

Land Use Series

March 16, 2009

Bringing
Knowledge
to Life!

Check List # 1A: To Create a Planning Commission or Amend an Existing Planning Commission Ordinance

*“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 the creation of a planning commission in Michigan. It is designed to provide a list of steps – in order – which leads to a well planned community. This outline is based on Michigan Public Act 33 of 2008 (being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et seq.*), recommendations of Brad Neumann, MSU Extension Land Use (planning and zoning) Specialist, and intergovernmental coordination and plan content “best planning practices” derived from a proposed Coordinated Planning Act developed by the Michigan Chapter of the American Planning Association. In the check list, most of the items marked “optional” are derived from the proposed Coordinated Planning Act and not the current statute.

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.*
- Township Planning Act, being P.A. 168 of 1959, as amended, M.C.L. 125.321 *et seq.*
- Municipal Planning Act, being P.A. 285 of 1931, as amended, M.C.L. 125.31 *et seq.* (For cities, villages, and some township planning commissions created prior to 1959.)

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

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

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gender, religion, age, disability,
political beliefs, sexual
orientation, marital status or
family status.*

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.

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

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 who's planning commission was formed under P.A. 285 of 1931, as amended, (M.C.L. 125.31 *et seq.*), the legal boundaries of a township outside the limits of a city(ies) and village(s), and any area outside of the township boundary that the planning commission deems related to the planning of the township. (See §31(1)(b))
- For a county, the legal boundaries of a county outside the limits of a city(ies) and village(s); or the county including any city(ies) and village(s) which has adopted the county plan (See §31(1)).

documentation has been placed in a permanent file. The second column is the step, or task, to complete in the order given to properly adopt a plan. The third column is what should be included in a permanent file to document that 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.

This check list is intended to be linear, with each step being done in order, and most requiring the previous step to be done before starting the next.

Check List	Step/Task to do		Documents to file
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>STEP 1A: For townships, cities, villages, and counties. The legislative body decides to create a planning commission with all or some of the powers and duties created under Michigan Public Act 33 of 2008 (being the Michigan Planning Enabling Act, M.C.L. 125.3801 <i>et seq.</i>).</p> <p>STEP 1B: For townships, cities, villages, and counties. Go to STEP 2.</p>	<p>STEP 1A: For townships (possible option). A petition is filed with the township clerk (signed by 8% or more of the qualified and registered electors who voted in the last general election for governor) requesting the township board to adopt an ordinance creating a planning commission (§13(4)).</p> <p>STEP 1B: For townships (possible option). Townships, in which a petition is filed requesting the township board to create a planning commission (§13(4)), hold the election. (Consult with an attorney concerning steps and procedure to follow election law processes.) If the creation of a planning commission passes, go to STEP 2. Otherwise this process ends or go to STEP 1A.</p>	<p>Certified copy of the legislative body's minutes in which the decision was made to pursue the creation of the planning commission.</p> <p>For townships in which a petition is filed, a copy of the petition.</p> <p>The certified election results.</p>
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>STEP 2: The legislative body decides on the composition of the planning commission. The decision should follow a discussion of the important segments of the community to be represented, 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. For example there might be one seat each for agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce (§15(3)). There may be other interests not listed here. One might also combine two or more interests into one seat.</p> <p>Often this type of discussion and decision is done through a facilitated study session of the legislative body with which a County Extension Director can assist with. (See <i>Land Use Series</i>: “ #1B; Sample Ordinance to Create a Planning Commission”).</p>	<p>Certified copy of the legislative body's minutes reflecting this decision.</p>	

Check List	Step/Task to do	Documents to file
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>STEP 3: For cities, villages, and townships. Based on the representative list from STEP 2, the legislative body decides the composition of the planning commission will consist of 5, 7, or 9 members (§15(2)).</p> <p>STEP 3: For counties. Based on the representative list from STEP 2, the legislative body decides the composition of the planning commission will consist of 5, 7, 9, or 11 members (§15(2)).</p>	Certified copy of the legislative body's minutes reflecting this decision.
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>STEP 4: The legislative body decides on the appointment procedure for members of the planning commission, generally between:</p> <ol style="list-style-type: none"> 1. A relatively detailed system, which provides a formal system of appointment, and is likely best suited for a county, or for a township, city or village with more than 10,000 population. 2. A relatively general system which provides a less-structured appointment process, and is likely best suited for a small rural township, or for a small city or village (less than 10,000). <p>(See <i>Land Use Series</i> "#1B Sample Ordinance to Create a Planning Commission")</p>	Certified copy of the legislative body's minutes reflecting this decision.
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>STEP 5: The legislative body decides which powers and duties should be assigned to the planning commission</p> <p>Duties, by statute, that must be included unless exempted (below):</p> <ol style="list-style-type: none"> 1. Make surveys and studies (fact books) of the community (§31(2)(a)). 2. Consult with adjacent local units of government (§31(2)(b)). 3. Cooperate with all departments of the government unit, state, and federal governments (§31(2)(c)). 4. Prepare/adopt a master plan and other such plans (§31(1)). 5. Promote interest in understanding of the master plan (§51). 6. Conduct public infrastructure reviews (after plan is adopted) (§61-63). 7. Prepare a Capital Improvement Plan (§65), unless exempted by charter or a township without public water or sewer. <p>Optional statutory duties that may or may not be included:</p> <ol style="list-style-type: none"> 1. Have the duties and responsibilities of administering a zoning ordinance (§83 and M.C.L. 125.3301). 2. Recommended: subdivision regulations (ordinance or rules) (§71). 3. Recommended: recommend programs for public structures and improvement for its financing, regardless of whether the planning commission is exempted from preparing a capital improvements program (§67). 4. For county only: The additional powers and duties of a Metropolitan County Planning Commission (see STEP 6). <p>Other functions that may be assigned, including (not a complete list):</p> <ol style="list-style-type: none"> 1. Apply for and administer grants on behalf of the local government. 2. Liaison to the United States Census Bureau for accurate census counts. 3. Administer the local unit of government address system/ordinance. 4. Geographic Information System oversight committee. 5. Parks and recreation commission. 6. For county only: Provide staff to the plat board, solid waste planning committee, technical assistance to municipalities in the county, soil erosion board of appeals, remonumentation plan committee, and resource conservation and development committee. 	Certified copy of the legislative body's minutes reflecting this decision.

Check List	Step/Task to do	Documents to file
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>STEP 6: For counties only (cities, villages, and townships - Go to STEP 7). The county board of commissioners decides to designate or not to designate the county planning commission as the metropolitan county planning commission, which shall perform metropolitan and regional planning whenever necessary or desirable and may engage in comprehensive planning, including, but not limited to, the following (§37(1)):</p> <ol style="list-style-type: none"> 1. Preparation, as a guide for long-range development, of general physical plans with respect to the pattern and intensity of land use and the provision of public facilities, together with long-range fiscal plans for such development. (See <i>Land Use Series</i>: “Checklist #1G; For Adoption of a Plan in Michigan”). 2. Programming of capital improvements based on relative urgency, together with definitive financing plans for the improvements to be constructed in the earlier years of the program. (See <i>Land Use Series</i>: “Checklist #1J; Adopting and Updating a Capital Improvement Program”). 3. Coordination of all related plans of local governmental agencies within the metropolitan area or region. 4. Intergovernmental coordination of all related planning activities among the state and local governmental agencies within the metropolitan area or region. 	<p>For counties, a certified copy of the board of commissioners’ minutes reflecting this decision.</p>
<input type="checkbox"/> Task is done	<p>STEP 7: The legislative body should pause to have a proposed planning commission ordinance drafted. (See <i>Land Use Series</i> “#1B Sample Ordinance to Create a Planning Commission”).</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>STEP 8: (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 Area of Expertise team member (if they provide such service), or a professional planner; and (strongly recommended) an attorney.</p>	<p>Copy of the review (letters, minutes, other) by county planning, MSUE, or professional planner; and attorney.</p>

Check List	Step/Task to do	Documents to file
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>STEP 9: For local units of government creating a brand new planning commission:</p> <ol style="list-style-type: none"> 1. The local unit of government adopts an ordinance creating a planning commission (§11(1)), OR 2. For cities and home rule villages in which a charter provision providing for a planning commission is adopted, an ordinance is adopted to implement the charter provision (§11(3)). <p>(See also <i>Land Use Series: “#1B; Sample Ordinance to Create a Planning Commission”</i>)</p> <p>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” (§11(1)).</p>	<p>Copy of the ordinance (and charter, if applicable).</p> <p>Certified copy of the legislative body’s minutes in which the ordinance creating the planning commission was adopted.</p> <p>For townships in which a petition is filed, a copy of the petition.</p>
	<p>STEP 9: For local units of government that previously created a planning commission by resolution, ordinance, or charter before September 1, 2008 and wish to increase the powers and duties of the planning commission to correspond with the Michigan Planning Enabling Act:</p> <ol style="list-style-type: none"> 1. Local units of government with a planning commission created by ordinance or resolution, prior to September 1, 2008, shall amend the ordinance, or repeal the ordinance or resolution and adopt a new ordinance by July 1, 2011 or the date when an amendatory or new ordinance is first adopted (§81(3)). 2. (RECOMMENDED) Cities and home rule villages with a planning commission created by charter should adopt an ordinance (or amend an existing ordinance that implemented a charter provision providing for a planning commission) by July 1, 2011 or the date when an amendatory or new ordinance is first adopted, in order to increase the powers and duties of the planning commission (§81(2)). <p>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” (§11(1)).</p>	

Check List	Step/Task to do	Documents to file
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>STEP 10: For townships, cities, and villages.</p> <p>The clerk of the local unit of government sends, within 14 days, a notice of the ordinance adoption to the county planning commission of the county where the local unit is located. If there is no county planning commission, the copy is sent to the regional planning commission engaged in planning for the [multi-county] region within which the local unit is located (§11(2)).</p>	<p>Copy of the notice, who the notice was sent to, and an affidavit indicating when it was sent.</p>
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>STEP 11: For townships creating a brand new planning commission (townships amending an existing ordinance or transferring powers and duties from an existing zoning commission or zoning board - Go to STEP 12).</p> <p>Publish the ordinance creating a planning commission in a newspaper of general circulation in the township (§13(1)). The ordinance shall not take effect until:</p> <ol style="list-style-type: none"> 1. 63 days after the ordinance is published in a newspaper of general circulation (§13(1)), OR 2. When the election is certified that it was approved by a majority of the electors of the unincorporated portion of the township if a petition was received by the township clerk to create a planning commission (§13(2)). <p>(Note: “General circulation” means a newspaper which has a paid subscription, and does not mean a free-distribution advertiser or similar type of publication.)</p>	<p>Newspaper affidavits of publication.</p>
	<p>STEP 10: For counties.</p> <p>The clerk of the county sends, within 14 days, a notice of the ordinance adoption to the regional planning commission engaged in planning for the [multi-county] region within which the county is located (§11(2)).</p>	
	<p>STEP 11: For cities, villages, and counties creating a brand new planning commission (cities, villages, and counties amending an existing ordinance or transferring powers and duties from an existing zoning commission or zoning board - Go to STEP 12).</p> <p>(RECOMMENDED) Publish a notice of the ordinance creating a planning commission in a newspaper of general circulation in the jurisdiction of the local unit of government.</p> <p>(Note: “General circulation” means a newspaper which has a paid subscription and does not mean a free-distribution advertiser or similar type of publication.)</p>	

Check List	Step/Task to do	Documents to file
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>STEP 12: Check the following statutes to make sure there are not other steps necessary for proper process to adopt an ordinance:</p> <ol style="list-style-type: none"> 1. For a township; Public Act 246 of 1945, as amended, being Michigan Compiled Law 41.181 <i>et seq.</i> 2. For a general law village; Public Act 3 of 1895, as amended, being Michigan Compiled Law 67.1 <i>et seq.</i> 3. For a home rule village; Public Act 278 of 1909, as amended, being Michigan Compiled Law 78.1 <i>et seq.</i> and the village's charter. 4. For a home rule city: Public Act 279 of 1909, as amended, being Michigan Compiled Law 117.3 <i>et seq.</i> and the city's charter. 	<p>Documentation of any additional steps that may need to be taken, were in fact done.</p>
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>STEP 13: For counties. The county board of commissioners shall appoint members of the planning commission, by majority vote of the members of the county board (§15(1)). In the first instance, members are appointed to the planning commission for three-year terms, except a number of members shall be appointed to one-year or two-year terms such that, as nearly as possible, the terms of 1/3 of all commission members will expire each year. (Ex officio members' terms shall be the same as the term of office they have for their other position, and not within the three-year staggered terms of the planning commission.) 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 1/3 of all commission members continue to expire each year (§15(2)). (See <i>Land Use Series: "#1B; Sample Ordinance to Create a Planning Commission"</i>).</p>	<p>Copy of the ordinance creating the planning commission. Certified copy of the legislative body's minutes in which the planning commission members were appointed.</p>
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>STEP 14: (RECOMMENDED) The chief elected official of the local unit of government appoints a temporary chair for the first meeting of the planning commission.</p>	<p>Certified copy of the legislative body's minutes reflecting the chief elected official's appointment.</p>

Check List	Step/Task to do	Documents to file
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>STEP 15: The planning commission holds its first meeting, and:</p> <ol style="list-style-type: none"> 1. Elects a chairperson and secretary, and creates and fills other offices as it considers advisable (§17(1)). (An ex officio member of the planning commission can not serve as the chairperson.) 2. Adopts bylaws for the transaction of business (§19(1)). (See <i>Land Use Series</i>: “Checklist #1E; Sample Bylaws for a Planning Commission”). 3. Sets regular meeting location, time, and dates by resolution, if not included as part of the Commission’s bylaws (not less than 4 regular meetings each year) (§21(1)). 	Certified copy of the planning commission’s minutes.
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>STEP 16: (RECOMMENDED) The planning commission, or its staff creates an office of record (to receive mail and other communications); sets up a file, place, and system for the permanent storage of the Commission’s records, including minutes, bylaws, adopted plans, etc.</p>	Filing place and system specified in the bylaws.
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>STEP 17: The planning commission continues to exercise the powers and duties under the Michigan Planning Enabling Act including, but not limited to:</p> <ol style="list-style-type: none"> 1. Making an annual written report to the legislative body concerning its operations and the status of planning activities, including recommendations regarding actions by the legislative body related to planning and development (§19(2)). 2. Making and approving a master plan (and amending as necessary) as a guide for development within the planning jurisdiction (§31(1)). (See <i>Land Use Series</i>: “Checklist #1G; For Adoption of a Plan in Michigan”). 	Copies of the documents, including recommendations from the legislative body and local units of government within and contiguous to the planning jurisdiction, and responses to those entities.

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