

Planning News

*Tuscola County
Planning Commission*

Special points of interest:

- The TCPC meets the first Wednesday of each month (holiday exceptions) at 5 PM. Purdy Building.
- Resource: How to deal with accumulated junk. https://www.canr.msu.edu/resources/how_to_deal_with_accumulated_junk_problems
- Comments needed. DNR public land strategy. https://www.michigan.gov/dnr/0,4570,7-350-79136_79262_80433--,00.html

Inside this issue:

Back to Basics	1
Annual Report	1
County review of Planning Documents.	2
Protect your Township– Spotted Lanternfly	2
Legal Notes	2
Reminder– Zoning documents due by the 15th	3
PA-116s -Streamline the process and avoid kickbacks	4

Back to Basics

From time to time it is good to review the basics and the laws that govern the role of local planning authorities.

The authorization that provides for local government to create master plans for future development and the authority to create zoning ordinances rest in two laws. Planning Enabling Act (2008 Public Act 33) and the Zoning Enabling Act (2006 Public Act 110).

This authority is limited by other state and federal laws that preempt this authority and provide constraints to what and how local governments can regulate particular subjects. Some of the most common constraining laws include: the Michigan Right to Farm Act, Act 93 of

1981, the Airport Zoning Act Act 23 of 1950 (Ex. Sess.), The Michigan Regulation and Taxation of Marihuana Act MCL 333.27955 and many others. Check for controlling legislation by subject.

In addition, planning and zoning are further limited and defined by legal opinions arising from court cases and attorney general (AG) opinions. Local planning authorities should regularly review Michigan Court opinions and AG rulings.

A very good primer on The limitations of zoning and planning is the [Michigan State University Extension Land Use Series Restrictions on Zoning Authority](#) (updated 2019).

The conduct of local govern-

ments as well as that of planning and zoning authorities are bound by two critical acts. The Freedom of Information Act (1976 Public Act 442) and the Open Meetings Act (Act 267 of 1976). Both of these acts are critical to substantive due process. Failure to follow these acts



at any step of the planning and zoning process can invalidate any master plan or ordinance regardless of the quality of the work.

Annual Report

The Michigan Planning Enabling Act (MPEA) (MCL 125.3801 et seq.) states that “A planning commission shall make 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” (MCL 125.3819(2)).

While you are completing your annual report, it is also a good time to also make your budget request and present your work

plan for the next year. This way, your board is fully aware of the work both completed and planned and can justify the planning commission budget.

Ultimately, the annual report should provide a solid overview of the state of planning (Cont)

Protect your Township—Spotted Lanternfly



Invasive species can create enormous havoc on local townships and communities. Just consider the number of dead ash trees in Tuscola County from the Emerald Ash Borer. And that pest began their invasion in 2002!

Now, Environment, Great Lakes and Energy (EGLE) is sounding the alarm for a new invasive pest, The Spotted Lanternfly (SLF).

The Spotted Lanternfly affects a large range of plants and trees,

including more than 70 tree species including black walnut and a wide variety of vines and shrubs. As it feeds off of the plant's sap, it weakens the host and makes it vulnerable to a number of diseases and pests. The impact of the Lanternfly on humans is minimal as the insect does not bite or sting. However, its activities do attract insects that do.

The greatest economic impacts of SLF may be on Michigan crop plants. Tree hosts of SLF include apple, plum, cherry,

peach and apricot. High densities of SLF have also been observed on grape and hop vines. SLF does not feed on the product but directly on the trees and plants. This weakens the plants, and affect fruit quality during the harvest season. (cont.)



Legal Notes

A public body must identify the specific litigation it will be discussing to justify closing a meeting to the public.

Estate of Timothy Ader v. Delta Coll. Bd. of Trs.

Local governments and planning commissions should keep track of court decisions and Attorney General (AG) opinions as this can affect or invalidate parts of your zoning.

A few of the more recent and impactful court decisions have been included for awareness. Please read the complete decision and/or discuss with your attorney before acting.

Municipalities can regulate medical marijuana caregiver grow operations. (DeRuiter v. Township of Byron) but may not restrict or penalize compliant MMA operations by zoning ordinance. (City of Warren v. Bezy)

Public nuisance abatement claims are subject to a six-year period of limitations starting from the beginning of the action not the legal notification or

township discovery. (*Township of Fraser v. Haney*)

Existing use such as short term rentals are not "grandfathered" if not authorized before a prohibiting ordinance is adopted. (Reaume v. Township of Spring Lake)

AG opinions can be found at https://www.michigan.gov/ag/0,4534,7-359-81903_20988--,00.html

Reminder– Zoning Documents due by the 15th



The Michigan Zoning Enabling Act (MZEA) requires local planning commissions to submit planning documents to the County Planning Commission. The County Planning Commission may provide review, advice and assistance on submitted documents. MCL125.3307

As the County Planning Commission does not have office

staff, nor meet more than once a month, documents submitted for consideration and feedback must be received by the 15th of each month for the next meeting.

Master Plans, Zoning Ordinances, Rezoning, Amendments etc. require research and careful screening to identify potential difficulties and ensure they

harmonize with the long term planning of the County. Please help us to help you by getting documents to us in a timely manner. After local approval, remember to forward the final version to the county.

The TCPC appreciates receiving PA-116 packages with as much lead time as possible before the first Wednesday of the month.

County Review of Planning Documents

Many local planning commissions question why their planning and zoning documents need to be sent to the county. There are several reasons.

Most importantly, submitting to the county satisfies a legal requirement of the MZEA. Since the MZEA provides the authority for local governments to zone, failure to comply with the law can negatively affect your ability to enforce your ordinance if challenges are brought against your local zoning.

The county does not “approve” your local level planning documents. We offer a county level review to assist and ensure your local vision fits harmoniously into the larger county plan. We also assist in ensuring your plans fit with those of your neighbors!

County level planners provide another set of eyes and another point of view. This helps to ensure your zoning is not reacting to a single event but is looking at a neutral future plan.

County planners offer a different set of experiences and knowledge base. They have access to different resources. These can help construct a stronger and more enforceable, defensible ordinance.

After you complete your local ordinance adoption, do not forget to send the final adopted ordinance to the TCPC.

Remember, the county is here to provide a resources and assist in the planning process.

*Remember to
ALSO send a
record copy of your
FINAL passed
document for
county reference.*

Spotted Lanternfly (Cont.)

The resulting decrease in yield affects on fruit ripening and reduced winter tolerance to cold weather makes the SLF a substantial threat.

EGLE notes the Lanternfly lays



eggs on everything from trees to lawn furniture and thus is easily transferable across the country.

Egg sacs are the early warning sign with this invasive species. They are evident from September thru June. Juveniles hatch in April or May and then begin feeding. This stage is noted for crawling and jumping but do not fly. Adults may appear as early as mid-summer but they are most common in late summer and fall.



A brochure for distribution and education can be downloaded

<https://www.canr.msu.edu/news/spotted-lanternfly-a-colorful-cause-for-concern>

Annual Report (Cont.)

of the previous year's activities.

At a minimum, commissions should provide a report on completed work including items reviewed, approved, recommended or rejected. The most common include:

- Special-use permits
- Planned unit developments,
- Zoning amendments

- Site plans
- Subdivisions/site condos

The annual report can also include any additional items that may be useful to local government. Some suggestions include:

- Reports regarding surrounding municipality planning
- Summary of the past year's ordinance amendments.

- Status of Planning Activities - master plan, capital improvement plan, land use studies.etc.
- Summary of Zoning Administrator and ZBA Operations
- Training of planning members
- Potential areas needing updating or amendments.
- Topics of concern or discussion
- Recommendations of future topics or area for examination





Tuscola County Planning Commission

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(note: review copies of draft documents should
be sent hard copy.)

On-line
<https://www.tuscolacounty.org/planning/>

Rick Boylan
Cynthia Kapa
Lonnie Kester, Chair
Robert McKay
Albert Pearsall, Vice Chair
Heidi Stark
Ann Westover, Secretary

The Tuscola County Planning Commission (TCPC) is responsible for a wide range of county planning duties as defined by the MZEA and the MPEA. The commission reports to the Tuscola County Board of Commissioners.

Offering education, expertise, networking opportunities, and technical assistance, the TCPC provides township, village and city planning and zoning functions a valuable resources to enhance their local development.

The TCPC also provides a centralized knowledge center for planning and zoning across the county with a focus on future issues and factors that affects the future of Tuscola County.

PA-116s— Streamline the process and avoid kickbacks

PA-116s are one of those programs where the paperwork needs to pass through many hands for various approvals. Each set of hands have different concerns and requirements to approve.

At the county level, incorrect and incomplete paperwork creates most PA 116 denials. A quick, brief review of the PA 116 package can save time, effort and decrease the ire of landowners.

Here is a short list of requirements to check before sending your paperwork to the county.

Did the package come from the local clerk and include clerk contact information?

Is all package required information included?

- Personal information
- Correct property location
- Most recent property tax assessment or bill
- Copy of deed, land contract or memo of land contract
- Include land contract owner signature if applicable
- Properly signed by all land owners.
- Map of farm with structures and natural features
- Local governing body ac-

tion completed

A few of the most commonly missed items include:

- Line 13. Not indicating lease status
- Line 20. Not having the signatures of ALL owners listed on the deed.
- Line 15. Not completing the check box and providing needed information.
- Not having the CURRENT tax bill.

A few extra minutes reviewing paperwork can save your residents many weeks of processing time!



Farmland Preservation