not be needed, however, the city or village must have some record or indication of the discussion, merits and reasoning behind each regulation in a zoning ordinance. The “plan” should contain all the points outlined above, but can simply be in the form of minutes of planning commission or zoning board meetings. The plan can be informal in that the formal hearing and adoption listed in the steps above does not have to take place. A minimum requirement, however, is a record of discussion, merits and reasoning explaining why a zoning ordinance is written the way it is and a record of who did the writing, time spent on research, who was consulted and what information was researched and used. This should be kept on file so years from now it is still available. By way of recommendation -- should courts require an existence of a plan in the future -- adopting a formal plan is advised.</p> | <p>See check list # M1 for the documentation and steps which should be followed.</p> |
| <input type="checkbox"/> Task is done

<input type="checkbox"/> In the file | <p>Step 2. The city or village council acts to form a zoning board as specified under P.A. 207 of 1921, as amended. (The zoning board can be the city or village council, but not recommended.) Later, or in the same action, the city or village council can act to combine the zoning board and its powers into a planning commission as specified under P.A. 285 of 1931, as amended, (being the Municipal Planning Act, M.C.L. 125.31 <i>et. seq.</i>). In effect, then, the planning commission has all the powers and duties of a zoning board.</p> | <p>Copy of village or city council minutes where creation of zoning board (or combining it with planning) took place.</p> |
| <input type="checkbox"/> Task is done | <p>Step 3. The zoning board/planning commission should author (1) the text of a zoning ordinance and (2) prepare the zoning map (establish zoning districts). In doing so the zoning board/planning commission may use information, experts and assistance as is available.</p> | <p>---</p> |
| <input type="checkbox"/> Task is done

<input type="checkbox"/> In the file | <p>Step 4. The zoning board/planning commission should determine and author a procedure, policy for the administration and enforcement of the zoning ordinance. This should be contained in a zoning administrator’s manual including: sample zoning permit applications; special use permit applications; occupancy permits; form letters for handling violations and other situations; policy for handling violation/enforcement problems and at what point an attorney becomes involved and prosecution is started; where records are kept; expectations for patrol and inspections in the township; permit fees, appeals fees, special meeting fees; bylaws and rules of procedures for planning commission/zoning board considering amendments, and administration of the ordinance.</p> | <p>Copy of office manual, application forms, etc.</p> |

<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>Step 5. (Optional) Submit the proposed ordinance for an informal review to the county planning office, MSU Extension Land Use Area of Expertise team member, or a professional planner; <u>and (strongly recommended) review by an attorney.</u></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 (notices, etc.) <input type="checkbox"/> In the file (minutes)	<p>Step 6. The zoning board/planning commission should hold at least one public hearing on the zoning ordinance:</p> <ul style="list-style-type: none"> - The first notice for the hearing shall be given in a local newspaper not more than 15 days before the hearing. (The notice must include the date, time, location, purpose of the hearing, where and when the proposed zoning ordinance and maps may be inspected or purchased prior to the hearing.) - Notice should be sent by mail, not less than 15 days before the hearing, to all utility companies (phone, gas, electric, pipeline, sewer, water, etc.) which operate or have facilities in the village or city or district affected which has registered with the village or city clerk to receive such notice. (Keep an affidavit of mailing.) - In case of an amendment to an existing zoning ordinance, a notice shall be sent to each property owner in the area affected by the proposed change (e.g. a zoning map change); to owners of the property in question not less than 15 days before the hearing. The notice is delivered by mail or in person. If mailed, an affidavit of mailing is filed with the zoning board before the hearing. - Notice of the proposed rezoning and hearing shall include a list of all existing street addresses within the proposed rezoned property - Other notices as may be required by village or city charter. 	<p>Copy of notices of public hearing, affidavit notices were delivered, affidavit of publication, list of who notices were sent to.</p> <p>Minutes of public hearing</p>
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>Step 7. The zoning board/planning commission should adopt and file with the city or village council:</p> <ul style="list-style-type: none"> - A land use or zoning plan (omit for interim) - A proposed set of zoning districts - A proposed text of a zoning ordinance, with an official map and zoning regulations. - The manner of administering and enforcing the proposed zoning ordinance. - A written summary of each comment made at the zoning board public hearing(s). (omit for interim). 	<p>Copy of zoning ordinance, zoning map, zoning manual and forms: Copy of County Planning Commission recommendation on zoning ordinance.</p>
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>Step 8. The city or village council shall review the proposed zoning ordinance.</p>	<p>Minutes of the village or city council meeting.</p>
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file (notices, etc.)	<p>Step 9. (Optional, or if required by charter) The city or village council may/shall hold an additional hearing on the proposed ordinance. Notice of these hearings shall be given. Lacking</p>	<p>Copy of notices of public hearing, affidavit notices were delivered,</p>

<input type="checkbox"/> In the file (minutes)	specific notice requirements, the same type of notices required for step 6, above, might be used.	affidavit of publication, list of who notices were sent to.
		Minutes of public hearing
<input type="checkbox"/> Task is done	Step 10. If the city or village council considers changes, additions or amendments to the proposed ordinance; the changes, etc., will be referred back to the zoning board/planning commission for a report within a specified period of time.	Copy of township board's request.
<input type="checkbox"/> In the file		
<input type="checkbox"/> Task is done	Step 11. The township board shall vote on the adoption of the proposed ordinance. Adoption requires a majority vote of council members or the procedure required by city or village charter for adopting ordinances.	Copy of minutes (including motion and vote) to adopt the zoning ordinance.
<input type="checkbox"/> In the file	<p>If a property owner, by certified mail, addressed to the village or city clerk, files a protest petition the village or city council must adopt the zoning with a $\frac{2}{3}$ vote of council members or a larger (but not more than $\frac{3}{4}$) vote is required by village or city charter. (The protest petition must be signed by owners of at least 20% of non-public land included in the proposed change, or owners of at least 20% of the area of non-public land included within an area extending outward 100 feet from any point on the boundary of land included in the proposed change)</p>	Documentation that charter procedures for ordinance adoption was done.
	<p>The ordinance shall take effect after a “notice of adoption” has been published (step 12), as specified in the “notice of adoption.”</p>	Copy of protest petition.
	<p>The village or city council should also adopt a policy or procedure for administration and enforcement of the ordinance (step 13). The village or city council should act to appoint a board of appeals as specified in the new zoning ordinance (a separate appointed body (recommended), or the council acting as the appeals board). (The board of appeals should meet as soon as possible to elect their officers, adopt their rules of procedure and bylaws.) The village or city council should also act to appoint or hire a zoning administrator (the administrator should be instructed to follow the procedure and policy set by the planning/zoning commission and adopted by the village or city council. The zoning administrator should create an inventory of existing buildings in the village or city and non-conforming uses (easiest way is through use of tax roll or tax map air photos to establish uses at the start of a new ordinance or amendment).</p>	Most recent copy of the appeals board appointments.

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| <input type="checkbox"/> Task is done
<input type="checkbox"/> In the file | <p>Step 12. A copy of the ordinance, amendments, supplements, and maps shall be filed with the village or city clerk, and county clerk.</p> | <p>Copy of the adopted ordinance</p> |
| <input type="checkbox"/> Task is done
<input type="checkbox"/> In the file | <p>Step 13. One notice of “ordinance adoption” within 15 days of adoption (step 11), as worded and specified in the act shall be published in a local newspaper or the ordinance is published in full at local option or as required by village or city charter.</p> | <p>Copy of the “notice of ordinance adoption” and affidavit of publication.</p> |
| <input type="checkbox"/> Task is done | <p>Step 14. (Optional) A copy of the ordinance can be placed on file with the county planning commission.</p> | <p>Statement of effective date of the ordinance</p> |
| <input type="checkbox"/> Task is done | <p>Step 15. The zoning board shall periodically prepare a report on the operations of the zoning ordinance, recommendations for amendments and supplements for the township board of trustees.</p> | |

NOTES:

AMENDMENTS. Are made in the same manner as described above (steps 1-14) for enacting the original zoning ordinance. (All the steps given above.)

INTERIM ORDINANCE. To adopt an interim zoning ordinance, omit steps 6, 9, 14, 15, parts of 3 and 7. An interim ordinance can only be in effect for one year, and only renewed twice, for a total of three years.