



**PLANNING COMMISSION**  
TUESDAY, JANUARY 12, 2021  
Electronic Meeting - 6:30 P.M.  
201 West Ash Street, Mason MI

**AGENDA**

- 1. OATH OF OFFICE**
- 2. CALL TO ORDER**
- 3. ROLL CALL**
- 4. ELECTION OF LEADERSHIP**
  - A. Elect Officers for 2020 – Chair, Vice Chair and Secretary
- 5. PUBLIC COMMENT**
- 6. APPROVAL OF MINUTES**
  - A. Approve Minutes of Regular Planning Commission Meeting December 15, 2020
- 7. UNFINISHED BUSINESS**
  - A. Youth Advisor Volunteer
- 8. NEW BUSINESS**
  - A. 2021 Meeting Schedule
  - B. Joint City Council and Planning Commission Meetings:
    - Monday, January 25, 2021 at 7 pm – Capital Improvement Program
    - Monday, February 22, 2021 at 7 pm - Master Plan Request for Proposals (finalize)
  - C. Michigan Association of Planning Training – [Winter Cities Registration Confirmation](#)
  - D. Planning Commission Handbook – Discuss Section I. Administrative Documents
- 9. LIAISON REPORT**
  - A. City Manager's Report
- 10. ADJOURN**

# PLANNING COMMISSION

## ELECTRONIC MEETING INFORMATION

**PLEASE TAKE NOTICE** that the meeting of the City of Mason Planning Commission scheduled for **January 12, 2021, starting at 6:30 p.m.**, will be conducted virtually (online and/or by phone) due to health concerns surrounding Coronavirus/COVID-19.

The City of Mason will be using Zoom to host this meeting. A free account is required to use Zoom. Please take the time to download and set-up Zoom prior to the meeting. Zoom may be accessed here: <https://zoom.us/>

### MEETING INFORMATION:

Topic: **Planning Commission Meeting**

Time: **January 12, 2021 at 6:30 p.m.** Eastern Time

**Meeting ID: 819 9725 9368**

**Passcode: 679517**

Video Conference Information: **Link to join online:**

<https://us02web.zoom.us/j/81997259368?pwd=QjBFMkZwK2NsVzhELzBiTDI4WGlvUT09>

- You may also join a meeting without the link by going to [join.zoom.us](https://join.zoom.us) on any browser and entering the Meeting ID identified above.
- Phone Information:  
**Dial (312) 626 6799 (Enter meeting ID when prompted.)**

To comply with the **Americans with Disabilities Act (ADA)**, any citizen requesting accommodation to attend this meeting, and/or to obtain this notice in alternate formats, please contact Michigan Relay at <https://hamiltonrelay.com/michigan/index.html>.

**Resources:** More Questions? Please Contact our Customer Service Desk at 517.676.9155.

### Note on Public Comments:

If you would like to provide comments beforehand, please send those comments in an email by 3:00 pm on the day of the meeting to [marciah@mason.mi.us](mailto:marciah@mason.mi.us). They will be read aloud by Chair.

If you would like to speak during the meeting, you can send your name and address to [marciah@mason.mi.us](mailto:marciah@mason.mi.us) by 3:00 pm on the day of the meeting. You can still speak at the meeting if you do not notify us in advance.



# General Procedures

## Related to Electronic Meetings

As required under Public Act 228 of 2020, the following procedures outline the accommodation of meetings held, in whole or in part, electronically by City Council or a City Board or City Commission. Additional procedures will be adopted at a later date, by the Council, to accommodate members that are eligible and cannot attend in person for meetings held on or after January 1, 2021.

### Electronic Meeting Procedures for City Council, City Board or City Commission Members

- All attendees including City Council, City Board or City Commission Members will enter the meeting with a muted microphone.
- The meeting Chair's microphone will be unmuted to call the meeting to order.
- During initial roll call, each member will announce the physical location they are participating from by stating the county, city, township, or village and state which they are attending the meeting from.
- The meeting Chair will call for a motion and members will signify making a motion by either voice or the "Raise Hand" feature. The same process will be followed for a second to a motion. The meeting Chair will then acknowledge which member made the motion and which member seconded the motion.
- The meeting Chair will then ask if there is any discussion on the motion. Members will indicate a desire to discuss by either voice or the "Raise Hand" feature. The meeting Chair will then acknowledge the particular member granted the floor for discussion by name.
- Votes shall be taken by roll call.

### Electronic Meeting Procedures for Public

- All public participants entering the meeting will automatically be muted upon entering.
- All public participants should either turn off or leave off their video camera. Only City Council, City Board or City Commission Members will be allowed to have their video cameras on. Your video camera will be turned off for you if you do not turn it off yourself.
- Public rules are displayed in the "Chat" Feature; however, the chat feature will not be turned on to allow for chat comments to be added.
- Public comment:
  - Public only will be allowed to address the members during Public Comments
  - Public is allowed three (3) minutes to speak.
  - Public must state the name and address slowly and clearly before they start to address the Council.
  - Public comments will be addressed in the following order:
    1. Those provided the day of the meeting and sent to the designated person in the meeting instructions by a certain time will be read during the meeting.
    2. Those using the Video Conference Portion (not calling on a telephone) will be asked to use the "Raise Your Hand" Feature in Zoom. The meeting Chair will call on individuals to speak and they will be unmuted at that time.
    3. Participants that are available only by phone, after the meeting Chair requests.
- Inappropriate or disruptive participants will not be allowed or tolerated and will be removed from the meeting.
- Due to the electronic nature of this type of meeting the meeting Chair, at his discretion, may adjourn the meeting with or without notice for any reason. Every attempt will be made to remain connected to the meeting, however two examples of abrupt adjournment may be computer connectivity issues or lack of appropriate participation.

## ADDITIONAL ZOOM INSTRUCTIONS FOR PARTICIPANTS:

### PHONE INSTRUCTIONS - to join the conference by phone

1. On your phone, dial the teleconferencing number provided above.
2. Enter the **Meeting ID number** (provide with agenda) when prompted using your touch- tone (DTMF) keypad.

### VIDEOCONFERENCE INSTRUCTIONS – to watch and speak, but not to be seen

#### **Before a videoconference:**

1. You will need a computer, tablet, or smartphone with speaker or headphones. You will have the opportunity to check your audio immediately upon joining a meeting.
2. Details, phone numbers, and links to videoconference or conference call is provided above. The details include a link to “Join via computer” as well as phone numbers for a conference call option. It will also include the 9- digit Meeting ID.

#### **To join the videoconference:**

1. At the start time of your meeting, enter the link to join via computer. You may be instructed to download the Zoom application.
2. You have an opportunity to test your audio at this point by clicking on “Test Computer Audio.” Once you are satisfied that your audio works, click on “Join audio by computer.”

If you are having trouble hearing the meeting, you can join via telephone while remaining on the video conference:

1. On your phone, dial the teleconferencing number provided above.
2. Enter the **Meeting ID number** when prompted using your touch- tone (DTMF) keypad.
3. If you have already joined the meeting via computer, you will have the option to enter your 2- digit participant ID to be associated with your computer.

#### **Participant controls in the lower left corner of the Zoom screen:**



Using the icons in the lower left corner of the Zoom screen, you can:

- Mute/Unmute your microphone (far left)
- Turn on/off camera (“Start/Stop Video”)
- Invite other participants
- View Participant list – opens a pop-out screen that includes a “**Raise Hand**” icon that you may use to raise a virtual hand during Call to the Public
- Change your screen name that is seen in the participant list and video window

Somewhere (usually upper right corner on your computer screen) on your Zoom screen you will also see a choice to toggle between “speaker” and “gallery” view. “Speaker view” shows the active speaker. “Gallery view” tiles all of the meeting participants.

**City of Mason**

## Boards and Commissions

## Election of Officers - worksheet

Board/Commission	PC			
Year	2021			
<b>Position</b>	<b>Nomination</b>	<b>First</b>	<b>Second</b>	<b>Vote</b>
CHAIR <i>Facilitates meetings</i>	1			
	2			
	3			
	4			
VICE-CHAIR <i>Facilitation of meetings in Chair's absence</i>	1			
	2			
	3			
	4			
SECRETARY <i>Signs meeting minutes</i>	1			
	2			
	3			
	4			

**NOTES:**

**CITY OF MASON  
PLANNING COMMISSION SPECIAL MEETING  
MINUTES OF DECEMBER 15  
DRAFT**

Sabbadin called the meeting to order at 6:30 p.m. at 201 West Ash Street, Mason MI, via Zoom Teleconference.

<b>Roll Call</b>		<b>Present</b>	<b>Absent</b>	<b>Location</b>
Treasurer	Barna	x		Mason, Michigan
Commissioner	Droscha	x		Mason, Michigan
Commissioner	Howe		x	Notice given
Commissioner	Perrault		x	Notice given
Chairman	Sabbadin	x		Mason, Michigan
Commissioner	Shattuck		x	No notice received
Commissioner	Vercher	x		Mason, Michigan
Vice-Chair	Waxman	x		Mason, Michigan
Commissioner	Wren	x		Mason, Michigan

Also Present: Elizabeth A. Hude, AICP, Community Development Director, Mason, Michigan; Marcia Holmes, Administrative Assistant, Mason.

**PUBLIC COMMENT**

None.

**APPROVAL OF MINUTES**

MOTION by Waxman second by Vercher, to approve the Planning Commission meeting minutes from the special meeting October 27, 2020.

Yes (6) Barna, Droscha, Sabbadin, Vercher, Waxman, Wren

No (0)

Absent (3) Howe, Perrault, Shattuck

**MOTION PASSED BY ROLL CALL VOTE**

**UNFINISHED BUSINESS**

A. Master Plan – staff update

Director Hude is working on a webpage for the Master Plan that will have the basic information presented. There will be a joint meeting in late January or early February with City Council to walk through the RFP. Staff is working on eight questions for the discussion to determine what the focus should be as the Master Plan will inform decisions regarding budget, zoning updates, and the permits that come out of that. Hude would also like to promote the concept of 100 conversations where all of the Commissioners are encouraged to reach out and talk to people to see what their concerns, thoughts, and ideas are and bring those to the January meeting.

## B. Subdivisions, condominiums and long-term maintenance of common areas – see memo

Sabbadin noted this is an action request from the City Council meeting of November 23, 2020. Director Hude stated there were concerns regarding the areas of common ownership with the Esquire Development subdivision a couple of years ago as well as the detention pond with Franklin Farms. City Council has asked that the Planning Commission look over the ordinances to see if any changes need to be made. Staff shared a previous memo from the City Attorney that referenced Enclave at Rayner Ponds where questions were raised and the ordinances that are currently in the law give the Planning Commission the authority to allow for conditions to be placed relative to requiring homeowners' associations to maintain common areas.

Waxman asked if there is a way to strengthen the requirements for the homeowners association or a way to regulate them to ensure they are doing their job and if they aren't is there recourse for the City to assess special assessments or other actions to have those areas maintained. Sabbadin replied that Franklin Farms is an example with their detention pond and that because the homeowners association dissolved the homeowners will be paying more now for the Drain Commission to maintain than their yearly dues would have cost. Sabbadin believes the current laws are strong enough but the Planning Commission and staff needs to do a better job to make everyone aware of the consequences. Director Hude recommended the Commissioners review the State and local laws so they are familiar with the language requirements so that they are prepared to add conditions when necessary. Waxman requested a workshop to go over situations hypothetically or from the past where they can learn what to look for and how to respond. Hude mentioned MSU having training resources and that as they work through the Master Plan process there will be a conversation on subdivisions. Waxman added to report back to City Council that there will be no current action taken but they will actively research what is required. Hude will make subdivision land use and infrastructure one of the questions to discuss at the joint meeting. Barna mentioned living in the older part of Mason with no HOA's and suggested they think about whether or not HOA's are the way to continue in the future. Director Hude will prepare a memo to send to City Council with an outline of their discussion on the topic.

## **NEW BUSINESS**

### A. Youth Advisor Position - discussion

Director Hude noted that in some communities they have a Junior Planning Commissioner position that allows student participation as a non-voting position. The experience benefits the student by offering civic and leadership experience; it provides a youthful perspective to the Commission which would be beneficial with the Master Plan effort coming up. There is a young man at Mason High School who is interested and Hude mentioned it to City Manager Deb Stuart to see what she thought. She recommended presenting it to the Planning Commission to see what their thoughts would be. Hude did not think anything would have to be changed within the ordinances to allow this Youth Advisor position to be added as the student could participate under the Open Meetings Act, provide public comment and read the packets online. Sabbadin asked for comments. Vercher thought it was a good idea to bring in the younger

members of the community and get them involved in Planning and Government conversations and he did not think there are any negatives to this. Waxman also thought it is a fantastic idea as he attended Boys State in school and thinks this opportunity for forward looking perspective is what is needed in the City. He also noted how it fits in with the joint commitment to the school district and that this one person can lead to five more showing up at a meeting to share feedback. Wren agreed with Waxman and added that the Master Plan will be affecting the younger generations and this is a great opportunity. Barna added they should consider future members and make sure diversity is included and outreach to students who may not have the connections to be nominated for this type of position. Sabbadin noted there should be stipulations placed on this position and the individual should be held to the same standard as the Commissioners in regards to attendance so if 2 or 3 meetings in a row are missed then a conversation is had with them to see if they are engaged or need to step down. He also added that their term should end with high school graduation as the student can become a Planning Commissioner as long as they live in the City and there is an opening. Waxman agreed and added the suggestion that they note a preference for students from Mason High School but they don't have to be a member of Mason given the ordinances allow for one out of district member on each of the City's Boards and Commissions. Director Hude asked how the Commissioners would like her to proceed with the current individual. Waxman commented that he should be at the January meeting but not have to take the oath of office and there should be some sort of recognition. Sabbadin suggested the Director and the Chairperson review the application and then write a Resolution to present to the Commission. Hude will draft a Resolution to present at the January meeting.

#### **LIAISON REPORT**

Sabbadin noted the City Manager's report in the packet.

Director Hude had a meeting with the DNR to follow up on Mason not receiving any of the grants for Rayner Park. This will be updated on the City webpage. The City is still planning on moving forward with the Rayner Park master plan along with the City-wide Master plan and several other projects. Hude shared that the DNR was very impressed with the letter that Commissioner Barna wrote in support of the grants and accessibility.

Sabbadin acknowledged Commissioner Vercher's resignation letter as he will be moving on to work for Loyola in Chicago. Vercher hopes to be back in the near future.

Sabbadin wished everyone a Merry Christmas and Happy New Year.

#### **ADJOURN**

The meeting adjourned at approximately 7:15 p.m.

# PUBLIC NOTICE

## 2021 Mason Public Meetings

### All public meetings will be held openly, either at City Hall or via Zoom.

Details on when and how the meeting will be held will be included with each meeting's agenda; available on our website: [mason.mi.us](http://mason.mi.us) and posted to the front window of City Hall, prior to each meeting.

### Meeting dates and times are subject to change.

Schedule may be adjusted in the future to address conflicts due to holidays or elections.

CITY COUNCIL 7:30 PM (1 <sup>st</sup> & 3 <sup>rd</sup> Monday)	DOWNTOWN DEVELOPMENT AUTHORITY 10:00 AM (2 <sup>nd</sup> Monday, as needed)
January 4 & 18	January 11
February 1 & 15	February 8
March 1 & 15	March 8
April 5 & 19	April 12
May 3 & 17	May 10
June 7 & 21	June 14
July 5 & 19	July 12
August 2 & 16	August 9
September 6 & 20	September 13
October 4 & 18	October 11
November 1 & 15	November 8
December 6 & 20	December 13

HISTORIC DISTRICT COMMISSION 6:00 PM (3 <sup>rd</sup> Monday, as needed)	PLANNING COMMISSION 6:30 PM (2 <sup>nd</sup> Tuesday after the 1 <sup>st</sup> Monday)	ZONING BOARD OF APPEALS 5:30 PM (2 <sup>nd</sup> Wednesday, as needed)
January 18	January 12	January 13
February 15	February 9	February 10
March 15	March 9	March 10
April 19	April 13	April 14
May 17	May 11	May 12
June 21	June 15	June 9
July 19	July 13	July 14
August 16	August 10	August 11
September 20	September 14	September 8
October 18	October 12	October 13
November 15	November 9	November 10
December 20	December 14	December 8

**Resources:** More Questions? Please Contact our Customer Service Desk at 517.676.9155.



# Planning Commission Handbook



CITY OF  
MASON



# City of Mason

## PLANNING COMMISSION HANDBOOK

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  - Mason Planning Commissioner By-Laws
  - Chapter 2 of City Ordinances– Code of Ethics
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  - AICP Code of Ethics and Professional Conduct
  - Michigan Open Meetings Act & Freedom of Information Act
- II. **STATE ENABLING ACTS**
  - Michigan Planning Enabling Act, Act 33 of 2008
  - Michigan Zoning Enabling Act, Act 110 of 2006
- III. **CITY ORDINANCES – [CLICK HERE FOR LINKS](#)**
  - Chapter 1 – General Provisions (Definitions)
  - Chapter 50 – Planning
  - Chapter 58 – Signs
  - Chapter 74 – Subdivisions and Other Divisions of Land
  - Chapter 94 – Zoning
  - Chapter 100 – Reference Tables and Figures
- IV. **PLANNING DOCUMENTS – FOLLOW LINKS**
  - Master Plan
  - Capital Improvement Plan (CIP)
  - City of Mason Zoning Map
- V. **PLANNING COMMISSION DOCUMENTS**
  - Agendas, packets, minutes and video recordings of meetings are available on the Planning Commission webpage.
- VI. **HELPFUL REFERENCES**
- VII. **[Community Development Department](#) (City website)**
  - Mason Planning Commission (City website)
  - The Planning & Zoning Center at MSU (PZC)
  - Michigan Citizen Planner Program
  - Tri-County Regional Planning Commission
    - Mid-Michigan Program for Greater Sustainability: Health Impact Assessment Toolkit
  - American Planning Association (www.planning.org)
  - American Planning Association - Michigan Chapter (www.planningmi.org)
  - Michigan Economic Development Corporation: Redevelopment Ready Communities
  - Michigan Planning Guidebook and Michigan Zoning Guidebook – *copies of each can be borrowed from the Zoning Administrators office.*

Introduced by: Droscha

Seconded by: Madden

**CITY OF MASON  
CITY COUNCIL RESOLUTION NO. 2019-30**

**RULES OF ORDER FOR THE CITY COUNCIL AND  
FOR CITY BOARDS AND COMMISSIONS**

**December 2, 2019**

**WHEREAS**, the process of government in the City of Mason includes the activity of a City Council as well as numerous Boards and Commissions sanctioned by the City Council, each of which can play a significant role in the conduct of the affairs of the City; and

**WHEREAS**, the citizens of the City of Mason are best served by a City Council as well as by City Boards and Commissions that function smoothly with a firm basis for resolving questions of procedure that may arise; and

**WHEREAS**, the City Council and City Boards and Commissions must each conduct business with the greatest measure of protection for the people and City of Mason, as well as for the Council and each Board and Commission as a body, and

**WHEREAS**, the City Council and City Boards and Commissions must each conduct business with the greatest measure of protection and consideration of the rights of individual members and the rights of individual citizens, and

**WHEREAS**, the application of parliamentary law is the best method yet devised to enable the City Council and City Boards and Commissions to arrive at the general will on the maximum number of questions of varying complexity in a minimum amount of time and under the most diverse set of conditions, ranging from total harmony to impassioned division of opinion, with due regard for the opinion of each member and for the right of every citizen to address the Council, a Board or a Commission; and

**WHEREAS**, Rules of Order are the written rules of parliamentary law and are critical to ensure the most effective and efficient operation of any deliberative body; and

**WHEREAS**, the citizens of the City of Mason will be best served when the meetings of all public bodies are conducted according to similar procedures.

**NOW, THEREFORE, BE IT RESOLVED**, that these Rules of Order shall be the parliamentary law of the City Council and all City Boards and Commissions of the City of Mason, and shall nullify and replace any other previously approved Rules of Order; and

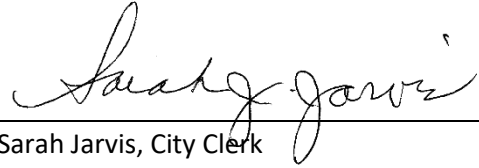
**BE IT FURTHER RESOLVED**, that these Rules of Order shall be consistently applied and actively enforced at all times in relation to the orderly transaction of business in meetings, and in relation to the duties of officers in the conduct of meetings, of the City Council, as well as all City Boards and Commissions, and shall take effect at the first meeting following approval of this resolution.

YES: ( 5 ) Brown, Droscha, Ferris, Madden, Whipple

NO: ( 2 ) Schaffer, Vogel

ABSENT: ( 0 )

**CLERK'S CERTIFICATION:** I hereby certify that the foregoing is a true and accurate copy of a resolution adopted by the City Council at its regular meeting held Monday, December 2, 2019, the original of which is part of the meeting minutes.

A handwritten signature in cursive script, reading "Sarah Jarvis", written over a horizontal line.

Sarah Jarvis, City Clerk  
City of Mason  
Ingham County, Michigan

**RULES OF ORDER FOR THE CITY COUNCIL AND  
FOR CITY BOARDS AND COMMISSIONS**

City Council Resolution No. 2019-30  
City of Mason, Michigan

1) ORDER OF BUSINESS

- a) City Council: At each regular meeting of the City Council the business to be considered shall be taken up, when applicable, for consideration and disposition in the following order:

1. Oath of Office
2. Call to Order
3. Roll Call
4. Pledge of Allegiance and Invocation
5. Election of Mayor and Mayor Pro Tem
6. Public Comment
7. Presentations
8. Consent Calendar
9. Public Hearings
10. Unfinished Business
11. New Business
12. Council Member Reports
13. Manager's Report
14. Adjourn (Adjourn Sine Die)

- b) City Boards and Commissions: At each regular meeting of a City Board or Commission the business to be considered shall be taken up, when applicable, for consideration and disposition in the following order:

1. Oath of Office
2. Call to Order
3. Roll Call
4. Election of Leadership
5. Public Comment
6. Presentations
7. Approval of Minutes (if no Consent Calendar)
8. Correspondence (if no Consent Calendar)
9. Consent Calendar
10. Public Hearings
11. Unfinished Business
12. New Business
13. Liaison Report
14. Adjourn

- 2) MANAGEMENT OF THE ORDER OF BUSINESS. Any item of business to be considered shall be appropriately filed with the City Manager, or assigned secretary to the board/commission, by noon on the Wednesday preceding the subject meeting. Requests by members of the body and the City

Manager/secretary shall be automatically included in the Order of Business if filed in a timely manner. The City Manager/secretary shall send a complete Order of Business with supporting materials to each member by close of business on the last business day of the week preceding the subject meeting. Each item submitted for inclusion in the Order of Business shall include sufficient explanation to indicate intent. Any issue introduced at a meeting that does not appear on the Order of Business may be deferred for inclusion on the Order of Business of a subsequent meeting upon the request of any one member of the body, except that said issue may be added to the current Order of Business if so approved by a majority vote of the members present.

### 3) PUBLIC COMMENT

- a) It is the intent of these Rules to encourage public comment and participation by interested persons that is constructive, informative, and factual in a manner conducive to the conduct of an organized, efficient and professional business meeting. Public comment shall be allowed only during the Public Comment, Presentation and Public Hearing business items, or when permitted by the meeting Chair.
- b) The Public Comment business item is intended to receive comment on any topic a member of the public would like to bring to the attention of the body. A member of the public who wants to speak to a specific Order of Business item may inform the Chair that they would like to reserve their comments to a specific item of interest. The Chair will make note of the request. Prior to the debate of the specific business item by the body, the Chair will call on the individual, who may speak regarding that business item in accordance with subsection (c).
- c) All public comment shall be appropriate to the conduct of a public business meeting and, if applicable, the matter under consideration. Each person shall be allowed to speak for a maximum of three (3) minutes and the Chair may limit the number of times each person is allowed to speak. The limits on time and quantity for speaking may be extended at the discretion of the Chair.
- d) Any person in attendance at a meeting shall comply with the direction of the Chair as to the appropriateness of their actions or comments. The Chair shall retain discretion to disallow or stop a person from speaking or to temporarily recess the meeting at any time to maintain the order of the meeting.
- e) Any person that speaks before the body shall state for the record their name, residence address and group affiliation, if any.

- 4) PRESENTATIONS. Presentations will provide a venue in the Order of Business for brief presentations that do not require formal action.
- 5) PUBLIC HEARINGS. Business items requiring a public hearing shall be placed under the related Public Hearing item for immediate consideration following the public hearing.
- 6) CONSENT CALENDAR. A Consent Calendar may be used to allow the body to take action on numerous items at one time. Items in the Consent Calendar may include, but are not limited to, non-controversial matters such as approval of minutes, payment of bills, approval of simple motions, street closures, correspondence, etc. The body shall act upon all items listed in the Consent Calendar by a single vote without debate. Upon request by any member made prior to the vote on

the Consent Calendar, an item in the Consent Calendar shall be removed from the Consent Calendar and placed in the Order of Business appropriately as determined by the Chair.

- 7) **MINUTES.** Meeting minutes requiring approval shall be distributed to each member with the Order of Business for the next regular meeting. There shall not be a reading of the minutes at the meeting. If the Order of Business includes a Consent Calendar, approval of the minutes shall be included in the Consent Calendar. If the minutes are removed from, or not part of, the Consent Calendar and a substantial correction, as determined by the Chair, is suggested by the Chair or a member, said correction shall be agreed to by a two-thirds vote of the members present. Corrections not determined to be substantial shall be considered agreed to by consensus unless any member challenges such determination, in which case said correction shall be treated as a substantial correction. Minutes shall be considered approved by consensus without a vote if no corrections are suggested or after all suggested corrections are agreed to as required.
- 8) **UNFINISHED BUSINESS.** Items considered under Unfinished Business are items or matters that have been previously addressed by the body but have not received final action
- 9) **NEW BUSINESS.** Items considered under New Business are items or matters that may require immediate or future action by the body.
- 10) **COUNCIL MEMBER REPORTS.** A Council member may provide information regarding an event, a meeting or a conference that might be of interest to the City Council or local residents. A Council Member Report should not exceed three minutes. If the subject matter requires additional time the Council member may place the matter on the Order of Business of a subsequent meeting.
- 11) **CONDUCT OF BUSINESS**
  - a) Parliamentarian: The meeting Chair shall serve as Parliamentarian unless that duty is assigned and accepted by another member. The application and enforcement of these rules is the responsibility of the Chair.
  - b) Reconsideration: A motion to reconsider enables a majority to bring back for further consideration a motion that has been voted on previously. The motion to reconsider can be made only by a member voting on the prevailing side and is in order only until the adjournment of the next regular meeting following the meeting during which the motion to be reconsidered was acted upon.
  - c) Appeal to Chair: Any decision of the Chair in applying or interpreting these Rules of Order may be appealed by a motion made at the time of the ruling being appealed and before any debate or business has intervened. The Chair shall be allowed to speak first to an appeal with each member allowed to speak once. The Chair may speak one last time after all members have been given an opportunity to speak. The question before the body on an appeal of the Chair shall be "Shall the decision of the Chair be sustained?" A majority or tie vote shall sustain the decision of the Chair.
  - d) Abstain from Voting: No member of the body shall vote on any question in which the member has a financial interest, other than the common public interest, or on any question concerning the conduct of the member, but, on all other questions, each member who is present shall vote unless excused by unanimous consent of the remaining members present.

- e) Considering a Motion: A motion that does not receive a second shall not be considered to be in order.
- f) Meeting Decorum Guidelines: All members of the City Council and all City Boards and Commissions are expected to conduct themselves professionally, respectfully, and ethically at all times during meetings. To that end, all members shall:
  - 1. Be prepared, ready to actively participate, and remain attentive without distractions during meetings.
  - 2. Maintain civility in all discussions and support ideas and positions with data.
  - 3. Exhibit decorum at all times and adhere to the Meeting Decorum Guidelines and the Rules of Order.
  - 4. Respectfully hold all members accountable to the Meeting Decorum Guidelines and the Rules of Order.
  - 5. Be concise, purposeful, and considerate of others when speaking.
  - 6. Listen attentively and respectfully to the comments of others.
  - 7. Focus discussions on conflict resolution and the development of solutions.
  - 8. Respect the body and agenda by staying on-topic.
  - 9. Respect the decisions of the body regardless of personal opinion.

## 12) ELECTION OF LEADERSHIP

- a) Election: The Chair (Mayor), Vice-Chair (Mayor Pro Tem) and any other leadership of the body shall be elected pursuant to the applicable provisions of the City Charter or of the City Code if such provisions exist. Absent Charter or Code requirements, election shall be by majority vote of the members present during the first regular meeting of each calendar year.
- b) Absence: In the absence or disability of the Chair and the Vice-Chair, the members present shall select by majority vote a member to be designated as Acting Chair to perform the duties of the Chair as necessary.

## 13) RULES OF ORDER

- a) The rules contained in the current edition of Robert's Rules of Order Newly Revised shall govern the City Council and all City Boards and Commissions in all applicable cases in which Robert's Rules are consistent with these Rules of Order, the City Charter, City Code, and State Statute.

## 14) SUSPEND RULES

- a) A request to suspend the Rules of Order shall be granted only by unanimous vote of the members present.

## MASON PLANNING COMMISSION

### BY-LAWS

These by-laws are adopted by the Mason Planning Commission (herein after referred to as the Commission) in accordance with Section 19(1), Michigan Planning Enabling Act 33, Michigan Public Act of 2008, as amended.

Note: Please refer to Chapter 50 of the Mason Code for additional information on the following Commission issues:

- Creation of a Planning Commission
- Terms and Organization
- Meetings and Records
- Expenditures
- Functions, Duties, Master Plan

#### ARTICLE I – OFFICERS

Section 1.0 Officers. The officers of the Commission shall consist of a Chair, Vice-Chair, and Secretary (which may also be held by the Chair or Vice-Chair) elected by the Commission from its members at its Annual Meeting. Officers shall serve for a period of one year and may be re-elected.

Section 1.1 Duties. The duties and powers of the officers of the Commission shall be as follows:

##### CHAIR

1. To preside at all meetings of the Commission.
2. To call Special Meetings of the Commission in accordance with these By-Laws.
3. To see that all actions of the Commission are properly taken.
4. To appoint Sub-Committees of the Commission which in the Chair's opinion, are required to assist the Commission in carrying out its responsibilities.
5. To sign all official documents and letters on behalf of the Commission.

##### VICE-CHAIR

1. During the absence, disability, or disqualification of the Chair, the Vice-Chair shall exercise or perform all the duties and be subject to all the responsibilities of the Chair.

## SECRETARY

The Secretary shall serve as the liaison between the Commission and the zoning administrator or other designated City staff. The Secretary shall be responsible for the execution of documents in the name of the Commission, keep a public record of its resolutions, transactions, findings, and determinations of the Commission, and perform such other duties as required by state statute or as the Commission may determine.

**CITY COUNCIL LIAISON** – The City Council liaison representative to the Commission shall report the actions of the Council to the Commission and update the Commission on actions by the Council that relate to the functions and duties of the Commission.

- Section 1.2 Vacancies. Should any vacancy occur among the members of the Commission by reason of death, resignation, disability or otherwise, immediate notice thereof shall be given to the City Clerk, who shall forward it to the Mayor and City Council. Should any vacancy occur among the officers of the Commission, the vacant office shall be filled in accordance with the provisions of these By-Laws, such officer to serve the unexpired term of the office in which the vacancy occurred.

## ARTICLE II – MEETINGS

- Section 2.0 Annual Meeting. The Annual Meeting of the Commission shall be the first regular meeting in the month of January, each year. Such meetings shall be devoted to the election of officers for the ensuing year and such other business as may be scheduled by the Commission.
- Section 2.1 Regular Meetings. Regular Meeting of the Commission shall be held in the City Hall at 6:30 p.m., on the Tuesday following the second Monday of each month. At such meetings the Commission shall consider all matters properly brought before it. A Regular Meeting may be cancelled or rescheduled by the Commission at a prior meeting or by a majority of the Commission with at least five days public notice, the necessary proper notice to be determined by the Commission.
- The Commission shall, by resolution, set the dates, by December 31<sup>st</sup>, for all regular meetings to be held during the following year.
- Section 2.2 Special Meetings. Special Meetings of the Commission shall be held at a time and place designated by the Chair or Vice-Chair or two members of the Commission upon written request to the Secretary. Notice thereof shall be given to all members of the Commission not less than forty-eight (48) hours in advance of said Special Meetings.
- Section 2.3 Quorum. At any meeting of the Commission, a quorum shall consist of five

members of the Commission. No action shall be taken in the absence of a quorum except to adjourn the meeting to a subsequent date. If a quorum is unattainable within a reasonable amount of time by the advertised meeting date and time, the meeting shall be adjourned until the next regular meeting.

- Section 2.4 Voting. At all meetings of the Commission, each member attending shall be entitled to one vote. Voting shall be by voice, except where a majority of the Commissioners present vote for a roll call vote. All votes shall be recorded by "yes" and "no".
- Section 2.5 Conflict of Interest. In the event that any member of the Commission shall have a conflict of interest, as defined in Section 2-104(d) of the Mason Code, in a matter then before the Commission, he or she shall disclose his or her interest to the Commission. The Commission shall determine whether such personal interest constitutes a conflict of interest and may disqualify the affected Commissioner from voting on the matter in question. The Minutes shall reflect that no vote was cast by the member by virtue of his or her personal interest in the matter.
- Section 2.6 Incompatibility of Office. If a member of the Commission is appointed to another office, which is an incompatible office with his or her membership on the Commission, then on the effective date of the appointment to the other office that shall result in an automatic resignation from the Commission. If a member of another office is appointed to the Commission, which is incompatible with his or her membership in the other office, then on the effective date of the appointment to the Commission, the member shall resign from the other office. Failure to resign from the other office will result in ineligibility for Commission membership.
- Section 2.7 Commission Action. The affirmative vote of a majority of the members of the Commission shall be required for the adoption of any resolution or other voting matter, including the adoption of a subplan, EXCEPT that the affirmative vote of two-thirds of the Commission shall be required to adopt the Master Plan or any amendment thereto.
- Prior to action, motions shall be restated by the Chair. The name of the maker and the supporter of the motion shall be recorded in the Minutes.
- The reasons for the action by the Commission shall be specified in the Minutes.
- Section 2.8 Site Visits. Site visits shall be done by the zoning administrator or other designated City staff. A written report of the site visit shall be orally presented to the Commission at a public meeting. No more than one member of the Commission may accompany the zoning administrator or staff on a site visit. Members of the Commission may perform unaccompanied site visits.

Section 2.9 Ex-Parte Communication. The Commission desires to conduct all proceedings fairly, to create a record that includes all of the evidence upon which recommendations and decisions were made, and to prevent the appearance of undue influence on its recommendations and decisions. To this end, Commission members whom experience ex-parte communication should disclose the details of the communication at the Commission meeting after the introduction of the item of which the ex-parte communication pertained.

Commission members may attend meetings held by applicants with adjacent property owners, however only in the capacity of an observer. If a Commission member does decide to take part in discussions at said meeting, he/she shall disclose the nature of their participation to the Commission prior to participating in a hearing or deliberations on a request. The Commission shall make a determination as to whether or not he/she can impartially consider the request.

Section 2.10 Conduct of Meetings. All meetings of the Commission shall be opened to the public in accordance with the Open Meetings Act, Public Act 267 of 1976. The order of business at meetings shall be as described in the By-Laws as established by City Council.

Section 2.11 Public Hearings. Hearings shall be scheduled and due notice given in accordance with the provisions of the Open Meetings Act and applicable State law and local ordinance. Public hearings shall be conducted in the following manner:

1. Announce Subject. The Chair announces each agenda item and describes the subject to be considered. The Chair then declares the public hearing open and announces the time.
2. Present Proposal. The Chair begins by inviting the applicant to present their proposal and then invites the staff liaison to present their review/analysis of the proposal. The Commission may ask questions of the applicant or staff during this time.
3. Hearing Procedures. The Chair may summarize the public comment rules at this time as outlined in Section 4 of the Rules of Order established by City Council.
4. Open the Hearing to the Floor. The Chair shall call on the public, one speaker at a time, and may call upon the applicant or staff to clarify information about the proposal.
5. Close the Public Hearing. Upon seeing no additional public to give comments, the Chair shall give notice to the public of

"last call" for comments. If there are no additional public to provide comments upon last call, the Chair shall declare the public hearing closed and announce the time.

- Section 2.12 Adjourned Meetings. The Commission may adjourn a Regular or Special Meeting if all business cannot be disposed of on the day set, and no further public notice shall be required for the meeting if the time and place of its resumption is stated at the time of adjournment and is not changed after such adjournment.
- Section 2.13 Parliamentary Procedure. All meetings of the Commission shall be conducted in accordance with Robert's Rules of Order insofar as they do not conflict with these By-Laws or the Rules of Order as established by City Council.

### ARTICLE III – ABSENCES, REMOVALS AND RESIGNATIONS

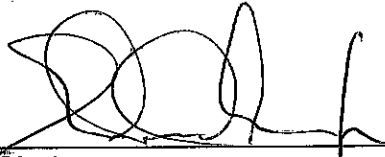
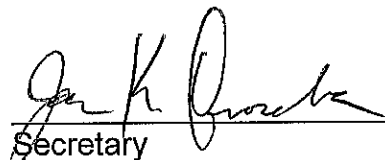
- Section 3.1 Absences. In order to be excused from a meeting, members of the Commission shall notify the Commission Chair, staff liaison or another member of the Commission when they intend to be absent from a regular meeting. Failure to make this notification at least twenty-four hours prior to the meeting shall result in an unexcused absence. More than four consecutive, unexcused absences or absences at twenty-five percent (25%) of regular meetings in one calendar year may be considered nonfeasance of duty and cause of removal from the Commission.
- Section 3.2 Removal. Members of the Commission may be removed by the City Council for nonfeasance, malfeasance, or misfeasance upon written charges and after a public hearing.
- Section 3.3 Resignation. A member may resign from the Commission by sending a letter of resignation to the City Clerk, who shall forward it to the Mayor and City Council.

### ARTICLE IV – AMENDMENTS/CONFORMITY WITH STATE LAW AND CITY ORDINANCES

- Section 4.0 Amending By-Laws. These By-Laws may be amended at any meeting of the Commission provided that said amendment is distributed to each Commission member at least five days prior to said meeting.
- Section 4.1 The Commission shall conduct itself in conformity with the requirements of the Michigan Planning Enabling Act and all other pertinent State laws and City ordinances. To the extent there is a conflict with these By-laws, the state law or ordinance shall control. The remaining provisions of the

By-laws not in conflict, shall remain in full force and effect.

**Adopted by the Commission: August 11, 2009**

  
Chair  
Secretary

Revised: September 15, 2009

### DIVISION 3. CODE OF ETHICS

#### **Sec. 2-101. Purpose.**

Public officials, by virtue of their positions, are trustees of the public, chargeable with honesty, integrity, and openness in their handling of public affairs. When conduct inconsistent with this expectation occurs public suspicion is heightened and, therefore, public confidence is jeopardized. Where government is founded upon the consent of the governed, it is critical that each citizen have complete confidence in the integrity of the government. Each public official must endeavor to earn and honor the public trust in the conduct of all official duties and actions. The purpose of this division is to define standards of ethical conduct that are clearly established and uniformly applied. These standards will provide the public, as well as public officials, with guidance about ethical expectations for trustees of the public.

(Ord. No. 132, § 2, 9-7-1999)

#### **Sec. 2-102. Policy.**

It is the public policy of this city that all city officials shall construe and implement ethical standards and guidelines with sincerity, integrity and commitment so as to advance the spirit of this division in accordance with the following guiding principles:

- (1) *Public interest:* City officials are delegated power from the public and are obliged to exercise that power as trustees of the public. The power and resources of government service therefore shall be used only to advance the public interest.
- (2) *Objective judgment:* Loyalty to the public interest requires that all matters shall be decided with independent, objective judgment, free from avoidable conflicts of interest, improper influences, and competing loyalties.
- (3) *Accountability:* Government affairs shall be conducted in an open, efficient, fair and honorable manner, which enables citizens to make informed judgments and to hold officials accountable.
- (4) *Democratic leadership:* All city officials shall honor and respect the spirit and principles of representative democracy and will scrupulously observe the spirit as well as the letter of the law.
- (5) *Respectfulness:* All city officials shall safeguard public confidence by being honest, fair, impartial, and respectful toward all persons and property with whom they have contact in an official capacity and by avoiding conduct which may tend to undermine respect for city officials and for the city as an institution.

(Ord. No. 132, § 3, 9-7-1999)

#### **Sec. 2-103. Definition.**

In this article "city official" means a person elected to the city council or appointed to the planning commission, zoning board of appeals, historic district commission, building code board of appeals, downtown development authority, local development finance authority or board of review. City official shall not include city administrator or city clerk.

(Ord. No. 132, § 4, 9-7-1999)

#### **Sec. 2-104. Prohibited conduct.**

- (a) *Gifts:* A city official shall not, directly or indirectly, solicit or accept a gift that could influence the manner in which they perform their official duties.
- (b) *Preferential treatment:* A city official shall not use his official position to unreasonably secure, request, or grant any privileges, exemptions, advantages, contracts, or preferential treatment for himself, his immediate family, or others.

(c) *Use of information:* A city official who acquires information in the course of his official duties, which by law or policy is confidential, shall not prematurely divulge that information to an unauthorized person. Information which is deemed exempt from disclosure under the Michigan Freedom of Information Act, (MCL 15.231 et seq.) or which is the subject of a duly called closed meeting held in accordance with the Michigan Open Meetings Act, (MCL 15.261 et seq.) is confidential. A city official shall not suppress or refuse to provide city reports or other information which is publicly available.

(d) *Conflicts of interest:*

(1) No person may be employed as a sworn police officer if such person and/or his spouse has an interest, directly or indirectly, in any business possessing any license issued by the Michigan Liquor Control Commission and operated within the jurisdiction of the Mason Police Department.

(2) The city building official shall not do any work for hire or have any interest, directly or indirectly, in any business doing work for hire within the city which requires a permit pursuant to the state construction code.

(3) The city assessor shall not assess for city record keeping purposes his own property.

(4) No city official shall engage in employment, render services, or engage in any business, transaction or activity which is in direct conflict of interest with his official duties.

(5) No city official may use any confidential information obtained in the exercise of his official duties for personal gain or for the gain of others.

(6) No city official shall intentionally take or refrain from taking any official action, or induce or attempt to induce any other city official or employee to take or refrain from taking any official action, on any matter before the city which would result in a financial benefit for any of the following:

- a. The city official.
- b. An immediate family member.
- c. An outside employer.
- d. Any business in which the city official or any immediate family member of the city official has a financial interest of the type described in subsection [2-105\(b\)\(1\)](#).
- e. Any business with which the city official or any immediate family member of the city official is negotiating or seeking prospective employment or other business or professional relationship.

(7) An appointed city official shall not discuss any matter pending before the body on which the appointed city official serves with the applicant or any person to whom written notice of the matter pending is required to be sent by city ordinance or other law except during duly called public meetings of the body. In the case of an inadvertent discussion between the appointed city official and the applicant or any person to whom written notice is required to be sent as described, such discussion shall be disclosed as a transaction in accordance with subsection [2-105\(e\)](#).

(8) Except as otherwise permitted herein, no city official or any immediate family member of a city official shall be a party, directly or indirectly, to any contract with the city except for collective bargaining agreements. The foregoing shall not apply if the contract is awarded after public notice and competitive bidding, provided that the city official shall not have participated in establishing contract specifications or awarding the contract, shall not manage contract performance after the contract is awarded, and shall disclose the interest of the city official or any immediate family member in the contract in accordance with section [2-105\(e\)](#).

(9) A city official shall not engage in a business transaction with the city except as permitted by Public Act No. 317 of 1968 (MCL 15.231 et seq.). Compliance with the requirements of said Act shall constitute compliance with subsection [2-104\(d\)](#).

(e) *Use of city property or personnel:* A city official shall not, directly or indirectly, use or permit any other person to use any city property or personnel for personal gain or economic benefit. City employees may use city property for personal use as a convenience if first approved by the city administrator or authorized by city policy.

(f) *Political activity:* No city official shall use any city time or property for his own political benefit or for the political benefit of any other person seeking elective office, provided that the foregoing shall not prohibit the use of property or facilities available to the general public on an equal basis for due consideration paid.

(g) *Nepotism:* The spouse of any elected city official, or of the city administrator, shall be disqualified from holding any appointive office. The immediate family members of any elected city official, or of the city administrator, and the spouses of any such family members shall be disqualified from holding full-time or permanent part-time employment exceeding ten hours per week with the city during the term served by said elected official or during the tenure of the city administrator. This section shall in no way disqualify such relatives or their spouses who are bona fide appointed officers or employees of the city at the time of the election of said elected official or appointment of said city administrator.

(h) *Retaliation:* No person making a complaint or requesting an advisory opinion, or participating in any proceeding of the board of ethics, shall be discharged, threatened, or otherwise discriminated against regarding compensation, terms, conditions, location, or privileges of employment or contract because of such action or participation.

(Ord. No. 132, § 5, 9-7-1999)

#### **Sec. 2-105. Disclosure.**

(a) *Disclosure statement; who shall file.* The following city officials shall file an annual disclosure statement:

- (1) The mayor;
- (2) Members of the city council;

(b) *Disclosure statement; content.*

(1) The annual disclosure statement shall disclose the following financial interest of the city official or of the immediate family members of the city official with any person, business or other entity that has contracted with the city or which has received a license from the city in the two calendar years prior to the filing of the statement:

- a. Any interest as a director, officer, partner, member, or employee in or for a corporation, partnership, limited liability company, or other unincorporated association;
- b. Any interest as a landlord or tenant;
- c. Any interest as a beneficiary or trustee in a trust;
- d. Legal or beneficial ownership of one percent or more of the total outstanding stock of a company which is doing business with the city and which is not listed on a stock exchange;
- e. Legal or beneficial ownership of stock with a market value in excess of \$25,000.00 in a company which is doing business with the city and which is listed on a national or regional stock exchange.

(2) If there is no reportable financial interest or transaction applicable to the city official or to the immediate family members of the city official, the annual disclosure statement shall contain a certification as to that fact.

(c) *Disclosure statement; when and where filed.* One original executed disclosure statement and one copy shall be filed with the board of ethics on or before April 15 of each year.

(d) *Disclosure forms.* All disclosures shall be made on forms provided for that purpose by the board of ethics and shall become public documents.

(e) *Transactional disclosure.* A city official shall not participate, in the course of official duties, in any transaction which subsequently would be required to be disclosed in an annual disclosure statement or which would constitute a conflict of interest under subsection [2-104](#)(d) without disclosing the interest in the transaction prior to participating in the transaction. If the official is a member of a decision-making or advising body, the disclosure must be made to the chair and other members and made part of the official record of the body. A council, board, or commission member who absents himself from a vote shall disclose the reason to the entire body.

(f) *Disclosure of gifts.* Any gift received by a city official which could influence the manner in which they enact their official duties should be reported immediately to the board of ethics. Such gifts should be returned to the donor, or donated to a charity, with the explanation to the donor that city policy will not permit the acceptance of the gift.

(Ord. No. 132, § 6, 9-7-1999)

#### **Sec. 2-106. Board of ethics.**

(a) *Creation.* There is hereby created an independent body called the "board of ethics."

(b) *Objective.* The objective of the board of ethics is to issue written opinions regarding ethical, not legal, questions and to engage in activities which will promote ethical behavior.

(c) *Board membership; terms; meetings; rules.*

(1) The board of ethics shall consist of five members who are city residents appointed by the mayor with the approval of the city council. City officials and the immediate family of city officials shall not be eligible for appointment to the board.

(2) Members shall be appointed for terms of three years, except that of those first appointed, two shall serve for three years, two shall serve for two years, and one shall serve for one year. Initial nominations shall be made by the mayor within 90 days of the effective date of this division, and nominations to fill vacancies and subsequent terms shall be made by the mayor within 60 days of occurrence of the vacancy or commencement of the term. The city council shall vote on confirmation within 30 days of receipt of nominations from the mayor. If nominations are not made within the periods specified, the city council shall appoint the member(s). If the city council shall not vote on confirmation within the period specified, the mayor's nominations shall be deemed confirmed and the member(s) shall be appointed.

(3) The affirmative vote of three members of the board of ethics shall be necessary for any action.

(4) The city clerk shall serve on an ex officio basis as secretary to the board without the right to vote.

(5) The board of ethics shall meet as frequently as necessary to promptly perform appointed duties. Meetings of the board shall be subject to the Michigan Open Meetings Act (MCL 15.26 et seq.).

(6) The board of ethics may adopt interpretative rules and procedures relating to the requirements and application of this division.

(7) The board of ethics shall conduct meetings in accordance with the rules of order adopted by the city council.

(d) *Powers and duties.* The board of ethics shall have the power to:

(1) Receive requests for advisory opinions from city officials.

(2) Receive complaints concerning alleged unethical conduct by a city official from any person or entity.

(3) Receive and retain on file copies of advisory opinions, disclosure statements, and other materials required to be filed under this division.

a. Advisory opinions shall be retained indefinitely.

b. Disclosure statements shall be retained throughout the tenure of the city official plus two years after the completion of said tenure.

c. Other materials required to be filed under this division shall be retained for ten years.

(4) Review the request for advisory opinion or the complaint to determine if the board has jurisdiction over the matter and/or persons identified in the request or complaint.

(5) If a complaint concerns an employee, the sole power of the board shall be to forward the complaint with no action forthwith to the city administrator. The board of ethics shall have no power or jurisdiction concerning employees except as specifically set forth in subsection [2-106\(d\)\(5\)](#).

(6) Inquire into the circumstances surrounding alleged unethical conduct. The board of ethics, upon its own, may initiate an inquiry. The board is hereby authorized to exercise all of the powers granted by Chapter 6, Section 6.9, of the City Charter, except that the board shall not have the power to subpoena witnesses or compel the production of books, papers, and other evidence. The board may seek the assistance and opinion of the city attorney in the investigation of a matter. In the event that the city attorney is the subject of an investigation, the board may, subject to prior approval of a written retainer agreement by the city council, seek outside counsel in the investigation of a matter.

(7) Issue advisory opinions in response to complaints and requests and on its own motion. Advisory opinions of the board of ethics shall be maintained in the office of the city clerk and shall be available to the public upon request.

(8) Adopt and maintain disclosure forms, which may be revised by the board of ethics from time to time.

(9) Report to the mayor and the city council from time to time, but not less often than annually, regarding such matters pertaining to this division as the board deems appropriate, which may include, but not be limited to, the degree to which the policy of this division is being achieved; the numbers and nature of requests for advisory opinions and complaints and the ultimate disposition thereof; the implementation and effectiveness of this division; and any changes in this division recommended to more fully achieve the purposes and policy of this division.

(e) *Board actions.* Action to be taken in any individual case may include the following:

(1) Issue a written advisory opinion.

(2) Deem no action to be required.

(3) Refer the matter to the city attorney to determine whether legal action may be appropriate and what form by which to take such action.

(f) *Confidentiality and due process.* The board of ethics shall to the fullest extent permitted by law keep all complaints and requests for advisory opinions strictly confidential. All persons alleged to have violated this division shall be notified of said allegations and afforded the opportunity to be heard.

(g) *Advisory opinions.*

(1) The board of ethics may issue written advisory opinions interpreting this division and its provisions and relevant provisions of state law applicable to city officials. Advisory opinions

shall not disclose the identities of the person or entity making the request for an advisory opinion or the identity of the persons or positions who are the subject of a complaint or inquiry. Advisory opinions shall be issued within 60 days of a request. If additional time is needed, the time may be extended by action of the board.

(2) Advisory opinions may include guidance to any city official on questions including, but not limited to:

- a. Whether an identifiable conflict of interest exists between his personal interests or obligations and his official duties.
- b. Whether his participation in his official capacity would involve discretionary judgment with significant effect on the disposition of the matter in question.
- c. Whether the result of the potential conflict of interest is substantial or constitutes a real threat to the independence of his judgment.
- d. Whether he possesses certain knowledge or skill which the city will require to achieve a sound decision.
- e. What effect his participation under the circumstances would have on the confidence of the people in the impartiality of city officials.
- f. Whether a disclosure of his personal interests would be advisable and, if so, how such disclosure should be made.
- g. Whether the public interest would be best served by his withdrawal or abstention.
- h. Whether undue influence is being exerted on him.

(3) When the board of ethics issues an advisory opinion regarding ethical questions pursuant to this section, the board shall promptly send a copy of its opinion to:

- a. The individual who requested the opinion;
- b. The city official affected;
- c. The mayor;
- d. The city administrator.

(4) The board shall publicize summaries of its advisory opinions to all city officials.  
(Ord. No. 132, § 7, 9-7-1999; Ord. No. 143, 5-3-2004)

#### **Sec. 2-107. Penalties.**

This section is intended to encourage and promote the highest standards of ethical conduct and behavior by city officials and is not intended to be a punitive measure. It is anticipated that the issuance by the board of ethics of advisory opinions will conclude all matters originating as requests for advice and substantially all matters originating as complaints. The board of ethics is not an adjudicative body and no finding of the board shall be deemed conclusive nor, in and of itself, subject any city official to penalties.

(Ord. No. 132, § 8, 9-7-1999)

**Secs. 2-108--2-120. Reserved.**

# Ethical Principles in Planning

## [Ethical Principles in Planning](#)

(As Adopted by the APA Board, May 1992)

This statement is a guide to ethical conduct for all who participate in the process of planning as advisors, advocates, and decision makers. It presents a set of principles to be held in common by certified planners, other practicing planners, appointed and elected officials, and others who participate in the process of planning.

The planning process exists to serve the public interest. While the public interest is a question of continuous debate, both in its general principles and in its case-by-case applications, it requires a conscientiously held view of the policies and actions that best serve the entire community.

Planning issues commonly involve a conflict of values and, often, there are large private interests at stake. These accentuate the necessity for the highest standards of fairness and honesty among all participants.

Those who practice planning need to adhere to a special set of ethical requirements that must guide all who aspire to professionalism.

The Code is formally subscribed to by each certified planner. It includes an enforcement procedure that is administered by AICP. The Code, however, provides for more than the minimum threshold of enforceable acceptability. It also sets aspirational standards that require conscious striving to attain.

The ethical principles derive both from the general values of society and from the planner's special responsibility to serve the public interest. As the basic values of society are often in competition with each other, so do these principles sometimes compete. For example, the need to provide full public information may compete with the need to respect confidences. Plans and programs often result from a balancing among divergent interests. An ethical judgment often also requires a conscientious balancing, based on the facts and context of a particular situation and on the entire set of ethical principles.

This statement also aims to inform the public generally. It is also the basis for continuing systematic discussion of the application of its principles that is itself essential behavior to give them daily meaning.

### **The planning process must continuously pursue and faithfully serve the public interest.**

Planning Process Participants should:

1. Recognize the rights of citizens to participate in planning decisions;
2. Strive to give citizens (including those who lack formal organization or influence) full, clear and accurate information on planning issues and the opportunity to have a meaningful role in the development of plans and programs;
3. Strive to expand choice and opportunity for all persons, recognizing a special responsibility to plan for the needs of disadvantaged groups and persons;
4. Assist in the clarification of community goals, objectives and policies in plan-making;
5. Ensure that reports, records and any other non-confidential information which is, or will be, available to decision makers is made available to the public in a convenient format and sufficiently in advance of any decision;
6. Strive to protect the integrity of the natural environment and the heritage of the built environment;

7. Pay special attention to the interrelatedness of decisions and the long range consequences of present actions.

**Planning process participants continuously strive to achieve high standards of integrity and proficiency so that public respect for the planning process will be maintained.**

Planning Process Participants should:

1. Exercise fair, honest and independent judgment in their roles as decision makers and advisors;
2. Make public disclosure of all "personal interests" they may have regarding any decision to be made in the planning process in which they serve, or are requested to serve, as advisor or decision maker.
3. Define "personal interest" broadly to include any actual or potential benefits or advantages that they, a spouse, family member or person living in their household might directly or indirectly obtain from a planning decision;
4. Abstain completely from direct or indirect participation as an advisor or decision maker in any matter in which they have a personal interest, and leave any chamber in which such a matter is under deliberation, unless their personal interest has been made a matter of public record; their employer, if any, has given approval; and the public official, public agency or court with jurisdiction to rule on ethics matters has expressly authorized their participation;
5. Seek no gifts or favors, nor offer any, under circumstances in which it might reasonably be inferred that the gifts or favors were intended or expected to influence a participant's objectivity as an advisor or decision maker in the planning process;
6. Not participate as an advisor or decision maker on any plan or project in which they have previously participated as an advocate;
7. Serve as advocates only when the client's objectives are legal and consistent with the public interest.
8. Not participate as an advocate on any aspect of a plan or program on which they have previously served as advisor or decision maker unless their role as advocate is authorized by applicable law, agency regulation, or ruling of an ethics officer or agency; such participation as an advocate should be allowed only after prior disclosure to, and approval by, their affected client or employer; under no circumstance should such participation commence earlier than one year following termination of the role as advisor or decision maker;
9. Not use confidential information acquired in the course of their duties to further a personal interest;
10. Not disclose confidential information acquired in the course of their duties except when required by law, to prevent a clear violation of law or to prevent substantial injury to third persons; provided that disclosure in the latter two situations may not be made until after verification of the facts and issues involved and consultation with other planning process participants to obtain their separate opinions;
11. Not misrepresent facts or distort information for the purpose of achieving a desired outcome;
12. Not participate in any matter unless adequately prepared and sufficiently capacitated to render thorough and diligent service;
13. Respect the rights of all persons and not improperly discriminate against or harass others based on characteristics which are protected under civil rights laws and regulations.

**APA members who are practicing planners continuously pursue improvement in their planning competence as well as in the development of peers and aspiring planners. They recognize that enhancement of planning as a profession leads to greater public respect for the planning process and thus serves the public interest.**

APA Members who are practicing planners:

1. Strive to achieve high standards of professionalism, including certification, integrity, knowledge, and professional development consistent with the AICP Code of Ethics;

2. Do not commit a deliberately wrongful act which reflects adversely on planning as a profession or seek business by stating or implying that they are prepared, willing or able to influence decisions by improper means;
3. Participate in continuing professional education;
4. Contribute time and effort to groups lacking adequate planning resources and to voluntary professional activities;
5. Accurately represent their qualifications to practice planning as well as their education and affiliations;
6. Accurately represent the qualifications, views, and findings of colleagues;
7. Treat fairly and comment responsibly on the professional views of colleagues and members of other professions;
8. Share the results of experience and research which contribute to the body of planning knowledge;
9. Examine the applicability of planning theories, methods and standards to the facts and analysis of each particular situation and do not accept the applicability of a customary solution without first establishing its appropriateness to the situation;
10. Contribute time and information to the development of students, interns, beginning practitioners and other colleagues;
11. Strive to increase the opportunities for women and members of recognized minorities to become professional planners;
12. Systematically and critically analyze ethical issues in the practice of planning.

# AICP Code of Ethics and Professional Conduct

[AICP Code of Ethics and Professional Conduct](#)

**Adopted March 19, 2005**

**Effective June 1, 2005**

**Revised April 1, 2016**

We, professional planners, who are members of the American Institute of Certified Planners, subscribe to our Institute's Code of Ethics and Professional Conduct. Our Code is divided into five sections:

*Section A contains a statement of aspirational principles that constitute the ideals to which we are committed. We shall strive to act in accordance with our stated principles. However, an allegation that we failed to achieve our aspirational principles cannot be the subject of a misconduct charge or be a cause for disciplinary action.*

*Section B contains rules of conduct to which we are held accountable. If we violate any of these rules, we can be the object of a charge of misconduct and shall have the responsibility of responding to and cooperating with the investigation and enforcement procedures. If we are found to be blameworthy by the AICP Ethics Committee, we shall be subject to the imposition of sanctions that may include loss of our certification.*

*Section C contains the procedural provisions of the Code that describe how one may obtain either a formal or informal advisory ruling, as well as the requirements for an annual report.*

*Section D contains the procedural provisions that detail how a complaint of misconduct can be filed, as well as how these complaints are investigated and adjudicated.*

*Section E contains procedural provisions regarding the forms of disciplinary actions against a planner, including those situations where a planner is convicted of a serious crime or other conduct inconsistent with the responsibilities of a certified planner.*

The principles to which we subscribe in Sections A and B of the Code derive from the special responsibility of our profession to serve the public interest with compassion for the welfare of all people and, as professionals, to our obligation to act with high integrity.

As the basic values of society can come into competition with each other, so can the aspirational principles we espouse under this Code. An ethical judgment often requires a conscientious balancing, based on the facts and context of a particular situation and on the precepts of the entire Code.

As Certified Planners, all of us are also members of the American Planning Association and share in the goal of building better, more inclusive communities. We want the public to be aware of the principles by which we practice our profession in the quest of that goal. We sincerely hope that the public will respect the commitments we make to our employers and clients, our fellow professionals, and all other persons whose interests we affect.

## A: Principles to Which We Aspire

### 1. Our Overall Responsibility to the Public

Our primary obligation is to serve the public interest and we, therefore, owe our allegiance to a conscientiously attained concept of the public interest that is formulated through continuous and open debate. We shall achieve high standards of professional integrity, proficiency, and knowledge. To comply with our obligation to the public, we aspire to the following principles:

- a) We shall always be conscious of the rights of others.*
- b) We shall have special concern for the long-range consequences of present actions.*
- c) We shall pay special attention to the interrelatedness of decisions.*
- d) We shall provide timely, adequate, clear, and accurate information on planning issues to all affected persons and to governmental decision makers.*
- e) We shall give people the opportunity to have a meaningful impact on the development of plans and programs that may affect them. Participation should be broad enough to include those who lack formal organization or influence.*

*f) We shall seek social justice by working to expand choice and opportunity for all persons, recognizing a special responsibility to plan for the needs of the disadvantaged and to promote racial and economic integration. We shall urge the alteration of policies, institutions, and decisions that oppose such needs.*

*g) We shall promote excellence of design and endeavor to conserve and preserve the integrity and heritage of the natural and built environment.*

*h) We shall deal fairly with all participants in the planning process. Those of us who are public officials or employees shall also deal even-handedly with all planning process participants.*

## **2. Our Responsibility to Our Clients and Employers**

We owe diligent, creative, and competent performance of the work we do in pursuit of our client or employer's interest. Such performance, however, shall always be consistent with our faithful service to the public interest.

*a) We shall exercise independent professional judgment on behalf of our clients and employers.*

*b) We shall accept the decisions of our client or employer concerning the objectives and nature of the professional services we perform unless the course of action is illegal or plainly inconsistent with our primary obligation to the public interest.*

*c) We shall avoid a conflict of interest or even the appearance of a conflict of interest in accepting assignments from clients or employers.*

## **3. Our Responsibility to Our Profession and Colleagues**

We shall contribute to the development of, and respect for, our profession by improving knowledge and techniques, making work relevant to solutions of community problems, and increasing public understanding of planning activities.

*a) We shall protect and enhance the integrity of our profession.*

*b) We shall educate the public about planning issues and their relevance to our everyday lives.*

*c) We shall describe and comment on the work and views of other professionals in a fair and professional manner.*

*d) We shall share the results of experience and research that contribute to the body of planning knowledge.*

*e) We shall examine the applicability of planning theories, methods, research and practice and standards to the facts and analysis of each particular situation and shall not accept the applicability of a customary solution without first establishing its appropriateness to the situation.*

*f) We shall contribute time and resources to the professional development of students, interns, beginning professionals, and other colleagues.*

*g) We shall increase the opportunities for members of underrepresented groups to become professional planners and help them advance in the profession.*

*h) We shall continue to enhance our professional education and training.*

*i) We shall systematically and critically analyze ethical issues in the practice of planning.*

*j) We shall contribute time and effort to groups lacking in adequate planning resources and to voluntary professional activities.*

## **B: Our Rules of Conduct**

We adhere to the following Rules of Conduct, and we understand that our Institute will enforce compliance with them. If we fail to adhere to these Rules, we could receive sanctions, the ultimate being the loss of our certification:

1. We shall not deliberately or with reckless indifference fail to provide adequate, timely, clear and accurate information on planning issues.

2. We shall not accept an assignment from a client or employer when the services to be performed involve conduct that we know to be illegal or in violation of these rules.
3. We shall not accept an assignment from a client or employer to publicly advocate a position on a planning issue that is indistinguishably adverse to a position we publicly advocated for a previous client or employer within the past three years unless (1) we determine in good faith after consultation with other qualified professionals that our change of position will not cause present detriment to our previous client or employer, and (2) we make full written disclosure of the conflict to our current client or employer and receive written permission to proceed with the assignment.
4. We shall not, as salaried employees, undertake other employment in planning or a related profession, whether or not for pay, without having made full written disclosure to the employer who furnishes our salary and having received subsequent written permission to undertake additional employment, unless our employer has a written policy which expressly dispenses with a need to obtain such consent.
5. We shall not, as public officials or employees, accept from anyone other than our public employer any compensation, commission, rebate, or other advantage that may be perceived as related to our public office or employment.
6. We shall not perform work on a project for a client or employer if, in addition to the agreed upon compensation from our client or employer, there is a possibility for direct personal or financial gain to us, our family members, or persons living in our household, unless our client or employer, after full written disclosure from us, consents in writing to the arrangement.
7. We shall not use to our personal advantage, nor that of a subsequent client or employer, information gained in a professional relationship that the client or employer has requested be held inviolate or that we should recognize as confidential because its disclosure could result in embarrassment or other detriment to the client or employer. Nor shall we disclose such confidential information except when (1) required by process of law, or (2) required to prevent a clear violation of law, or (3) required to prevent a substantial injury to the public. Disclosure pursuant to (2) and (3) shall not be made until after we have verified the facts and issues involved and, when practicable, exhausted efforts to obtain reconsideration of the matter and have sought separate opinions on the issue from other qualified professionals employed by our client or employer.
8. We shall not, as public officials or employees, engage in private communications with planning process participants if the discussions relate to a matter over which we have authority to make a binding, final determination if such private communications are prohibited by law or by agency rules, procedures, or custom.
9. We shall not engage in private discussions with decision makers in the planning process in any manner prohibited by law or by agency rules, procedures, or custom.
10. We shall neither deliberately, nor with reckless indifference, misrepresent the qualifications, views and findings of other professionals.
11. We shall not solicit prospective clients or employment through use of false or misleading claims, harassment, or duress.
12. We shall not misstate our education, experience, training, or any other facts which are relevant to our professional qualifications.
13. We shall not sell, or offer to sell, services by stating or implying an ability to influence decisions by improper means.
14. We shall not use the power of any office to seek or obtain a special advantage that is not a matter of public knowledge or is not in the public interest.
15. We shall not accept work beyond our professional competence unless the client or employer understands and agrees that such work will be performed by another professional competent to perform the work and acceptable to the client or employer.
16. We shall not accept work for a fee, or pro bono, that we know cannot be performed with the promptness required by the prospective client, or that is required by the circumstances of the assignment.
17. We shall not use the product of others' efforts to seek professional recognition or acclaim intended for producers of original work.
18. We shall not direct or coerce other professionals to make analyses or reach findings not supported by available evidence.
19. We shall not fail to disclose the interests of our client or employer when participating in the planning process. Nor shall we participate in an effort to conceal the true interests of our client or employer.
20. We shall not unlawfully discriminate against another person.
21. We shall not withhold cooperation or information from the AICP Ethics Officer or the AICP Ethics Committee if a charge of ethical misconduct has been filed against us.
22. We shall not retaliate or threaten retaliation against a person who has filed a charge of ethical misconduct against us or another planner, or who is cooperating in the Ethics Officer's investigation of an ethics charge.
23. We shall not use the threat of filing an ethics charge in order to gain, or attempt to gain, an advantage in dealings with another planner.
24. We shall not file a frivolous charge of ethical misconduct against another planner.
25. We shall neither deliberately, nor with reckless indifference, commit any wrongful act, whether or not specified in the Rules of Conduct, that reflects adversely on our professional fitness.
26. We shall not fail to immediately notify the Ethics Officer by both receipted Certified and Regular First Class Mail if we are convicted of a "serious crime" as defined in Section E of the Code; nor immediately following such conviction shall we represent ourselves as Certified Planners or Members of AICP until our membership is reinstated by the AICP Ethics Committee pursuant to the procedures in Section E of the Code.

## C: Advisory Opinions

### 1. Introduction

Any person, whether or not an AICP member, may seek informal advice from the Ethics Officer, and any AICP member may seek a formal opinion from the Ethics Committee, on any matter relating to the Code of Ethics and Professional Conduct. In addition, the Ethics Committee may, from time to time, issue opinions applying the Code to ethical matters relating to planning.

### 2. Informal Advice

- a) Any person with a question about whether specific conduct conforms to the Code of Ethics and Professional Conduct may seek informal advice from the Ethics Officer. Any such person should contact the Ethics Officer to arrange a time to discuss the issue. The Ethics Officer will endeavor to schedule a call promptly and to provide the advice promptly.
- b) Informal advice will be given orally. However, the Ethics Officer will keep a record of the issue raised and the advice given.
- c) Informal advice is intended to assist the person who seeks it, but it is not binding on AICP. Nevertheless, the Ethics Committee will take it into consideration if the Committee is subsequently called upon to consider a charge of misconduct against a Certified Planner who relied on the advice.

### **3. Formal Advisory Opinions Requested By A Member**

- a) Any AICP member with a question about whether specific conduct conforms to the Code of Ethics and Professional Conduct may seek a formal opinion from the Ethics Committee. Any such member should send a detailed description of the relevant facts and a clear statement of the question to the Ethics Officer.
- b) The Ethics Officer shall review each such request and determine whether there is sufficient information to permit a fully informed response or whether additional information is required.
- c) The Ethics Committee will not issue an Advisory Opinion if it determines that the request concerns past conduct that may be the subject of a charge of misconduct. It may also decline to issue an Advisory Opinion for any other reason. The Committee may, but is not required to, provide a reason for a decision not to issue an opinion.
- d) If the Ethics Committee determines to issue an Advisory Opinion, it will endeavor to do so within ninety (90) days after receiving all information necessary to the provision of the opinion. Every Advisory Opinion will be in writing.
- e) Any member who acts in compliance with a formal Advisory Opinion will have a defense to a charge of misconduct that is based on conduct permitted by the Opinion.
- f) The Ethics Committee, in its sole discretion, shall determine whether, and how, to publish any formal Advisory Opinion. If the Committee determines to publish an Advisory Opinion, the published Opinion will not, without appropriate consent, include the name or other identifying information of any person except to the extent that identifying information is helpful in setting forth the issue or in explaining the Committee's decision.
- g) Any AICP member who believes that a published formal Advisory Opinion is incorrect or incomplete may write to the Ethics Officer explaining the member's thinking and requesting reconsideration. The Ethics Officer shall transmit all such communications to the Ethics Committee. That Committee shall review such communications and determine what, if any, changes to make. The decision of the Committee shall be final.

### **4. Formal Advisory Opinions Issued Without Request Of A Member**

- a) The Ethics Committee may from time to time issue, without a request from a member, formal Advisory Opinions relating to the Code of Ethics and Professional Conduct when it believes that an Opinion will provide useful guidance to members.
- b) All formal Advisory Opinions issued under this paragraph shall be in writing and shall be published to the entire membership.
- c) Any AICP member who believes that a formal Advisory Opinion issued under this paragraph is incorrect or incomplete may write to the Ethics Officer explaining the member's thinking and requesting reconsideration. The Ethics Officer shall transmit all such communications to the Ethics Committee. That Committee shall review such communications and determine what, if any, changes to make. The decision of the Committee shall be final.

### **5. Annual Report of the Ethics Officer**

- a) Prior to January 31 of each year, the Ethics Officer shall provide to the AICP Commission and to the Ethics Committee an Annual Report of all formal Advisory Opinions and all interpretations of the Code issued during the preceding calendar year. That report need not contain the full text of each formal Advisory Opinion and interpretation of the Code.
- b) The AICP Commission shall publish an Annual Report on ethics matters to the membership.

## **D: Adjudication of Complaints of Misconduct**

### **1. Filing a Complaint.**

- a) Any person, whether or not an AICP member, may file an ethics complaint against a Certified Planner. An ethics complaint shall be sent to the AICP Ethics Officer on a form developed by the Ethics Officer and posted on the AICP website. The complaint must be signed and include contact information so that the Ethics Committee and the Ethics Officer will know with whom to follow up if questions arise or if the situation otherwise requires follow up. The person making the complaint ("the complainant") may request confidentiality. The AICP will attempt to honor that request. However, it cannot guarantee confidentiality and will disclose the identity of the complainant if disclosure is needed in order to reach an informed result or otherwise to advance the thoughtful consideration of the complaint. The complaint may be accompanied by a brief cover letter.
- b) The complaint shall identify the Certified Planner against whom the complaint is brought, describe the conduct at issue, cite the relevant provision(s) of the Code of Ethics and Professional Conduct, and explain the reasons that the conduct is thought to violate the Code.
- c) The complaint should be accompanied by all relevant documentation available to the complainant.
- d) The Ethics Officer shall determine whether the complaint contains all information necessary to making a fully informed decision. If the complaint does not contain all such information, the Ethics Officer shall contact the complainant to try to obtain the information.
- e) The Ethics Officer shall maintain, for use by the Ethics Committee, a log of all complaints against Certified Planners.

### **2. Preliminary Review.**

- a) The Ethics Officer shall review each complaint, together with any supporting documentation, to make a preliminary determination of whether a violation may have occurred. Before making this determination, the Ethics Officer may request from the complainant any additional information that the Officer deems relevant.
- b) Within thirty (30) days after receiving all information that the Ethics Officer deems necessary to make a preliminary determination, the Ethics Officer shall make a preliminary determination whether a violation may have occurred.

c) If the preliminary determination of the Ethics Officer is that it is clear that no violation has occurred, the complaint shall be dismissed. The complainant shall be so notified. The complainant shall have twenty (20) days from the date of notification to appeal the dismissal of the complaint to the Ethics Committee.

d) If the preliminary determination of the Ethics Officer is that a violation may have occurred — or if, on appeal, the Ethics Committee reverses a preliminary dismissal, the Ethics Officer shall, within thirty (30) days, provide the complaint to the Certified Planner against whom the complaint was made ("the respondent"). The Ethics Officer shall request from the respondent a detailed response to the complaint, and any supporting documentation.

### **3. Fact Gathering**

a) The respondent shall have thirty (30) days from the date of notification from the Ethics Officer to provide a response to the complaint, as well as any supporting documentation. The Ethics Officer may extend this time, for good cause shown, for a period not to exceed fourteen (14) days.

b) The Ethics Officer shall provide the response of the respondent to the complainant and shall give the complainant an opportunity to comment on the response within fourteen (14) days.

c) If the Ethics Officer determines that additional information is needed from either the complainant or the respondent, the Ethics Officer shall attempt to obtain such information. The parties shall have fifteen (15) days to provide the requested additional information, with up to a fifteen (15) day extension at the discretion of the Ethics Officer if a request is made for additional time.

### **4. Exploration of Settlement**

a) At any point in the process, the Ethics Officer may, after consultation with the Ethics Committee, attempt to negotiate a settlement of the complaint in accordance with the Code of Ethics and Professional Conduct.

b) The Ethics Committee shall be notified of — and permitted to comment on — any potential settlement at an early stage. Any settlement must be approved by the Ethics Committee before becoming final. Upon approval by the Ethics Committee, a settlement agreement shall be signed by the respondent and, where appropriate, by the complainant.

c) If a negotiated settlement is approved by the Ethics Committee and is signed in accordance with paragraph 4-b, the matter will be concluded, and no further action will be taken by AICP.

### **5. Decision**

a) If neither the Ethics Officer nor the Ethics Committee determines to explore settlement — or if the parties are unwilling to engage in settlement discussions or if a settlement is not reached, the Ethics Officer shall, after considering timely input from the parties, issue a written decision on the complaint. The Ethics Officer, at his or her sole discretion, may determine whether a hearing needs to be held. A hearing will be held by telephone or other electronic means unless all parties and the Ethics Officer agree that it should be held in person. The expenses of each party in connection with any hearing, such as transcripts, travel, and attorneys' fees, will be borne by that party.

b) The Ethics Officer may determine that there is inadequate evidence of an ethics violation and therefore dismiss the complaint. Alternatively, the Ethics Officer may find that there has been an ethics violation. In either situation, the Ethics Officer shall explain the basis for the decision in a written opinion that cites and discusses the relevant provision(s) of the Code of Ethics and Professional Conduct.

c) If the decision is that there has been a violation, the Ethics Officer shall impose such discipline as that Officer deems appropriate. The discipline may be: (1) a confidential letter of admonition, (2) a public reprimand, (3) suspension of AICP membership, or (4) expulsion from AICP. The Ethics Officer shall explain the basis for the discipline imposed and may attach such conditions, *e.g.* requirement to get additional ethics training, as the Officer deems just.

d) The Ethics Officer shall transmit the decision to the Ethics Committee and shall notify the parties of the decision. However, the Ethics Officer may determine not to disclose the remedy to a complainant who is not a member of AICP.

### **6. Appeal**

a) Within thirty (30) days after issuance of the written decision of the Ethics Officer, either the complainant or respondent may appeal the decision to the Ethics Committee by filing a timely written notice of appeal with the Ethics Officer.

b) If an appeal is timely filed, the party filing the appeal shall, within fourteen (14) days, provide the Ethics Officer with a written statement as to the basis for the appeal. The Ethics Officer shall, within ten (10) days, transmit that document to the party against whom the appeal is filed. That party shall have thirty (30) days to provide the Ethics Officer with a written statement of his or her position on the appeal. The Ethics Officer shall transmit all written statements of the parties to the Ethics Committee within ten (10) days after the record is complete.

c) After receiving any timely filed statements of the parties, the Ethics Committee shall issue a written decision on the appeal. Before issuing a decision, the Ethics Committee, in its sole discretion, may consult with the Ethics Officer. The Ethics Committee may also, in its sole discretion, determine whether to hold a hearing at which the parties may present their positions and answer questions posed by the Committee. A hearing will be held by telephone or other electronic means unless all parties and the Ethics Committee agree that it should be held in person. The expenses of each party in connection with any hearing, such as transcripts, travel, and attorneys' fees, will be borne by that party.

d) The Ethics Committee may (1) affirm the decision of the Ethics Officer; (2) affirm the decision but impose a different remedy; (3) vacate the decision of the Ethics Officer and return the case to the Ethics Officer for additional investigation, consideration of different Code sections or issues, or any other follow up; or (4) vacate the decision of the Ethics Officer and issue its own decision.

e) A decision to affirm the decision of the Ethics Officer, to impose a different remedy, or to vacate that decision and to issue the Ethics Committee's own decision shall be final.

f) If the decision is to return the case to the Ethics Officer for follow up, the Ethics Officer may seek to explore settlement or may issue a decision consistent with the decision of the Ethics Committee. Before issuing such a decision, the Ethics Officer may seek additional input from the parties in a manner and format consistent with the Code of Ethics and Professional Conduct.

### **7. Effect of Dropping of Charges by Complainant or Resignation by Respondent**

a) If charges are dropped by the complainant, the Ethics Committee may, at its sole discretion, either terminate the ethics proceeding or continue the process without the complainant.

b) If the respondent resigns from AICP or lets membership lapse after a complaint is filed but before the case is finalized, the Ethics Committee may, at its sole discretion, either terminate the ethics proceeding or continue the process. As in any situation, the Ethics Committee may also determine to file a complaint with the appropriate law enforcement authority if it believes that a violation of law may have occurred.

## **8. Reporting**

a) Any written decision of the Ethics Committee may, at the discretion of the Committee, be published and titled "Opinion of the AICP Ethics Committee".

b) Any written decision of the Ethics Officer shall be referenced in the Annual Report of the Ethics Officer.

## **E: Discipline of Members**

### **1. General**

AICP members are subject to discipline for certain conduct. This conduct includes (a) conviction of a serious crime as defined in paragraph 3; (b) conviction of other crimes as set forth in paragraph 4; (c) a finding by the Ethics Committee or Ethics Officer that the member has engaged in unethical conduct; (d) loss, suspension, or restriction of state or other governmental professional licensure; (e) failure to make disclosure to AICP of any conviction of a serious crime or adverse professional licensure action; or (f) such other action as the Ethics Committee or the Ethics Officer, in the exercise of reasonable judgment, determines to be inconsistent with the professional responsibilities of a Certified Planner.

### **2. Forms of Discipline**

The discipline available under this Policy includes: (a) a confidential letter of admonition, (b) a public letter of censure, (c) suspension of AICP membership, or (d) revocation from AICP. The Ethics Officer or the Ethics Committee may attach conditions to these disciplinary actions, such as the writing of a letter of apology, the correction of a false statement or statements, the taking of an ethics course, the refunding of money, or any other conditions deemed just in light of the conduct in question.

### **3. Conviction of a Serious Crime**

a) The membership of a Certified Planner shall be revoked if the Planner has been convicted of a "serious crime". Membership shall be revoked whether the conviction resulted from a plea of guilty or nolo contendere, from a verdict after trial, or otherwise. Membership shall be revoked even if the Planner is appealing a conviction, but it will be reinstated if the conviction is overturned upon appeal.

b) For purposes of this Policy, the term "serious crime" shall mean any crime that, in the judgment of the Ethics Committee or the Ethics Officer, involves false swearing, misrepresentation, fraud, failure to file income tax returns or to pay tax, deceit, bribery, extortion, misappropriation, theft, or physical harm to another.

### **4. Conviction of Other Crimes**

a) Discipline may also be imposed if a Certified Planner has been convicted of a crime not included within the definition of "serious crime," including an action determined by the Ethics Committee or the Ethics Officer to be inconsistent with the professional responsibilities of a Certified Planner.

b) Before any discipline is imposed under this section, the member shall have a right to set forth his or her position in writing to the Ethics Officer. The Ethics Officer shall, in that Officer's sole discretion, determine whether or not to give the member a hearing. The Ethics Officer shall notify the member of the decision.

c) A member who has had discipline imposed by the Ethics Officer shall have thirty (30) days from the date of notification of the adverse decision to file an appeal to the Ethics Committee. The member may do so by filing a timely notice of appeal with the Ethics Officer. The notice shall be accompanied by a statement of the basis for the appeal. The Ethics Officer will transmit any appeal and accompanying notice to the Ethics Committee. That Committee shall determine, in its sole discretion, whether or not to grant a hearing. The Ethics Committee shall, after considering the relevant information, issue a written opinion on the appeal.

### **5. Unethical Conduct**

The forms of discipline set forth in paragraph 2 shall apply to any member who is found to have engaged in unethical conduct in accordance with the procedures established in the Policy on Adjudication of Complaints of Misconduct.

### **6. Revocation, Suspension, or Restriction of Licensure**

a) The Ethics Committee or Ethics Officer shall impose such discipline as the Committee or Officer regards as just if a state or other governmentally-issued professional license of a Certified Planner has been revoked, suspended, or restricted for any reason relating to improper conduct by the Planner.

b) Before any discipline is imposed under this section, the provisions of section 4 (b) and (c) shall apply.

### **7. Duty to Notify Ethics Officer**

a) A member who has been convicted of a serious crime or who has had his or her state or other governmentally-issued professional license revoked, suspended, or restricted for any reason relating to improper conduct by the member shall promptly report the relevant development to the Ethics Officer.

b) Failure of a member to report that he or she has been convicted of a serious crime or has had a professional license revoked, suspended, or restricted for a reason relating to improper conduct by that member may itself result in discipline of that member.

### **8. Other Conduct Inconsistent with the Responsibilities of a Certified Planner**

a) The Ethics Officer shall have the right to discipline any member for any conduct not otherwise covered by this Policy that the Officer determines to be inconsistent with the responsibilities of a Certified Planner.

b) Conduct covered by this section shall include, but not be limited to, a finding in a civil case that the member has engaged in defamation or similar unlawful action, has knowingly infringed the copyright or other intellectual property of another, or has engaged in perjury.

c) Before any discipline is imposed under this section, the provisions of section 4-b and 4-c shall apply.

### **9. Petition for Reinstatement**

a) Any Certified Planner whose membership or certification is revoked may petition the Ethics Committee for reinstatement no sooner than five years from the time of revocation. The Ethics Committee shall determine, in its sole discretion, whether to afford the petitioner a hearing and/or whether to seek additional information. The Committee shall determine, in its sole judgment, whether reinstatement is appropriate and what, if any, conditions should be applied to any such reinstatement. The Ethics Officer shall transmit the reinstatement determination to the Planner.

b) If the Ethics Committee denies the Petition, that Officer shall advise the Planner of the opportunity to file a subsequent petition after twelve (12) months have elapsed from the date of the determination.

#### **10. Publication of Disciplinary Actions**

The Ethics Committee, in its sole discretion, may publish the names of members who have had disciplinary action imposed and to state the nature of the discipline that was imposed. The authority to publish shall survive the voluntary or involuntary termination or suspension of AICP membership and certification. The Ethics Committee, in its sole discretion, may also determine not to publish such information or to publish only so much of that information as it deems appropriate.

**MICHIGAN PLANNING ENABLING ACT**  
**Act 33 of 2008**

AN ACT to codify the laws regarding and to provide for county, township, city, and village planning; to provide for the creation, organization, powers, and duties of local planning commissions; to provide for the powers and duties of certain state and local governmental officers and agencies; to provide for the regulation and subdivision of land; and to repeal acts and parts of acts.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

*The People of the State of Michigan enact:*

ARTICLE I.  
GENERAL PROVISIONS

**125.3801 Short title.**

Sec. 1. This act shall be known and may be cited as the "Michigan planning enabling act".

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**125.3803 Definitions.**

Sec. 3. As used in this act:

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

(b) "Chief elected official" means the mayor of a city, the president of a village, the supervisor of a township, or, subject to section 5, the chairperson of the county board of commissioners of a county.

(c) "County board of commissioners", subject to section 5, means the elected county board of commissioners, except that, as used in sections 39 and 41, county board of commissioners means 1 of the following:

(i) A committee of the county board of commissioners, if the county board of commissioners delegates its powers and duties under this act to the committee.

(ii) The regional planning commission for the region in which the county is located, if the county board of commissioners delegates its powers and duties under this act to the regional planning commission.

(d) "Ex officio member", in reference to a planning commission, means a member, with full voting rights unless otherwise provided by charter, who serves on the planning commission by virtue of holding another office, for the term of that other office.

(e) "Legislative body" means the county board of commissioners of a county, the board of trustees of a township, or the council or other elected governing body of a city or village.

(f) "Local unit of government" or "local unit" means a county or municipality.

(g) "Master plan" means either of the following:

(i) As provided in section 81(1), any plan adopted or amended before September 1, 2008 under a planning act repealed under section 85.

(ii) Any plan adopted or amended under this act. This includes, but is not limited to, a plan prepared by a planning commission authorized by this act and used to satisfy the requirement of section 203(1) of the Michigan zoning enabling act, 2006 PA 110, MCL 125.3203, regardless of whether it is entitled a master plan, basic plan, county plan, development plan, guide plan, land use plan, municipal plan, township plan, plan, or any other term.

(h) "Municipality" or "municipal" means or refers to a city, village, or township.

(i) "Planning commission" means either of the following, as applicable:

(i) A planning commission created pursuant to section 11(1).

(ii) A planning commission retained pursuant to section 81(2) or (3), subject to the limitations on the application of this act provided in section 81(2) and (3).

(j) "Planning jurisdiction" for a county, city, or village refers to the areas encompassed by the legal boundaries of that county, city, or village, subject to section 31(1). Planning jurisdiction for a township refers to the areas encompassed by the legal boundaries of that township outside of the areas of incorporated villages and cities, subject to section 31(1).

(k) "Population" means the population according to the most recent federal decennial census or according to a special census conducted under section 7 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.907, whichever is the more recent.

(l) "Public transportation agency" means a governmental entity that operates or is authorized to operate

intercity or local commuter passenger rail service in this state or a public transit authority created under 1 of the following acts:

- (i) The metropolitan transportation authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426.
- (ii) The public transportation authority act, 1986 PA 196, MCL 124.451 to 124.479.
- (iii) 1963 PA 55, MCL 124.351 to 124.359.
- (iv) The home rule city act, 1909 PA 279, MCL 117.1 to 117.38.
- (v) The revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.
- (vi) The charter township act, 1947 PA 359, MCL 42.1 to 42.34.
- (vii) The urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.
- (m) "Public transportation facility" means that term as defined in section 2 of the metropolitan transportation authorities act of 1967, 1967 PA 204, MCL 124.402.
- (n) "Street" means a street, avenue, boulevard, highway, road, lane, alley, viaduct, or other public way intended for use by motor vehicles, bicycles, pedestrians, and other legal users.

**History:** 2008, Act 33, Eff. Sept. 1, 2008;—Am. 2010, Act 134, Imd. Eff. Aug. 2, 2010;—Am. 2010, Act 306, Imd. Eff. Dec. 17, 2010.

### **125.3805 Assignment of power or duty to county officer or body.**

Sec. 5. The assignment of a power or duty under this act to a county officer or body is subject to 1966 PA 293, MCL 45.501 to 45.521, or 1973 PA 139, MCL 45.551 to 45.573, in a county organized under 1 of those acts.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

### **125.3807 Master plan; adoption, amendment, and implementation by local government; purpose.**

Sec. 7. (1) A local unit of government may adopt, amend, and implement a master plan as provided in this act.

(2) The general purpose of a master plan is to guide and accomplish, in the planning jurisdiction and its environs, development that satisfies all of the following criteria:

- (a) Is coordinated, adjusted, harmonious, efficient, and economical.
- (b) Considers the character of the planning jurisdiction and its suitability for particular uses, judged in terms of such factors as trends in land and population development.
- (c) Will, in accordance with present and future needs, best promote public health, safety, morals, order, convenience, prosperity, and general welfare.
- (d) Includes, among other things, promotion of or adequate provision for 1 or more of the following:
  - (i) A system of transportation to lessen congestion on streets and provide for safe and efficient movement of people and goods by motor vehicles, bicycles, pedestrians, and other legal users.
  - (ii) Safety from fire and other dangers.
  - (iii) Light and air.
  - (iv) Healthful and convenient distribution of population.
  - (v) Good civic design and arrangement and wise and efficient expenditure of public funds.
  - (vi) Public utilities such as sewage disposal and water supply and other public improvements.
  - (vii) Recreation.
  - (viii) The use of resources in accordance with their character and adaptability.

**History:** 2008, Act 33, Eff. Sept. 1, 2008;—Am. 2010, Act 134, Imd. Eff. Aug. 2, 2010.

## **ARTICLE II.**

### **PLANNING COMMISSION CREATION AND ADMINISTRATION**

#### **125.3811 Planning commission; creation; adoption of ordinance by local unit of government; notice required; exception; adoption of charter provision by city or home rule village; effect of repeal of planning act; continued exercise or transfer of powers and duties of zoning board or zoning commission.**

Sec. 11. (1) A local unit of government may adopt an ordinance creating a planning commission with powers and duties provided in this act. 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".

(2) Within 14 days after a local unit of government adopts an ordinance under subsection (1) creating a planning commission, the clerk of the local unit shall transmit notice of the adoption to the planning

commission of the county where the local unit is located. However, if there is not a county planning commission or if the local unit adopting the ordinance is a county, notice shall be transmitted to the regional planning commission engaged in planning for the region within which the local unit is located. Notice under this subsection is not required when a planning commission created before the effective date of this act continues in existence under this act, but is required when an ordinance governing or creating a planning commission is amended or superseded under section 81(2)(b) or (3)(b).

(3) If, after the effective date of this act, a city or home rule village adopts a charter provision providing for a planning commission, the charter provision shall be implemented by an ordinance that conforms to this act. Section 81(2) provides for the continuation of a planning commission created by a charter provision adopted before the effective date of this act.

(4) Section 81(3) provides for the continuation of a planning commission created under a planning act repealed under section 85.

(5) Section 83 provides for the continued exercise by a planning commission, or the transfer to a planning commission, of the powers and duties of a zoning board or zoning commission.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**125.3813 Planning commission; effect of township ordinance; number of days; petition requesting submission of ordinance to electors; filing; petition subject to Michigan election law; violation.**

Sec. 13. (1) Subject to subsection (2), a township ordinance creating a planning commission under this act shall take effect 63 days after the ordinance is published by the township board in a newspaper having general circulation in the township.

(2) Subject to subsection (3), before a township ordinance creating a planning commission takes effect, a petition may be filed with the township clerk requesting the submission of the ordinance to the electors residing in the unincorporated portion of the township for their approval or rejection. The petition shall be signed by a number of qualified and registered electors residing in the unincorporated portion of the township equal to not less than 8% of the total vote cast for all candidates for governor, at the last preceding general election at which a governor was elected. If such a petition is filed, the ordinance shall not take effect until approved by a majority of the electors residing in the unincorporated portion of the township voting thereon at the next regular or special election that allows reasonable time for proper notices and printing of ballots or at any special election called for that purpose, as determined by the township board. The township board shall specify the language of the ballot question.

(3) Subsection (2) does not apply if the planning commission created by the ordinance is the successor to an existing zoning commission or zoning board as provided for under section 301 of the Michigan zoning enabling act, 2006 PA 110, MCL 125.3301.

(4) If a township board does not on its own initiative adopt an ordinance under this act creating a planning commission, a petition may be filed with the township clerk requesting the township board to adopt such an ordinance. The petition shall be signed by a number of qualified and registered electors as provided in subsection (2). If such a petition is filed, the township board, at its first meeting following the filing shall submit the question to the electors of the township in the same manner as provided under subsection (2).

(5) A petition under this section, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**125.3815 Planning commission; membership; appointment; terms; vacancy; representation; qualifications; ex-officio members; board serving as planning commission; removal of member; conditions; conflict of interest; additional requirements.**

Sec. 15. (1) In a municipality, the chief elected official shall appoint members of the planning commission, subject to approval by a majority vote of the members of the legislative body elected and serving. In a county, the county board of commissioners shall determine the method of appointment of members of the planning commission by resolution of a majority of the full membership of the county board.

(2) A city, village, or township planning commission shall consist of 5, 7, or 9 members. A county planning commission shall consist of 5, 7, 9, or 11 members. Members of a planning commission other than ex officio members under subsection (5) shall be appointed for 3-year terms. However, of the members of the planning commission, other than ex officio members, first appointed, a number shall be appointed to 1-year or

2-year terms such that, as nearly as possible, the terms of 1/3 of all the planning commission members will expire each year. If a vacancy occurs on a planning commission, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment. A member shall hold office until his or her successor is appointed.

(3) The membership of a planning commission shall be representative of important segments of the community, 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, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the entire territory of the local unit of government to the extent practicable.

(4) Members of a planning commission shall be qualified electors of the local unit of government, except that the following number of planning commission members may be individuals who are not qualified electors of the local unit of government but are qualified electors of another local unit of government:

(a) 3, in a city that on September 1, 2008 had a population of more than 2,700 but less than 2,800.

(b) 2, in a city or village that has, or on September 1, 2008 had, a population of less than 5,000, except as provided in subdivision (a).

(c) 1, in local units of government other than those described in subdivision (a) or (b).

(5) In a township that on September 1, 2008 had a planning commission created under former 1931 PA 285, 1 member of the legislative body or the chief elected official, or both, may be appointed to the planning commission, as ex officio members. In any other township, 1 member of the legislative body shall be appointed to the planning commission, as an ex officio member. In a city, village, or county, the chief administrative official or a person designated by the chief administrative official, if any, the chief elected official, 1 or more members of the legislative body, or any combination thereof, may be appointed to the planning commission, as ex officio members, unless prohibited by charter. However, in a city, village, or county, not more than 1/3 of the members of the planning commission may be ex officio members. Except as provided in this subsection, an elected officer or employee of the local unit of government is not eligible to be a member of the planning commission. The term of an ex officio member of a planning commission shall be as follows:

(a) The term of a chief elected official shall correspond to his or her term as chief elected official.

(b) The term of a chief administrative official shall expire with the term of the chief elected official that appointed him or her as chief administrative official.

(c) The term of a member of the legislative body shall expire with his or her term on the legislative body.

(6) For a county planning commission, the county shall make every reasonable effort to ensure that the membership of the county planning commission includes a member of a public school board or an administrative employee of a school district included, in whole or in part, within the county's boundaries. The requirements of this subsection apply whenever an appointment is to be made to the planning commission, unless an incumbent is being reappointed or an ex officio member is being appointed under subsection (5).

(7) Subject to subsection (8), a city or village that has a population of less than 5,000, and that has not created a planning commission by charter, may by an ordinance adopted under section 11(1) provide that 1 of the following boards serve as its planning commission:

(a) The board of directors of the economic development corporation of the city or village created under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636.

(b) The board of a downtown development authority created under 1975 PA 197, MCL 125.1651 to 125.1681, if the boundaries of the downtown district are the same as the boundaries of the city or village.

(c) A board created under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, if the boundaries of the authority district are the same as the boundaries of the city or village.

(8) Subsections (1) to (5) do not apply to a planning commission established under subsection (7). All other provisions of this act apply to a planning commission established under subsection (7).

(9) The legislative body may remove a member of the planning commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Before casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the planning commission. The member is disqualified from voting on the matter if so provided by the bylaws or by a majority vote of the remaining members of the planning commission. Failure of a member to disclose a potential conflict of interest as required by this subsection constitutes malfeasance in office. Unless the legislative body, by ordinance, defines conflict of interest for the purposes of this subsection, the planning commission shall do so in its bylaws.

(10) An ordinance creating a planning commission may impose additional requirements relevant to the subject matter of, but not inconsistent with, this section.

**History:** 2008, Act 33, Eff. Sept. 1, 2008;—Am. 2010, Act 105, Imd. Eff. June 29, 2010.

**125.3817 Chairperson, secretary, and other offices; election; terms; appointment of advisory committees.**

Sec. 17. (1) A planning commission shall elect a chairperson and secretary from its members and create and fill other offices as it considers advisable. An ex officio member of the planning commission is not eligible to serve as chairperson. The term of each officer shall be 1 year, with opportunity for reelection as specified in bylaws adopted under section 19.

(2) A planning commission may appoint advisory committees whose members are not members of the planning commission.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**125.3819 Bylaws; adoption; public record requirements; annual report by planning commission.**

Sec. 19. (1) A planning commission shall adopt bylaws for the transaction of business, and shall keep a public record of its resolutions, transactions, findings, and determinations.

(2) 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**125.3821 Meetings; frequency; time; place; special meeting; notice; compliance with open meetings act; availability of writings to public.**

Sec. 21. (1) A planning commission shall hold not less than 4 regular meetings each year, and by resolution shall determine the time and place of the meetings. Unless the bylaws provide otherwise, a special meeting of the planning commission may be called by the chairperson or by 2 other members, upon written request to the secretary. Unless the bylaws provide otherwise, the secretary shall send written notice of a special meeting to planning commission members not less than 48 hours before the meeting.

(2) The business that a planning commission may perform shall be conducted at a public meeting of the planning commission held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of a regular or special meeting shall be given in the manner required by that act.

(3) A writing prepared, owned, used, in the possession of, or retained by a planning commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**125.3823 Compensation; expenses; preparation of budget; acceptance of gifts.**

Sec. 23. (1) Members of a planning commission may be compensated for their services as provided by the legislative body. A planning commission may adopt bylaws relative to compensation and expenses of its members and employees for travel when engaged in the performance of activities authorized by the legislative body, including, but not limited to, attendance at conferences, workshops, educational and training programs, and meetings.

(2) After preparing the annual report required under section 19, a planning commission may prepare a detailed budget and submit the budget to the legislative body for approval or disapproval. The legislative body annually may appropriate funds for carrying out the purposes and functions permitted under this act, and may match local government funds with federal, state, county, or other local government or private grants, contributions, or endowments.

(3) A planning commission may accept gifts for the exercise of its functions. However, in a township, other than a township that on the effective date of this act had a planning commission created under former 1931 PA 285, only the township board may accept such gifts, on behalf of the planning commission. A gift of money so accepted in either case shall be deposited with the treasurer of the local unit of government in a special nonreverting planning commission fund for expenditure by the planning commission for the purpose designated by the donor. The treasurer shall draw a warrant against the special nonreverting fund only upon receipt of a voucher signed by the chairperson and secretary of the planning commission and an order drawn by the clerk of the local unit of government. The expenditures of a planning commission, exclusive of gifts and grants, shall be within the amounts appropriated by the legislative body.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**125.3825 Employment of planning director and other personnel; contract for services; use of information and advice provided by public officials, departments, and agencies.**

Sec. 25. (1) A local unit of government may employ a planning director and other personnel as it considers necessary, contract for the services of planning and other technicians, and incur other expenses, within a budget authorized by the legislative body. This authority shall be exercised by the legislative body, unless a charter provision or ordinance delegates this authority to the planning commission or another body or official. The appointment of employees is subject to the same provisions of law as govern other corresponding civil employees of the local unit of government.

(2) For the purposes of this act, a planning commission may make use of maps, data, and other information and expert advice provided by appropriate federal, state, regional, county, and municipal officials, departments, and agencies. All public officials, departments, and agencies shall make available public information for the use of planning commissions and furnish such other technical assistance and advice as they may have for planning purposes.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

ARTICLE III.

PREPARATION AND ADOPTION OF MASTER PLAN

**125.3831 Master plan; preparation by planning commission; meetings with other governmental planning commissions or agency staff; powers.**

Sec. 31. (1) A planning commission shall make and approve a master plan as a guide for development within the planning jurisdiction subject to section 81 and the following:

(a) For a county, the master plan may include planning in cooperation with the constituted authorities for incorporated areas in whole or to the extent to which, in the planning commission's judgment, they are related to the planning of the unincorporated area or of the county as a whole.

(b) For a township that on September 1, 2008 had a planning commission created under former 1931 PA 285, or for a city or village, the planning jurisdiction may include any areas outside of the municipal boundaries that, in the planning commission's judgment, are related to the planning of the municipality.

(2) In the preparation of a master plan, a planning commission shall do all of the following, as applicable:

(a) Make careful and comprehensive surveys and studies of present conditions and future growth within the planning jurisdiction with due regard to its relation to neighboring jurisdictions.

(b) Consult with representatives of adjacent local units of government in respect to their planning so that conflicts in master plans and zoning may be avoided.

(c) Cooperate with all departments of the state and federal governments, public transportation agencies, and other public agencies concerned with programs for economic, social, and physical development within the planning jurisdiction and seek the maximum coordination of the local unit of government's programs with these agencies.

(3) In the preparation of the master plan, the planning commission may meet with other governmental planning commissions or agency staff to deliberate.

(4) In general, a planning commission has such lawful powers as may be necessary to enable it to promote local planning and otherwise carry out the purposes of this act.

**History:** 2008, Act 33, Eff. Sept. 1, 2008;—Am. 2010, Act 306, Imd. Eff. Dec. 17, 2010.

**125.3833 Master plan; land use and infrastructure issues; inclusion of maps, plats, charts, and other related matter; recommendations for physical development; additional subjects; implementation of master street plan or certain elements; specifications; section subject to MCL 125.3881(1); public transportation facilities.**

Sec. 33. (1) A master plan shall address land use and infrastructure issues and may project 20 years or more into the future. A master plan shall include maps, plats, charts, and descriptive, explanatory, and other related matter and shall show the planning commission's recommendations for the physical development of the planning jurisdiction.

(2) A master plan shall also include those of the following subjects that reasonably can be considered as pertinent to the future development of the planning jurisdiction:

(a) A land use plan that consists in part of a classification and allocation of land for agriculture, residences, commerce, industry, recreation, ways and grounds, subject to subsection (5), public transportation facilities, public buildings, schools, soil conservation, forests, woodlots, open space, wildlife refuges, and other uses and purposes. If a county has not adopted a zoning ordinance under former 1943 PA 183 or the Michigan

zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702, a land use plan and program for the county may be a general plan with a generalized future land use map.

(b) The general location, character, and extent of all of the following:

(i) All components of a transportation system and their interconnectivity including streets and bridges, public transit including public transportation facilities and routes, bicycle facilities, pedestrian ways, freight facilities and routes, port facilities, railroad facilities, and airports, to provide for the safe and efficient movement of people and goods in a manner that is appropriate to the context of the community and, as applicable, considers all legal users of the public right-of-way.

(ii) Waterways and waterfront developments.

(iii) Sanitary sewers and water supply systems.

(iv) Facilities for flood prevention, drainage, pollution prevention, and maintenance of water levels.

(v) Public utilities and structures.

(c) Recommendations as to the general character, extent, and layout of redevelopment or rehabilitation of blighted areas; and the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of streets, grounds, open spaces, buildings, utilities, or other facilities.

(d) For a local unit of government that has adopted a zoning ordinance, a zoning plan for various zoning districts controlling the height, area, bulk, location, and use of buildings and premises. The zoning plan shall include an explanation of how the land use categories on the future land use map relate to the districts on the zoning map.

(e) Recommendations for implementing any of the master plan's proposals.

(3) If a master plan is or includes a master street plan or 1 or more elements described in subsection (2)(b)(i), the means for implementing the master street plan or elements in cooperation with the county road commission and the state transportation department shall be specified in the master street plan in a manner consistent with the respective powers and duties of and any written agreements between these entities and the municipality.

(4) This section is subject to section 81(1).

(5) The reference to public transportation facilities in subsection (2)(a) only applies to a master plan that is adopted or substantively amended more than 90 days after the effective date of the amendatory act that added this subsection.

**History:** 2008, Act 33, Eff. Sept. 1, 2008;—Am. 2010, Act 134, Imd. Eff. Aug. 2, 2010;—Am. 2010, Act 306, Imd. Eff. Dec. 17, 2010.

### **125.3835 Subplan; adoption.**

Sec. 35. A planning commission may, by a majority vote of the members, adopt a subplan for a geographic area less than the entire planning jurisdiction, if, because of the unique physical characteristics of that area, more intensive planning is necessary for the purposes set forth in section 7.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

### **125.3837 Metropolitan county planning commission; designation; powers.**

Sec. 37. (1) A county board of commissioners may designate the county planning commission as the metropolitan county planning commission. A county planning commission so designated shall perform metropolitan and regional planning whenever necessary or desirable. The metropolitan county planning commission may engage in comprehensive planning, including, but not limited to, the following:

(a) 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.

(b) 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.

(c) Coordination of all related plans of local governmental agencies within the metropolitan area or region.

(d) Intergovernmental coordination of all related planning activities among the state and local governmental agencies within the metropolitan area or region.

(2) In addition to the powers conferred by other provisions of this act, a metropolitan county planning commission may apply for, receive, and accept grants from any local, regional, state, or federal governmental agency and agree to and comply with the terms and conditions of such grants. A metropolitan county planning commission may do any and all things necessary or desirable to secure the financial aid or cooperation of a regional, state, or federal governmental agency in carrying out its functions, when approved by a 2/3 vote of the county board of commissioners.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**125.3839 Master plan; adoption; procedures; notice; submittals; use of electronic mail.**

Sec. 39. (1) A master plan shall be adopted under the procedures set forth in this section and sections 41 and 43. A master plan may be adopted as a whole or by successive parts corresponding with major geographical areas of the planning jurisdiction or with functional subject matter areas of the master plan.

(2) Before preparing a master plan, a planning commission shall send to all of the following, by first-class mail or personal delivery, a notice explaining that the planning commission intends to prepare a master plan and requesting the recipient's cooperation and comment:

(a) For any local unit of government undertaking a master plan, the planning commission, or if there is no planning commission, the legislative body, of each municipality located within or contiguous to the local unit of government.

(b) For a county undertaking a master plan, the regional planning commission for the region in which the county is located, if any.

(c) For a county undertaking a master plan, the county planning commission, or if there is no county planning commission, the county board of commissioners, for each county located contiguous to the county.

(d) For a municipality undertaking a master plan, the regional planning commission for the region in which the municipality is located, if there is no county planning commission for the county in which that municipality is located. If there is a county planning commission, the municipal planning commission may consult with the regional planning commission but is not required to do so.

(e) For a municipality undertaking a master plan, the county planning commission, or if there is no county planning commission, the county board of commissioners, for the county in which that municipality is located.

(f) For any local unit of government undertaking a master plan, each public utility company, railroad company, and public transportation agency owning or operating a public utility, railroad, or public transportation system within the local unit of government, and any government entity that registers its name and mailing address for this purpose with the planning commission.

(g) If the master plan will include a master street plan, the county road commission and the state transportation department.

(3) A submittal under section 41 or 43 by or to an entity described in subsection (2) may be made by personal or first-class mail delivery of a hard copy or by electronic mail. However, the planning commission preparing the plan shall not make such submittals by electronic mail unless, in the notice described in subsection (2), the planning commission states that it intends to make such submittals by electronic mail and the entity receiving that notice does not respond by objecting to the use of electronic mail. Electronic mail may contain a link to a website on which the submittal is posted if the website is accessible to the public free of charge.

**History:** 2008, Act 33, Eff. Sept. 1, 2008;—Am. 2010, Act 306, Imd. Eff. Dec. 17, 2010.

**125.3841 Preparation of proposed master plan; submission to legislative body for review and comment; approval required; notice; submission of comments; statements as advisory.**

Sec. 41. (1) After preparing a proposed master plan, a planning commission shall submit the proposed master plan to the legislative body for review and comment. The process of adopting a master plan shall not proceed further unless the legislative body approves the distribution of the proposed master plan.

(2) If the legislative body approves the distribution of the proposed master plan, it shall notify the secretary of the planning commission, and the secretary of the planning commission shall submit, in the manner provided in section 39(3), a copy of the proposed master plan, for review and comment, to all of the following:

(a) For any local unit of government proposing a master plan, the planning commission, or if there is no planning commission, the legislative body, of each municipality located within or contiguous to the local unit of government.

(b) For a county proposing a master plan, the regional planning commission for the region in which the county is located, if any.

(c) For a county proposing a master plan, the county planning commission, or if there is no county planning commission, the county board of commissioners, for each county located contiguous to the county.

(d) For a municipality proposing a master plan, the regional planning commission for the region in which the municipality is located, if there is no county planning commission for the county in which that local unit of government is located. If there is a county planning commission, the secretary of the municipal planning commission may submit a copy of the proposed master plan to the regional planning commission but is not required to do so.

(e) For a municipality proposing a master plan, the county planning commission, or if there is no county planning commission, the county board of commissioners, for the county in which that municipality is located. The secretary of the municipal planning commission shall concurrently submit to the county planning commission, in the manner provided in section 39(3), a statement that the requirements of subdivision (a) have been met or, if there is no county planning commission, shall submit to the county board of commissioners, in the manner provided in section 39(3), a statement that the requirements of subdivisions (a) and (d) have been met. The statement shall be signed by the secretary and shall include the name and address of each planning commission or legislative body to which a copy of the proposed master plan was submitted under subdivision (a) or (d), as applicable, and the date of submittal.

(f) For any local unit of government proposing a master plan, each public utility company, railroad company, and public transportation agency owning or operating a public utility, railroad, or public transportation system within the local unit of government, and any government entity that registers its name and address for this purpose with the secretary of the planning commission. An entity described in this subdivision that receives a copy of a proposed master plan, or of a final master plan as provided in section 43(5), shall reimburse the local unit of government for any copying and postage costs thereby incurred.

(g) If the proposed master plan is or includes a proposed master street plan, the county road commission and the state transportation department.

(3) An entity described in subsection (2) may submit comments on the proposed master plan to the planning commission in the manner provided in section 39(3) within 63 days after the proposed master plan was submitted to that entity under subsection (2). If the county planning commission or the county board of commissioners that receives a copy of a proposed master plan under subsection (2)(e) submits comments, the comments shall include, but need not be limited to, both of the following, as applicable:

(a) A statement whether the county planning commission or county board of commissioners considers the proposed master plan to be inconsistent with the master plan of any municipality or region described in subsection (2)(a) or (d).

(b) If the county has a county master plan, a statement whether the county planning commission considers the proposed master plan to be inconsistent with the county master plan.

(4) The statements provided for in subsection (3)(a) and (b) are advisory only.

**History:** 2008, Act 33, Eff. Sept. 1, 2008;—Am. 2010, Act 306, Imd. Eff. Dec. 17, 2010.

**125.3843 Proposed master plan; public hearing; notice; approval by resolution of planning commission; statement; submission of copy of master plan to legislative body; approval or rejection by legislative body; procedures; submission of adopted master plan to certain entities.**

Sec. 43. (1) Before approving a proposed master plan, a planning commission shall hold not less than 1 public hearing on the proposed master plan. The hearing shall be held after the expiration of the deadline for comment under section 41(3). The planning commission shall give notice of the time and place of the public hearing not less than 15 days before the hearing by publication in a newspaper of general circulation within the local unit of government. The planning commission shall also submit notice of the public hearing in the manner provided in section 39(3) to each entity described in section 39(2). This notice may accompany the proposed master plan submitted under section 41.

(2) The approval of the proposed master plan shall be by resolution of the planning commission carried by the affirmative votes of not less than 2/3 of the members of a city or village planning commission or not less than a majority of the members of a township or county planning commission. The resolution shall refer expressly to the maps and descriptive and other matter intended by the planning commission to form the master plan. A statement recording the planning commission's approval of the master plan, signed by the chairperson or secretary of the planning commission, shall be included on the inside of the front or back cover of the master plan and, if the future land use map is a separate document from the text of the master plan, on the future land use map. Following approval of the proposed master plan by the planning commission, the secretary of the planning commission shall submit a copy of the master plan to the legislative body.

(3) Approval of the proposed master plan by the planning commission under subsection (2) is the final step for adoption of the master plan, unless the legislative body by resolution has asserted the right to approve or reject the master plan. In that case, after approval of the proposed master plan by the planning commission, the legislative body shall approve or reject the proposed master plan. A statement recording the legislative body's approval of the master plan, signed by the clerk of the legislative body, shall be included on the inside of the front or back cover of the master plan and, if the future land use map is a separate document from the text of the master plan, on the future land use map.

(4) If the legislative body rejects the proposed master plan, the legislative body shall submit to the planning commission a statement of its objections to the proposed master plan. The planning commission shall consider the legislative body's objections and revise the proposed master plan so as to address those objections. The procedures provided in subsections (1) to (3) and this subsection shall be repeated until the legislative body approves the proposed master plan.

(5) Upon final adoption of the master plan, the secretary of the planning commission shall submit, in the manner provided in section 39(3), copies of the adopted master plan to the same entities to which copies of the proposed master plan were required to be submitted under section 41(2).

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**125.3845 Extension, addition, revision, or other amendment to master plan; adoption; procedures; review and findings.**

Sec. 45. (1) An extension, addition, revision, or other amendment to a master plan shall be adopted by following the procedure under sections 39, 41, and 43, subject to all of the following:

(a) Any of the following amendments to a master plan may be made without following the procedure under sections 39, 41, and 43:

(i) A grammatical, typographical, or similar editorial change.

(ii) A title change.

(iii) A change to conform to an adopted plat.

(b) Subject to subdivision (a), the review period provided for in section 41(3) shall be 42 days instead of 63 days.

(c) When a planning commission sends notice to an entity under section 39(2) that it intends to prepare a subplan, the notice may indicate that the local unit of government intends not to provide that entity with further notices of or copies of proposed or final subplans otherwise required to be submitted to that entity under section 39, 41, or 43. Unless the entity responds that it chooses to receive notice of subplans, the local unit of government is not required to provide further notice of subplans to that entity.

(2) At least every 5 years after adoption of a master plan, a planning commission shall review the master plan and determine whether to commence the procedure to amend the master plan or adopt a new master plan. The review and its findings shall be recorded in the minutes of the relevant meeting or meetings of the planning commission.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**125.3847 Part of county master plan covering incorporated area; adoption by appropriate city or village required; exception.**

Sec. 47. (1) Subject to subsection (2), a part of a county master plan covering an incorporated area within the county shall not be recognized as the official master plan or part of the official master plan for that area unless adopted by the appropriate city or village in the manner prescribed by this act.

(2) Subsection (1) does not apply if the incorporated area is subject to county zoning pursuant to the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702, and a contract under the urban cooperation act, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, or 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**125.3849 City or village planning department; authority to submit proposed master plan, or proposed extension, addition, revision, or other amendment.**

Sec. 49. (1) This act does not alter the authority of a planning department of a city or village created by charter to submit a proposed master plan, or a proposed extension, addition, revision, or other amendment to a master plan, to the planning commission, whether directly or indirectly as provided by charter.

(2) Subsection (1) notwithstanding, a planning commission described in subsection (1) shall comply with the requirements of this act.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

**125.3851 Public interest and understanding; promotion.**

Sec. 51. (1) To promote public interest in and understanding of the master plan, a planning commission may publish and distribute copies of the master plan or of any report, and employ other means of publicity and education.

(2) A planning commission shall consult with and advise public officials and agencies, public utility companies, civic, educational, professional, and other organizations, and citizens concerning the promotion or

implementation of the master plan.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

#### ARTICLE IV.

#### SPECIAL PROVISIONS, INCLUDING CAPITAL IMPROVEMENTS AND SUBDIVISION REVIEW

##### **125.3861 Construction of certain projects in area covered by municipal master plan; approval; initiation of work on project; requirements; report and advice.**

Sec. 61. (1) A street; square, park, playground, public way, ground, or other open space; or public building or other structure shall not be constructed or authorized for construction in an area covered by a municipal master plan unless the location, character, and extent of the street, public way, open space, structure, or utility have been submitted to the planning commission by the legislative body or other body having jurisdiction over the authorization or financing of the project and has been approved by the planning commission. The planning commission shall submit its reasons for approval or disapproval to the body having jurisdiction. If the planning commission disapproves, the body having jurisdiction may overrule the planning commission by a vote of not less than 2/3 of its entire membership for a township that on the enactment date of this act had a planning commission created under former 1931 PA 285, or for a city or village, or by a vote of not less than a majority of its membership for any other township. If the planning commission fails to act within 35 days after submission of the proposal to the planning commission, the project shall be considered to be approved by the planning commission.

(2) Following adoption of the county plan or any part of a county plan and the certification by the county planning commission to the county board of commissioners of a copy of the plan, work shall not be initiated on any project involving the expenditure of money by a county board, department, or agency for the acquisition of land, the erection of structures, or the extension, construction, or improvement of any physical facility by any county board, department, or agency unless a full description of the project, including, but not limited to, its proposed location and extent, has been submitted to the county planning commission and the report and advice of the planning commission on the proposal have been received by the county board of commissioners and by the county board, department, or agency submitting the proposal. However, work on the project may proceed if the planning commission fails to provide in writing its report and advice upon the proposal within 35 days after the proposal is filed with the planning commission. The planning commission shall provide copies of the report and advice to the county board, department, or agency sponsoring the proposal.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

##### **125.3863 Approval of construction project before effective date of act; rescission of authorization; failure of planning commission to act within certain period of time.**

Sec. 63. If the opening, widening, or extension of a street, or the acquisition or enlargement of any square, park, playground, or other open space has been approved by a township planning commission that was created before the effective date of this act under former 1931 PA 285 or by a city or village planning commission and authorized by the legislative body as provided under section 61, the legislative body shall not rescind its authorization unless the matter has been resubmitted to the planning commission and the rescission has been approved by the planning commission. The planning commission shall hold a public hearing on the matter. The planning commission shall submit its reasons for approval or disapproval of the rescission to the legislative body. If the planning commission disapproves the rescission, the legislative body may overrule the planning commission by a vote of not less than 2/3 of its entire membership. If the planning commission fails to act within 63 days after submission of the proposed rescission to the planning commission, the proposed rescission shall be considered to be approved by the planning commission.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

##### **125.3865 Capital improvements program of public structures and improvements; preparation; basis.**

Sec. 65. (1) To further the desirable future development of the local unit of government under the master plan, a planning commission, after adoption of a master plan, shall annually prepare a capital improvements program of public structures and improvements, unless the planning commission is exempted from this requirement by charter or otherwise. If the planning commission is exempted, the legislative body either shall prepare and adopt a capital improvements program, separate from or as a part of the annual budget, or shall delegate the preparation of the capital improvements program to the chief elected official or a nonelected administrative official, subject to final approval by the legislative body. The capital improvements program

shall show those public structures and improvements, in the general order of their priority, that in the commission's judgment will be needed or desirable and can be undertaken within the ensuing 6-year period. The capital improvements program shall be based upon the requirements of the local unit of government for all types of public structures and improvements. Consequently, each agency or department of the local unit of government with authority for public structures or improvements shall upon request furnish the planning commission with lists, plans, and estimates of time and cost of those public structures and improvements.

(2) Any township may prepare and adopt a capital improvement program. However, subsection (1) is only mandatory for a township if the township, alone or jointly with 1 or more other local units of government, owns or operates a water supply or sewage disposal system.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

#### **125.3867 Programs for public structures and improvements; recommendations.**

Sec. 67. A planning commission may recommend to the appropriate public officials programs for public structures and improvements and for the financing thereof, regardless of whether the planning commission is exempted from the requirement to prepare a capital improvements program under section 65.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

#### **125.3869 Copy of zoning ordinance and amendments; request by county planning commission for submission by municipal planning commission.**

Sec. 69. If a municipal planning commission has zoning duties pursuant to section 83 and the municipality has adopted a zoning ordinance, the county planning commission, if any, may, by first-class mail or personal delivery, request the municipal planning commission to submit to the county planning commission a copy of the zoning ordinance and any amendments. The municipal planning commission shall submit the requested documents to the county planning commission within 63 days after the request is received and shall submit any future amendments to the zoning ordinance within 63 days after the amendments are adopted. The municipal planning commission may submit a zoning ordinance or amendment under this subsection electronically.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

#### **125.3871 Recommendations for ordinances or rules governing subdivision of land; public hearing; notice; action on proposed plat; approval, approval with conditions, or disapproval by planning commission; approval of plat as amendment to master plan.**

Sec. 71. (1) A planning commission may recommend to the legislative body provisions of an ordinance or rules governing the subdivision of land authorized under section 105 of the land division act, 1967 PA 288, MCL 560.105. If a township is subject to county zoning consistent with section 209 of the Michigan zoning enabling act, 2006 PA 110, MCL 125.3209, or a city or village is subject to county zoning pursuant to the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702, and a contract under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, or 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536, the county planning commission may recommend to the legislative body of the municipality provisions of an ordinance or rules governing the subdivision of land authorized under section 105 of the land division act, 1967 PA 288, MCL 560.105. A planning commission may proceed under this subsection on its own initiative or upon request of the appropriate legislative body.

(2) Recommendations for a subdivision ordinance or rule may address plat design, including the proper arrangement of streets in relation to other existing or planned streets and to the master plan; adequate and convenient open spaces for traffic, utilities, access of firefighting apparatus, recreation, light, and air; and the avoidance of congestion of population, including minimum width and area of lots. The recommendations may also address the extent to which streets shall be graded and improved and to which water and sewer and other utility mains, piping, or other facilities shall be installed as a condition precedent to the approval of a plat.

(3) Before recommending an ordinance or rule described in subsection (1), the planning commission shall hold a public hearing on the proposed ordinance or rule. The planning commission shall give notice of the time and place of the public hearing not less than 15 days before the hearing by publication in a newspaper of general circulation within the local unit of government.

(4) If a municipality has adopted a master plan or master street plan, the planning commission of that municipality shall review and make recommendations on plats before action thereon by the legislative body under section 112 of the land division act, 1967 PA 288, MCL 560.112. If a township is subject to county zoning consistent with section 209 of the Michigan zoning enabling act, 2006 PA 110, MCL 125.3209, or a city or village is subject to county zoning pursuant to the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702, and a contract under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL

124.501 to 124.512, or 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536, and the municipality has adopted a master plan or master street plan, the county planning commission shall also review and make recommendations on plats before action thereon by the legislative body of the municipality under section 112 of the land division act, 1967 PA 288, MCL 560.112.

(5) A planning commission shall not take action on a proposed plat without affording an opportunity for a public hearing thereon. A plat submitted to the planning commission shall contain the name and address of the proprietor or other person to whom notice of a hearing shall be sent. Not less than 15 days before the date of the hearing, notice of the date, time, and place of the hearing shall be sent to that person at that address by mail and shall be published in a newspaper of general circulation in the municipality. Similar notice shall be mailed to the owners of land immediately adjoining the proposed platted land.

(6) A planning commission shall recommend approval, approval with conditions, or disapproval of a plat within 63 days after the plat is submitted to the planning commission. If applicable standards under the land division act, 1967 PA 288, MCL 560.101 to 560.293, and an ordinance or published rules governing the subdivision of land authorized under section 105 of that act, MCL 560.105, are met, the planning commission shall recommend approval of the plat. If the planning commission fails to act within the required period, the plat shall be considered to have been recommended for approval, and a certificate to that effect shall be issued by the planning commission upon request of the proprietor. However, the proprietor may waive this requirement and consent to an extension of the 63-day period. The grounds for any recommendation of disapproval of a plat shall be stated upon the records of the planning commission.

(7) A plat approved by a municipality and recorded under section 172 of the land division act, 1967 PA 288, MCL 560.172, shall be considered to be an amendment to the master plan and a part thereof. Approval of a plat by a municipality does not constitute or effect an acceptance by the public of any street or other open space shown upon the plat.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

## ARTICLE V.

### TRANSITIONAL PROVISIONS AND REPEALER

#### **125.3881 Plan adopted or amended under planning act repealed under MCL 125.3885; effect; city or home rule village charter provision creating planning commission or ordinance implementing provision before effective date of act; ordinance creating planning commission under former law; ordinance or rules governing subdivision of land.**

Sec. 81. (1) Unless rescinded by the local unit of government, any plan adopted or amended under a planning act repealed under section 85 need not be readopted under this act but continues in effect as a master plan under this act, regardless of whether it is entitled a master plan, basic plan, county plan, development plan, guide plan, land use plan, municipal plan, township plan, plan, or any other term. This includes, but is not limited to, a plan prepared by a planning commission and adopted before the effective date of this act to satisfy the requirements of section 1 of the former city and village zoning act, 1921 PA 207, section 3 of the former township zoning act, 1943 PA 184, section 3 of the former county zoning act, 1943 PA 183, or section 203(1) of the Michigan zoning enabling act, 2006 PA 110, MCL 125.3203. The master plan is subject to the requirements of this act, including, but not limited to, the requirement for periodic review under section 45(2) and the amendment procedures set forth in this act. However, the master plan is not subject to the requirements of section 33 until it is first amended under this act.

(2) Unless repealed, a city or home rule village charter provision creating a planning commission before the effective date of this act and any ordinance adopted before the effective date of this act implementing that charter provision continues in effect under this act, and the planning commission need not be newly created by an ordinance adopted under this act. However, both of the following apply:

(a) The legislative body may by ordinance increase the powers and duties of the planning commission to correspond with the powers and duties of a planning commission created under this act. Provisions of this act regarding planning commission powers and duties do not otherwise apply to a planning commission created by charter before the effective date of this act and provisions of this act regarding planning commission membership, appointment, and organization do not apply to such a planning commission. All other provisions of this act, including, but not limited to, provisions regarding planning commission selection of officers, meetings, rules, records, appointment of employees, contracts for services, and expenditures, do apply to such a planning commission.

(b) The legislative body shall amend any ordinance adopted before the effective date of this act to implement the charter provision, or repeal the ordinance and adopt a new ordinance, to fully conform to the requirements of this act made applicable by subdivision (a), by the earlier of the following dates:

(i) The date when an amendatory or new ordinance is first adopted under this act for any purpose.

(ii) July 1, 2011.

(3) Unless repealed, an ordinance creating a planning commission under former 1931 PA 285 or former 1945 PA 282 or a resolution creating a planning commission under former 1959 PA 168 continues in effect under this act, and the planning commission need not be newly created by an ordinance adopted under this act. However, all of the following apply:

(a) Beginning on the effective date of this act, the duties of the planning commission are subject to the requirements of this act.

(b) The legislative body shall amend the ordinance, or repeal the ordinance or resolution and adopt a new ordinance, to fully conform to the requirements of this act by the earlier of the following dates:

(i) The date when an amendatory or new ordinance is first adopted under this act for any purpose.

(ii) July 1, 2011.

(c) An ordinance adopted under subdivision (b) is not subject to referendum.

(4) 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.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

### **125.3883 Transfer of powers, duties, and records.**

Sec. 83. (1) If, on the effective date of this act, a planning commission had the powers and duties of a zoning board or zoning commission under the former city and village zoning act, 1921 PA 207, the former county zoning act, 1943 PA 183, or the former township zoning act, 1943 PA 184, and under the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702, the planning commission may continue to exercise those powers and duties without amendment of the ordinance, resolution, or charter provision that created the planning commission.

(2) If, on the effective date of this act, a local unit of government had a planning commission without zoning authority created under former 1931 PA 285, former 1945 PA 282, or former 1959 PA 168, the legislative body may by amendment to the ordinance creating the planning commission, or, if the planning commission was created by resolution, may by resolution, transfer to the planning commission all the powers and duties provided to a zoning board or zoning commission created under the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702. If an existing zoning board or zoning commission in the local unit of government is nearing the completion of its draft zoning ordinance, the legislative body shall postpone the transfer of the zoning board's or zoning commission's powers, duties, and records until the completion of the draft zoning ordinance, but is not required to postpone the transfer more than 1 year.

(3) If, on or after the effective date of this act, a planning commission is created in a local unit of government that has had a zoning board or zoning commission since before the effective date of this act, the legislative body shall transfer all the powers, duties, and records of the zoning board or zoning commission to the planning commission before July 1, 2011. If the existing zoning board or zoning commission is nearing the completion of its draft zoning ordinance, the legislative body may, by resolution, postpone the transfer of the zoning board's or zoning commission's powers, duties, and records until the completion of the draft zoning ordinance, but not later than until 1 year after creation of the planning commission or July 1, 2011, whichever comes first.

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

### **125.3885 Repeal of certain acts.**

Sec. 85. (1) The following acts are repealed:

(a) 1931 PA 285, MCL 125.31 to 125.45.

(b) 1945 PA 282, MCL 125.101 to 125.115.

(c) 1959 PA 168, MCL 125.321 to 125.333.

(2) Any plan adopted or amended under an act repealed under subsection (1) is subject to section 81(1).

**History:** 2008, Act 33, Eff. Sept. 1, 2008.

## MICHIGAN ZONING ENABLING ACT

### Act 110 of 2006

AN ACT to codify the laws regarding local units of government regulating the development and use of land; to provide for the adoption of zoning ordinances; to provide for the establishment in counties, townships, cities, and villages of zoning districts; to prescribe the powers and duties of certain officials; to provide for the assessment and collection of fees; to authorize the issuance of bonds and notes; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.

**History:** 2006, Act 110, Eff. July 1, 2006.

*The People of the State of Michigan enact:*

### ARTICLE I GENERAL PROVISIONS

#### **125.3101 Short title.**

Sec. 101. This act shall be known and may be cited as the "Michigan zoning enabling act".

**History:** 2006, Act 110, Eff. July 1, 2006.

#### **125.3102 Definitions.**

Sec. 102. As used in this act:

(a) "Agricultural land" means substantially undeveloped land devoted to the production of plants and animals useful to humans, including, but not limited to, forage and sod crops, grains, feed crops, field crops, dairy products, poultry and poultry products, livestock, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables, Christmas trees, and other similar uses and activities.

(b) "Airport" means an airport licensed by the Michigan department of transportation, bureau of aeronautics under section 86 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.86.

(c) "Airport approach plan" and "airport layout plan" mean a plan, or an amendment to a plan, filed with the zoning commission under section 151 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.151.

(d) "Airport manager" means that term as defined in section 2 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.2.

(e) "Airport zoning regulations" means airport zoning regulations under the airport zoning act, 1950 (Ex Sess) PA 23, MCL 259.431 to 259.465, for an airport hazard area that lies in whole or part in the area affected by a zoning ordinance under this act.

(f) "Conservation easement" means that term as defined in section 2140 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2140.

(g) "Coordinating zoning committee" means a coordinating zoning committee as described under section 307.

(h) "Development rights" means the rights to develop land to the maximum intensity of development authorized by law.

(i) "Development rights ordinance" means an ordinance, which may comprise part of a zoning ordinance, adopted under section 507.

(j) "Family child care home" and "group child care home" mean those terms as defined in section 1 of 1973 PA 116, MCL 722.111, and only apply to the bona fide private residence of the operator of the family or group child care home.

(k) "Greenway" means a contiguous or linear open space, including habitats, wildlife corridors, and trails, that links parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes.

(l) "Improvements" means those features and actions associated with a project that are considered necessary by the body or official granting zoning approval to protect natural resources or the health, safety, and welfare of the residents of a local unit of government and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. Improvements do not include the entire project that is the subject of zoning approval.

(m) "Intensity of development" means the height, bulk, area, density, setback, use, and other similar characteristics of development.

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

- (o) "Local unit of government" means a county, township, city, or village.
- (p) "Other eligible land" means land that has a common property line with agricultural land from which development rights have been purchased and is not divided from that agricultural land by a state or federal limited access highway.
- (q) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.
- (r) "Population" means the population according to the most recent federal decennial census or according to a special census conducted under section 7 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.907, whichever is the more recent.
- (s) "Site plan" includes the documents and drawings required by the zoning ordinance to ensure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.
- (t) "State licensed residential facility" means a structure constructed for residential purposes that is licensed by the state under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, or 1973 PA 116, MCL 722.111 to 722.128, and provides residential services for 6 or fewer individuals under 24-hour supervision or care.
- (u) "Undeveloped state" means a natural state preserving natural resources, natural features, scenic or wooded conditions, agricultural use, open space, or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.
- (v) "Zoning commission" means a zoning commission as described under section 301.
- (w) "Zoning jurisdiction" means the area encompassed by the legal boundaries of a city or village or the area encompassed by the legal boundaries of a county or township outside the limits of incorporated cities and villages. The zoning jurisdiction of a county does not include the areas subject to a township zoning ordinance.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2007, Act 219, Imd. Eff. Dec. 28, 2007;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

### **125.3103 Notice; publication; mail or personal delivery; requirements.**

Sec. 103. (1) Except as otherwise provided under this act, if a local unit of government conducts a public hearing required under this act, the local unit of government shall publish notice of the hearing in a newspaper of general circulation in the local unit of government not less than 15 days before the date of the hearing.

(2) Notice required under this act shall be given as provided under subsection (3) to the owners of property that is the subject of the request. Notice shall also be given as provided under subsection (3) to all persons to whom real property is assessed within 300 feet of the property that is the subject of the request and to the occupants of all structures within 300 feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction. Notification need not be given to more than 1 occupant of a structure, except that if a structure contains more than 1 dwelling unit or spatial area owned or leased by different persons, 1 occupant of each unit or spatial area shall be given notice. If a single structure contains more than 4 dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.

(3) The notice under subsection (2) is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service. The notice shall be given not less than 15 days before the date the request will be considered. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.

(4) A notice under this section shall do all of the following:

- (a) Describe the nature of the request.
- (b) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
- (c) State when and where the request will be considered.
- (d) Indicate when and where written comments will be received concerning the request.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

## ARTICLE II ZONING AUTHORIZATION AND INITIATION

**125.3201 Regulation of land development and establishment of districts; provisions; uniformity of regulations; designations; limitations.**

Sec. 201. (1) A local unit of government may provide by zoning ordinance for the regulation of land development and the establishment of 1 or more districts within its zoning jurisdiction which regulate the use of land and structures to meet the needs of the state's citizens for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land, to ensure that use of the land is situated in appropriate locations and relationships, to limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities, to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility requirements, and to promote public health, safety, and welfare.

(2) Except as otherwise provided under this act, the regulations shall be uniform for each class of land or buildings, dwellings, and structures within a district.

(3) A local unit of government may provide under the zoning ordinance for the regulation of land development and the establishment of districts which apply only to land areas and activities involved in a special program to achieve specific land management objectives and avert or solve specific land use problems, including the regulation of land development and the establishment of districts in areas subject to damage from flooding or beach erosion.

(4) A local unit of government may adopt land development regulations under the zoning ordinance designating or limiting the location, height, bulk, number of stories, uses, and size of dwellings, buildings, and structures that may be erected or altered, including tents and recreational vehicles.

**History:** 2006, Act 110, Eff. July 1, 2006.

**125.3202 Zoning ordinance; determination by local legislative body; amendments or supplements; notice of proposed rezoning.**

Sec. 202. (1) The legislative body of a local unit of government may provide by ordinance for the manner in which the regulations and boundaries of districts or zones shall be determined and enforced or amended or supplemented. Amendments or supplements to the zoning ordinance shall be adopted in the same manner as provided under this act for the adoption of the original ordinance.

(2) Except as provided in subsection (3), the zoning commission shall give a notice of a proposed rezoning in the same manner as required under section 103.

(3) For any group of adjacent properties numbering 11 or more that is proposed for rezoning, the requirements of section 103(2) and the requirement of section 103(4)(b) that street addresses be listed do not apply to that group of adjacent properties.

(4) An amendment to a zoning ordinance by a city or village is subject to a protest petition under section 403.

(5) An amendment to conform a provision of the zoning ordinance to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the legislative body and the notice of the adopted amendment published without referring the amendment to any other board or agency provided for under this act.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

**125.3203 Zoning ordinance; plan; incorporation of airport layout plan or airport approach plan; zoning ordinance adopted before or after March 28, 2001; applicability of public transportation facilities.**

Sec. 203. (1) A zoning ordinance shall be based upon a plan designed to promote the public health, safety, and general welfare, to encourage the use of lands in accordance with their character and adaptability, to limit the improper use of land, to conserve natural resources and energy, to meet the needs of the state's residents for food, fiber, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land, to ensure that uses of the land shall be situated in appropriate locations and relationships, to avoid the overcrowding of population, to provide adequate light and air, to lessen congestion on the public roads and streets, to reduce hazards to life and property, to facilitate adequate provision for a system of transportation including, subject to subsection (5), public transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements, and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources, and properties. A zoning ordinance shall be made with reasonable consideration of the character of each district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building, and population development.

(2) If a local unit of government adopts or revises a plan required under subsection (1) after an airport layout plan or airport approach plan has been filed with the local unit of government, the local unit of government shall incorporate the airport layout plan or airport approach plan into the plan adopted under subsection (1).

(3) In addition to the requirements of subsection (1), a zoning ordinance adopted after March 28, 2001 shall be adopted after reasonable consideration of both of the following:

(a) The environs of any airport within a district.

(b) Comments received at or before a public hearing under section 306 from the airport manager of any airport.

(4) If a zoning ordinance was adopted before March 28, 2001, the zoning ordinance is not required to be consistent with any airport zoning regulations, airport layout plan, or airport approach plan. A zoning ordinance amendment adopted or variance granted after March 28, 2001 shall not increase any inconsistency that may exist between the zoning ordinance or structures or uses and any airport zoning regulations, airport layout plan, or airport approach plan. This section does not limit the right to petition for submission of a zoning ordinance amendment to the electors under section 402 or the right to file a protest petition under section 403.

(5) The reference to public transportation facilities in subsection (1) only applies to a plan that is adopted or substantively amended more than 90 days after the effective date of the amendatory act that added this subsection.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2010, Act 305, Imd. Eff. Dec. 17, 2010.

#### **125.3204 Single-family residence; instruction in craft or fine art as home occupation.**

Sec. 204. A zoning ordinance adopted under this act shall provide for the use of a single-family residence by an occupant of that residence for a home occupation to give instruction in a craft or fine art within the residence. This section does not prohibit the regulation of noise, advertising, traffic, hours of operation, or other conditions that may accompany the use of a residence under this section.

**History:** 2006, Act 110, Eff. July 1, 2006.

#### **125.3205 Zoning ordinance subject to certain acts; regulation or control of oil or gas wells; prohibition; extraction of valuable natural resource; challenge to zoning decision; serious consequences resulting from extraction; factors; regulations not limited.**

Sec. 205. (1) A zoning ordinance is subject to all of the following:

(a) The electric transmission line certification act, 1995 PA 30, MCL 460.561 to 460.575.

(b) The regional transit authority act, 2012 PA 387, MCL 124.541 to 124.558.

(c) The small wireless communications facilities deployment act.

(2) A county or township shall not regulate or control the drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration purposes and shall not have jurisdiction with reference to the issuance of permits for the location, drilling, completion, operation, or abandonment of such wells.

(3) An ordinance shall not prevent the extraction, by mining, of valuable natural resources from any property unless very serious consequences would result from the extraction of those natural resources. Natural resources shall be considered valuable for the purposes of this section if a person, by extracting the natural resources, can receive revenue and reasonably expect to operate at a profit.

(4) A person challenging a zoning decision under subsection (3) has the initial burden of showing that there are valuable natural resources located on the relevant property, that there is a need for the natural resources by the person or in the market served by the person, and that no very serious consequences would result from the extraction, by mining, of the natural resources.

(5) In determining under this section whether very serious consequences would result from the extraction, by mining, of natural resources, the standards set forth in *Silva v Ada Township*, 416 Mich 153 (1982), shall be applied and all of the following factors may be considered, if applicable:

(a) The relationship of extraction and associated activities with existing land uses.

(b) The impact on existing land uses in the vicinity of the property.

(c) The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.

(d) The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.

(e) The impact on other identifiable health, safety, and welfare interests in the local unit of government.

(f) The overall public interest in the extraction of the specific natural resources on the property.

(6) Subsections (3) to (5) do not limit a local unit of government's reasonable regulation of hours of

operation, blasting hours, noise levels, dust control measures, and traffic, not preempted by part 632 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.63201 to 324.63223. However, such regulation shall be reasonable in accommodating customary mining operations.

(7) This act does not limit state regulatory authority under other statutes or rules.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2011, Act 113, Imd. Eff. July 20, 2011;—Am. 2012, Act 389, Eff. Mar. 28, 2013;—Am. 2018, Act 366, Eff. Mar. 12, 2019.

### **125.3205a Amateur radio service station antenna structures.**

Sec. 205a. (1) 47 CFR 97.15 provides that owners of certain amateur radio service station antenna structures more than 60.96 meters (200 feet) above ground level at the site or located near or at a public use airport must notify the federal aviation administration and register with the federal communications commission as required by 47 CFR part 17.

(2) An amateur radio service station antenna structure may be erected at heights and dimensions sufficient to accommodate amateur radio service communications. Regulation of an amateur radio service station antenna structure by a local unit of government must not preclude amateur radio service communications. Rather, it must reasonably accommodate those communications and must constitute the minimum practicable regulation to accomplish the local unit of government's legitimate purpose.

(3) To obtain information about the regulation of amateur radio service station antenna structures, a person may contact any advisory board that is jointly established by the Michigan section of the American radio relay league and 1 or more state organizations representing local units of government.

**History:** Add. 2014, Act 556, Imd. Eff. Jan. 15, 2014.

### **125.3205d Zoning ordinance; prohibition or regulation of commemorative signs.**

Sec. 205d. (1) A zoning ordinance shall not regulate or prohibit a sign that is located on or within a building and that commemorates any of the following:

(a) Any of the following who die in the line of duty:

(i) Police officers.

(ii) Firefighters.

(iii) Medical first responders.

(iv) Members of the United States Armed Forces.

(v) Corrections officers.

(b) Veterans of the United States Armed Forces.

(2) As used in this section, "medical first responder" means that term as defined in section 20906 of the public health code, 1978 PA 368, MCL 333.20906.

**History:** Add. 2018, Act 506, Eff. Mar. 28, 2019.

### **125.3206 Residential use of property; adult foster care facilities; family or group child care homes.**

Sec. 206. (1) Except as provided in subsection (2), each of the following is a residential use of property for the purposes of zoning and a permitted use in all residential zones and is not subject to a special use or conditional use permit or procedure different from those required for other dwellings of similar density in the same zone:

(i) A state licensed residential facility.

(ii) A facility in use as described in section 3(4)(k) of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703.

(2) Subsection (1) does not apply to adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.

(3) For a county or township, a family child care home is a residential use of property for the purposes of zoning and a permitted use in all residential zones and is not subject to a special use or conditional use permit or procedure different from those required for other dwellings of similar density in the same zone.

(4) For a county or township, a group child care home shall be issued a special use permit, conditional use permit, or other similar permit if the group child care home meets all of the following standards:

(a) Is located not closer than 1,500 feet to any of the following:

(i) Another licensed group child care home.

(ii) An adult foster care small group home or large group home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

(iii) A facility offering substance use disorder services to 7 or more people that is licensed under part 62 of the public health code, 1978 PA 368, MCL 333.6230 to 333.6251.

(iv) A community correction center, resident home, halfway house, or other similar facility that houses an inmate population under the jurisdiction of the department of corrections.

(b) Has appropriate fencing for the safety of the children in the group child care home as determined by the local unit of government.

(c) Maintains the property consistent with the visible characteristics of the neighborhood.

(d) Does not exceed 16 hours of operation during a 24-hour period. The local unit of government may limit but not prohibit the operation of a group child care home between the hours of 10 p.m. and 6 a.m.

(e) Meets regulations, if any, governing signs used by a group child care home to identify itself.

(f) Meets regulations, if any, requiring a group child care home operator to provide off-street parking accommodations for his or her employees.

(5) For a city or village, a group child care home may be issued a special use permit, conditional use permit, or other similar permit.

(6) A licensed or registered family or group child care home that operated before March 30, 1989 is not required to comply with this section.

(7) This section does not prohibit a local unit of government from inspecting a family or group child care home for the home's compliance with and enforcing the local unit of government's zoning ordinance. For a county or township, an ordinance shall not be more restrictive for a family or group child care home than 1973 PA 116, MCL 722.111 to 722.128.

(8) The establishment of any of the facilities listed under subsection (4)(a) after issuance of a special use permit, conditional use permit, or other similar permit pertaining to the group child care home does not affect renewal of that permit.

(9) This section does not prohibit a local unit of government from issuing a special use permit, conditional use permit, or other similar permit to a licensed group child care home that does not meet the standards listed under subsection (4).

(10) The distances required under subsection (4)(a) shall be measured along a road, street, or place maintained by this state or a local unit of government and generally open to the public as a matter of right for the purpose of vehicular traffic, not including an alley.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2007, Act 219, Imd. Eff. Dec. 28, 2007;—Am. 2018, Act 513, Eff. Mar. 28, 2019.

### **125.3207 Zoning ordinance or decision; effect as prohibiting establishment of land use.**

Sec. 207. A zoning ordinance or zoning decision shall not have the effect of totally prohibiting the establishment of a land use within a local unit of government in the presence of a demonstrated need for that land use within either that local unit of government or the surrounding area within the state, unless a location within the local unit of government does not exist where the use may be appropriately located or the use is unlawful.

**History:** 2006, Act 110, Eff. July 1, 2006.

### **125.3208 Nonconforming uses or structures.**

Sec. 208. (1) If the use of a dwelling, building, or structure or of the land is lawful at the time of enactment of a zoning ordinance or an amendment to a zoning ordinance, then that use may be continued although the use does not conform to the zoning ordinance or amendment. This subsection is intended to codify the law as it existed before July 1, 2006 in section 16(1) of the former county zoning act, 1943 PA 183, section 16(1) of the former township zoning act, 1943 PA 184, and section 3a(1) of the former city and village zoning act, 1921 PA 207, as they applied to counties, townships, and cities and villages, respectively, and shall be construed as a continuation of those laws and not as a new enactment.

(2) The legislative body may provide in a zoning ordinance for the completion, resumption, restoration, reconstruction, extension, or substitution of nonconforming uses or structures upon terms and conditions provided in the zoning ordinance. In establishing terms for the completion, resumption, restoration, reconstruction, extension, or substitution of nonconforming uses or structures, different classes of nonconforming uses may be established in the zoning ordinance with different requirements applicable to each class.

(3) The legislative body may acquire, by purchase, condemnation, or otherwise, private property or an interest in private property for the removal of nonconforming uses and structures. The legislative body may provide that the cost and expense of acquiring private property may be paid from general funds or assessed to a special district in accordance with the applicable statutory provisions relating to the creation and operation of special assessment districts for public improvements in local units of government. Property acquired under this subsection by a city or village shall not be used for public housing.

(4) The elimination of the nonconforming uses and structures in a zoning district is declared to be for a

public purpose and for a public use. The legislative body may institute proceedings for condemnation of nonconforming uses and structures under 1911 PA 149, MCL 213.21 to 213.25.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008;—Am. 2010, Act 330, Imd. Eff. Dec. 21, 2010.

**125.3209 Township zoning ordinance not subject to county ordinance, rule, or regulation.**

Sec. 209. Except as otherwise provided under this act, a township that has enacted a zoning ordinance under this act is not subject to an ordinance, rule, or regulation adopted by a county under this act.

**History:** 2006, Act 110, Eff. July 1, 2006.

**125.3210 Ordinance as controlling.**

Sec. 210. Except as otherwise provided under this act, an ordinance adopted under this act shall be controlling in the case of any inconsistencies between the ordinance and an ordinance adopted under any other law.

**History:** 2006, Act 110, Eff. July 1, 2006.

**125.3211 Appointment of zoning commission by legislative body; purposes; petition; initiation of action to formulate zoning commission and zoning ordinance.**

Sec. 211. (1) The legislative body may proceed with the adoption of a zoning ordinance containing land development regulations and establishing zoning districts under this act upon appointment of a zoning commission as provided in section 301.

(2) The legislative body may appoint a zoning commission for purposes of formulating a zoning ordinance on its own initiative or upon receipt of a petition requesting that action as provided under subsection (3).

(3) Upon receipt of a petition signed by a number of qualified and registered voters residing in the zoning jurisdiction equal to not less than 8% of the total votes cast within the zoning jurisdiction for all candidates for governor at the last preceding general election at which a governor was elected, filed with the clerk of the local unit of government requesting the legislative body to appoint a zoning commission for purposes of formulating a zoning ordinance, the legislative body, at the next regular meeting, may initiate action to formulate a zoning commission and zoning ordinance under this act.

**History:** 2006, Act 110, Eff. July 1, 2006.

## ARTICLE III ZONING COMMISSION

**125.3301 Zoning commission; creation; transfer of powers to planning commission; resolution; membership; terms; successors; vacancy; limitation; removal of member; officers.**

Sec. 301. (1) Each local unit of government in which the legislative body exercises authority under this act shall create a zoning commission unless 1 of the following applies:

(a) A county zoning commission created under former 1943 PA 183, a township zoning board created under former 1943 PA 184, or a city or village zoning commission created under former 1921 PA 207 was in existence in the local unit of government as of June 30, 2006. Unless abolished by the legislative body, that existing board or commission shall continue as and exercise the powers and perform the duties of a zoning commission under this act, subject to a transfer of power under subsection (2).

(b) A planning commission was, as of June 30, 2006, in existence in the local unit of government and pursuant to the applicable planning enabling act exercising the powers and performing the duties of a county zoning commission created under former 1943 PA 185, of a township zoning board created under former 1943 PA 184, or of a city or village zoning commission created under former 1921 PA 207. Unless abolished by the legislative body, that existing planning commission shall continue and exercise the powers and perform the duties of a zoning commission under this act.

(c) The local unit of government has created a planning commission on or after July 1, 2006 and transferred the powers and duties of a zoning commission to the planning commission pursuant to the applicable planning enabling act.

(2) Except as otherwise provided under this subsection, if the powers and duties of the zoning commission have been transferred to the planning commission as provided by law, the planning commission shall function as the zoning commission of the local unit of government. By July 1, 2011, the legislative body shall transfer the powers and duties of the zoning commission to the planning commission. Except as provided under this subsection, beginning July 1, 2011, a zoning commission's powers or duties under this act or an ordinance

adopted under this act shall only be exercised or performed by a planning commission.

(3) If a zoning commission is created on or after July 1, 2006, the zoning commission shall be created by resolution and be composed of not fewer than 5 or more than 11 members appointed by the legislative body. Not fewer than 2 of the members of a county zoning commission shall be recommended for membership by the legislative bodies of townships that are, or will be, subject to the county zoning ordinance. This requirement may be met as vacancies occur on a county zoning commission that existed on June 30, 2006.

(4) The members of a zoning commission shall be selected upon the basis of the members' qualifications and fitness to serve as members of a zoning commission.

(5) The first zoning commission appointed under subsection (3) shall be divided as nearly as possible into 3 equal groups, with terms of each group as follows:

- (a) One group for 1 year.
- (b) One group for 2 years.
- (c) One group for 3 years.

(6) Upon the expiration of the terms of the members first appointed, successors shall be appointed in the same manner for terms of 3 years each. A member of the zoning commission shall serve until a successor is appointed and has been qualified.

(7) A vacancy on a zoning commission shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

(8) An elected officer of a local unit of government shall not serve simultaneously as a member or an employee of the zoning commission of that local unit of government, except that 1 member of the legislative body may be a member of the zoning commission.

(9) The legislative body shall provide for the removal of a member of a zoning commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing.

(10) A zoning commission shall elect from its members a chairperson, a secretary, and other officers and establish such committees it considers necessary and may engage any employees, including for technical assistance, it requires. The election of officers shall be held not less than once in every 2-year period.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

#### **125.3302 Expenses; compensation.**

Sec. 302. Members of the zoning commission may be reimbursed for reasonable expenses actually incurred in the discharge of their duties and may receive compensation as fixed by the legislative body.

**History:** 2006, Act 110, Eff. July 1, 2006.

#### **125.3303 Planning expert; compensation.**

Sec. 303. (1) With the approval of the legislative body, the zoning commission may engage the services of a planning expert. Compensation for the planning expert shall be paid by the legislative body.

(2) The zoning commission shall consider any information and recommendations furnished by appropriate public officials, departments, or agencies.

**History:** 2006, Act 110, Eff. July 1, 2006.

#### **125.3304 Regular meetings; notice; zoning commission subject to open meetings act.**

Sec. 304. The zoning commission shall hold a minimum of 2 regular meetings annually, giving notice of the time and place by publication in a newspaper of general circulation in the zoning jurisdiction. Notice shall be given not less than 15 days before the meeting. The zoning commission is subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

**History:** 2006, Act 110, Eff. July 1, 2006.

#### **125.3305 Recommendations of zoning commission; adoption and filing.**

Sec. 305. The zoning commission shall adopt and file with the legislative body the following recommendations:

- (a) A zoning plan for the areas subject to zoning of the local unit of government.
- (b) The establishment of zoning districts, including the boundaries of those districts.
- (c) The text of a zoning ordinance with the necessary maps and zoning regulations to be adopted for a zoning district or the zoning jurisdiction as a whole.
- (d) The manner of administering and enforcing the zoning ordinance.

**History:** 2006, Act 110, Eff. July 1, 2006.

#### **125.3306 Recommendations of zoning commission; submission to legislative body; public**

**hearing; notice; examination of proposed text and maps.**

Sec. 306. (1) Before submitting its recommendations for a proposed zoning ordinance to the legislative body, the zoning commission shall hold at least 1 public hearing. Notice of the time and place of the public hearing shall be given in the same manner as required under section 103(1) for the initial adoption of a zoning ordinance or section 202 for any other subsequent zoning text or map amendments.

(2) Notice of the time and place of the public hearing shall also be given by mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the clerk of the legislative body for the purpose of receiving the notice of public hearing.

(3) The notices required under this section shall include the places and times at which the proposed text and any maps of the zoning ordinance may be examined.

**History:** 2006, Act 110, Eff. July 1, 2006.

**125.3307 Review and recommendations after hearing; submission to township; submission to coordinating zoning committee; waiver of right to review.**

Sec. 307. (1) Following the hearing required in section 306, a township shall submit for review and recommendation the proposed zoning ordinance, including any zoning maps, to the zoning commission of the county in which the township is situated if a county zoning commission has been appointed as provided under this act.

(2) If there is not a county zoning commission or county planning commission, the proposed zoning ordinance shall be submitted to the coordinating zoning committee. The coordinating zoning committee shall be composed of either 3 or 5 members appointed by the legislative body of the county for the purpose of coordinating the zoning ordinances proposed for adoption under this act with the zoning ordinances of a township, city, or village having a common boundary with the township.

(3) The county will have waived its right for review and recommendation of an ordinance if the recommendation of the county zoning commission, planning commission, or coordinating zoning committee has not been received by the township within 30 days from the date the proposed ordinance is received by the county.

(4) The legislative body of a county by resolution may waive its right to review township ordinances and amendments under this section.

**History:** 2006, Act 110, Eff. July 1, 2006.

**125.3308 Summary of public hearing comments; transmission to legislative body by zoning commission; report.**

Sec. 308. (1) Following the required public hearing under section 306, the zoning commission shall transmit a summary of comments received at the hearing and its proposed zoning ordinance, including any zoning maps and recommendations, to the legislative body of the local unit of government.

(2) Following the enactment of the zoning ordinance, the zoning commission shall at least once per year prepare for the legislative body a report on the administration and enforcement of the zoning ordinance and recommendations for amendments or supplements to the ordinance.

**History:** 2006, Act 110, Eff. July 1, 2006.

## ARTICLE IV

## ZONING ADOPTION AND ENFORCEMENT

**125.3401 Public hearing to be held by legislative body; conditions; notice; approval of zoning ordinance and amendments by legislative body; filing; notice of ordinance adoption; notice mailed to airport manager; information to be included in notice; other statutory requirements superseded.**

Sec. 401. (1) After receiving a zoning ordinance under section 308(1) or an amendment under sections 202 and 308(1), the legislative body may hold a public hearing if it considers it necessary or if otherwise required.

(2) Notice of a public hearing to be held by the legislative body shall be given in the same manner as required under section 103(1) for the initial adoption of a zoning ordinance or section 202 for any zoning text or map amendments.

(3) The legislative body may refer any proposed amendments to the zoning commission for consideration and comment within a time specified by the legislative body.

(4) The legislative body shall grant a hearing on a proposed ordinance provision to an interested property owner who requests a hearing by certified mail, addressed to the clerk of the legislative body. A hearing under

this subsection is not subject to the requirements of section 103, except that notice of the hearing shall be given to the interested property owner in the manner required in section 103(3) and (4).

(5) After any proceedings under subsections (1) to (4), the legislative body shall consider and vote upon the adoption of a zoning ordinance, with or without amendments. A zoning ordinance and any amendments shall be approved by a majority vote of the members of the legislative body.

(6) Except as otherwise provided under section 402, a zoning ordinance shall take effect upon the expiration of 7 days after publication as required by subsection (7) or at such later date after publication as may be specified by the legislative body or charter.

(7) Following adoption of a zoning ordinance or any subsequent amendments by the legislative body, the zoning ordinance or subsequent amendments shall be filed with the clerk of the legislative body, and a notice of ordinance adoption shall be published in a newspaper of general circulation in the local unit of government within 15 days after adoption.

(8) A copy of the notice required under subsection (7) shall be mailed to the airport manager of an airport entitled to notice under section 306.

(9) The notice required under this section shall include all of the following information:

(a) In the case of a newly adopted zoning ordinance, the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the legislative body of the [county, township, city, or village] of \_\_\_\_\_."

(b) In the case of an amendment to an existing zoning ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.

(c) The effective date of the ordinance or amendment.

(d) The place where and time when a copy of the ordinance or amendment may be purchased or inspected.

(10) The filing and publication requirements under this section supersede any other statutory or charter requirements relating to the filing and publication of county, township, city, or village ordinances.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

#### **125.3402 Notice of intent to file petition.**

Sec. 402. (1) Within 7 days after publication of a zoning ordinance under section 401, a registered elector residing in the zoning jurisdiction of a county or township may file with the clerk of the legislative body a notice of intent to file a petition under this section.

(2) If a notice of intent is filed under subsection (1), the petitioner shall have 30 days following the publication of the zoning ordinance to file a petition signed by a number of registered electors residing in the zoning jurisdiction not less than 15% of the total vote cast within the zoning jurisdiction for all candidates for governor at the last preceding general election at which a governor was elected, with the clerk of the legislative body requesting the submission of a zoning ordinance or part of a zoning ordinance to the electors residing in the zoning jurisdiction for their approval.

(3) Upon the filing of a notice of intent under subsection (1), the zoning ordinance or part of the zoning ordinance adopted by the legislative body shall not take effect until 1 of the following occurs:

(a) The expiration of 30 days after publication of the ordinance, if a petition is not filed within that time.

(b) If a petition is filed within 30 days after publication of the ordinance, the clerk of the legislative body determines that the petition is inadequate.

(c) If a petition is filed within 30 days after publication of the ordinance, the clerk of the legislative body determines that the petition is adequate and the ordinance or part of the ordinance is approved by a majority of the registered electors residing in the zoning jurisdiction voting on the petition at the next regular election or at any special election called for that purpose. The legislative body shall provide the manner of submitting the zoning ordinance or part of the zoning ordinance to the electors for their approval or rejection and determining the result of the election.

(4) A petition and an election under this section are subject to the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

**History:** 2006, Act 110, Eff. July 1, 2006.

#### **125.3403 Amendment to zoning ordinance; filing of protest petition; vote.**

Sec. 403. (1) An amendment to a zoning ordinance by a city or village is subject to a protest petition as required by this subsection. If a protest petition is filed, approval of the amendment to the zoning ordinance shall require a 2/3 vote of the legislative body, unless a larger vote, not to exceed a 3/4 vote, is required by ordinance or charter. The protest petition shall be presented to the legislative body of the city or village before final legislative action on the amendment and shall be signed by 1 or more of the following:

(a) The owners of at least 20% of the area of land included in the proposed change.

(b) The owners of at least 20% of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.

(2) Publicly owned land shall be excluded in calculating the 20% land area requirement under subsection (1).

**History:** 2006, Act 110, Eff. July 1, 2006.

#### **125.3404 Interim zoning ordinance.**

Sec. 404. (1) To protect the public health, safety, and general welfare of the inhabitants and the lands and resources of a local unit of government during the period required for the preparation and enactment of an initial zoning ordinance under this act, the legislative body of a local unit of government may direct the zoning commission to submit, within a specified period of time, recommendations as to the provisions of an interim zoning ordinance.

(2) Before presenting its recommendations to the legislative body, the zoning commission of a township shall submit the interim zoning ordinance, or an amendment to the ordinance, to the county zoning commission or the coordinating zoning committee, for the purpose of coordinating the zoning ordinance with the zoning ordinances of a township, city, or village having a common boundary with the township. The ordinance shall be considered approved 15 days from the date the zoning ordinance is submitted to the legislative body.

(3) After approval, the legislative body, by majority vote of its members, may give the interim ordinance or amendments to the interim ordinance immediate effect. An interim ordinance and subsequent amendments shall be filed and published as required under section 401.

(4) The interim ordinance, including any amendments, shall be limited to 1 year from the effective date and to not more than 2 years of renewal thereafter by resolution of the local unit of government.

**History:** 2006, Act 110, Eff. July 1, 2006.

#### **125.3405 Use and development of land as condition to rezoning.**

Sec. 405. (1) An owner of land may voluntarily offer in writing, and the local unit of government may approve, certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map.

(2) In approving the conditions under subsection (1), the local unit of government may establish a time period during which the conditions apply to the land. Except for an extension under subsection (4), if the conditions are not satisfied within the time specified under this subsection, the land shall revert to its former zoning classification.

(3) The local government shall not add to or alter the conditions approved under subsection (1) during the time period specified under subsection (2) of this section.

(4) The time period specified under subsection (2) may be extended upon the application of the landowner and approval of the local unit of government.

(5) A local unit of government shall not require a landowner to offer conditions as a requirement for rezoning. The lack of an offer under subsection (1) shall not otherwise affect a landowner's rights under this act, the ordinances of the local unit of government, or any other laws of this state.

**History:** 2006, Act 110, Eff. July 1, 2006.

#### **125.3406 Zoning permits; fees; effect of delinquent payment of fine, costs, or assessment.**

Sec. 406. (1) The legislative body may charge reasonable fees for zoning permits as a condition of granting authority to use, erect, alter, or locate dwellings, buildings, and structures, including tents and recreational vehicles, within a zoning district established under this act.

(2) A zoning ordinance adopted by a city may provide that a person is not eligible to apply for a rezoning, site plan approval, special land use approval, planned unit development approval, variance, or other zoning authorization if the person is delinquent in paying a civil fine, costs, or a justice system assessment imposed by an administrative hearings bureau established in that city pursuant to section 4q of the home rule city act, 1909 PA 279, MCL 117.4q.

(3) A zoning ordinance provision adopted under subsection (2) does not apply to an applicant for a zoning authorization if the applicant became the owner of the property by foreclosure or by taking a deed in lieu of foreclosure and is 1 of the following:

(a) A government-sponsored enterprise. As used in this subdivision, "government-sponsored enterprise" means that term as defined in 2 USC 622(8), or the Michigan state housing development authority created under the state housing development authority act of 1966, 1966 PA 346, MCL 125.1401 to 125.1499c.

(b) A financial institution. As used in this subdivision, "financial institution" means that term as defined in

section 4(c) of the Michigan strategic fund act, 1984 PA 270, MCL 125.2004.

(c) A mortgage servicer, as that term is defined in section 1a of the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651a, that is subject to the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.

(d) A credit union service organization that is organized under the laws of this state or the United States.

(4) Subsection (2) does not apply to a zoning authorization if the authorization will correct, in whole or in part, the blight violation that was the subject of the delinquent payment referred to in subsection (2).

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2013, Act 189, Eff. Mar. 14, 2014.

### **125.3407 Certain violations as nuisance per se.**

Sec. 407. Except as otherwise provided by law, a use of land or a dwelling, building, or structure, including a tent or recreational vehicle, used, erected, altered, razed, or converted in violation of a zoning ordinance or regulation adopted under this act is a nuisance per se. The court shall order the nuisance abated, and the owner or agent in charge of the dwelling, building, structure, tent, recreational vehicle, or land is liable for maintaining a nuisance per se. The legislative body shall in the zoning ordinance enacted under this act designate the proper official or officials who shall administer and enforce the zoning ordinance and do 1 of the following for each violation of the zoning ordinance:

(a) Impose a penalty for the violation.

(b) Designate the violation as a municipal civil infraction and impose a civil fine for the violation.

(c) Designate the violation as a blight violation and impose a civil fine or other sanction authorized by law. This subdivision applies only to a city that establishes an administrative hearings bureau pursuant to section 4q of the home rule city act, 1909 PA 279, MCL 117.4q.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

## **ARTICLE V**

### **SPECIAL ZONING PROVISIONS**

### **125.3501 Submission and approval of site plan; procedures and requirements.**

Sec. 501. (1) The local unit of government may require the submission and approval of a site plan before authorization of a land use or activity regulated by a zoning ordinance. The zoning ordinance shall specify the body or official responsible for reviewing site plans and granting approval.

(2) If a zoning ordinance requires site plan approval, the site plan, as approved, shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan, unless a change conforming to the zoning ordinance is agreed to by the landowner and the body or official that initially approved the site plan.

(3) The procedures and requirements for the submission and approval of site plans shall be specified in the zoning ordinance. Site plan submission, review, and approval shall be required for special land uses and planned unit developments.

(4) A decision rejecting, approving, or conditionally approving a site plan shall be based upon requirements and standards contained in the zoning ordinance, other statutorily authorized and properly adopted local unit of government planning documents, other applicable ordinances, and state and federal statutes.

(5) A site plan shall be approved if it contains the information required by the zoning ordinance and is in compliance with the conditions imposed under the zoning ordinance, other statutorily authorized and properly adopted local unit of government planning documents, other applicable ordinances, and state and federal statutes.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

### **125.3502 Special land uses; review and approval; application; notice of request; public hearing; incorporation of decision in statement of findings and conclusions.**

Sec. 502. (1) The legislative body may provide in a zoning ordinance for special land uses in a zoning district. A special land use shall be subject to the review and approval of the zoning commission, the planning commission, an official charged with administering the zoning ordinance, or the legislative body as required by the zoning ordinance. The zoning ordinance shall specify all of the following:

(a) The special land uses and activities eligible for approval and the body or official responsible for reviewing and granting approval.

(b) The requirements and standards for approving a request for a special land use.

(c) The procedures and supporting materials required for the application, review, and approval of a special

land use.

(2) Upon receipt of an application for a special land use which requires a discretionary decision, the local unit of government shall provide notice of the request as required under section 103. The notice shall indicate that a public hearing on the special land use request may be requested by any property owner or the occupant of any structure located within 300 feet of the property being considered for a special land use regardless of whether the property or occupant is located in the zoning jurisdiction.

(3) At the initiative of the body or official responsible for approving the special land use or upon the request of the applicant, a real property owner whose real property is assessed within 300 feet of the property, or the occupant of a structure located within 300 feet of the property, a public hearing shall be held before a discretionary decision is made on the special land use request.

(4) The body or official designated to review and approve special land uses may deny, approve, or approve with conditions a request for special land use approval. The decision on a special land use shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed.

**History:** 2006, Act 110, Eff. July 1, 2006.

### **125.3503 Planned unit development.**

Sec. 503. (1) As used in this section, "planned unit development" includes such terms as cluster zoning, planned development, community unit plan, and planned residential development and other terminology denoting zoning requirements designed to accomplish the objectives of the zoning ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.

(2) The legislative body may establish planned unit development requirements in a zoning ordinance that permit flexibility in the regulation of land development, encourage innovation in land use and variety in design, layout, and type of structures constructed, achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities, encourage useful open space, and provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of this state. The review and approval of planned unit developments shall be by the zoning commission, an individual charged with administration of the zoning ordinance, or the legislative body, as specified in the zoning ordinance.

(3) Within a land development project designated as a planned unit development, regulations relating to the use of land, including, but not limited to, permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas, and land use density, shall be determined in accordance with the planned unit development regulations specified in the zoning ordinance. The planned unit development regulations need not be uniform with regard to each type of land use if equitable procedures recognizing due process principles and avoiding arbitrary decisions are followed in making regulatory decisions. Unless explicitly prohibited by the planned unit development regulations, if requested by the landowner, a local unit of government may approve a planned unit development with open space that is not contiguous with the rest of the planned unit development.

(4) The planned unit development regulations established by the local unit of government shall specify all of the following:

(a) The body or official responsible for the review and approval of planned unit development requests.

(b) The conditions that create planned unit development eligibility, the participants in the review process, and the requirements and standards upon which applicants will be reviewed and approval granted.

(c) The procedures required for application, review, and approval.

(5) Following receipt of a request to approve a planned unit development, the body or official responsible for the review and approval shall hold at least 1 public hearing on the request. A zoning ordinance may provide for preapplication conferences before submission of a planned unit development request and the submission of preliminary site plans before the public hearing. Notification of the public hearing shall be given in the same manner as required under section 103.

(6) Within a reasonable time following the public hearing, the body or official responsible for approving planned unit developments shall meet for final consideration of the request and deny, approve, or approve with conditions the request. The body or official shall prepare a report stating its conclusions, its decision, the basis for its decision, and any conditions imposed on an affirmative decision.

(7) If amendment of a zoning ordinance is required by the planned unit development regulations of a zoning ordinance, the requirements of this act for amendment of a zoning ordinance shall be followed, except that the hearing and notice required by this section shall fulfill the public hearing and notice requirements of section 306.

(8) If the planned unit development regulations of a zoning ordinance do not require amendment of the zoning ordinance to authorize a planned unit development, the body or official responsible for review and approval shall approve, approve with conditions, or deny a request.

(9) Final approval may be granted on each phase of a multiphased planned unit development if each phase contains the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the planned unit development and the residents of the surrounding area.

(10) In establishing planned unit development requirements, a local unit of government may incorporate by reference other ordinances or statutes which regulate land development. The planned unit development regulations contained in zoning ordinances shall encourage complementary relationships between zoning regulations and other regulations affecting the development of land.

**History:** 2006, Act 110, Eff. July 1, 2006.

### **125.3504 Special land uses; regulations and standards; compliance; conditions; record of conditions.**

Sec. 504. (1) If the zoning ordinance authorizes the consideration and approval of special land uses or planned unit developments under section 502 or 503 or otherwise provides for discretionary decisions, the regulations and standards upon which those decisions are made shall be specified in the zoning ordinance.

(2) The standards shall be consistent with and promote the intent and purpose of the zoning ordinance and shall insure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. The standards shall also insure that the land use or activity is consistent with the public health, safety, and welfare of the local unit of government.

(3) A request for approval of a land use or activity shall be approved if the request is in compliance with the standards stated in the zoning ordinance, the conditions imposed under the zoning ordinance, other applicable ordinances, and state and federal statutes.

(4) Reasonable conditions may be required with the approval of a special land use, planned unit development, or other land uses or activities permitted by discretionary decision. The conditions may include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:

(a) Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being, of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

(b) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.

(c) Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in the zoning ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

(5) The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and remain unchanged except upon the mutual consent of the approving authority and the landowner. The approving authority shall maintain a record of conditions which are changed.

**History:** 2006, Act 110, Eff. July 1, 2006.

### **125.3505 Performance guarantee.**

Sec. 505. (1) To ensure compliance with a zoning ordinance and any conditions imposed under a zoning ordinance, a local unit of government may require that a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the local unit of government covering the estimated cost of improvements be deposited with the clerk of the legislative body to insure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The local unit of government may not require the deposit of the performance guarantee until it is prepared to issue the permit. The local unit of government shall establish procedures by which a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements shall be made as work progresses.

(2) This section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited under the land division act, 1967 PA 288,

MCL 560.101 to 560.293.

**History:** 2006, Act 110, Eff. July 1, 2006.

### **125.3506 Open space preservation.**

Sec. 506. (1) Subject to subsection (4) and section 402, a qualified local unit of government shall provide in its zoning ordinance that land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units on a smaller portion of the land than specified in the zoning ordinance, but not more than 50% for a county or township or 80% for a city or village, that could otherwise be developed, as determined by the local unit of government under existing ordinances, laws, and rules on the entire land area, if all of the following apply:

(a) The land is zoned at a density equivalent to 2 or fewer dwelling units per acre or, if the land is served by a public sewer system, 3 or fewer dwelling units per acre.

(b) A percentage of the land area specified in the zoning ordinance, but not less than 50% for a county or township or 20% for a city or village, will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land, as prescribed by the zoning ordinance.

(c) The development does not depend upon the extension of a public sewer or public water supply system, unless development of the land without the exercise of the option provided by this subsection would also depend upon the extension.

(d) The option provided under this subsection has not previously been exercised with respect to that land.

(2) After a landowner exercises the option provided under subsection (1), the land may be rezoned accordingly.

(3) The development of land under subsection (1) is subject to other applicable ordinances, laws, and rules, including rules relating to suitability of groundwater for on-site water supply for land not served by public water and rules relating to suitability of soils for on-site sewage disposal for land not served by public sewers.

(4) Subsection (1) does not apply to a qualified local unit of government if both of the following apply:

(a) On or before October 1, 2001, the local unit of government had in effect a zoning ordinance provision providing for both of the following:

(i) Land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units on a smaller portion of the land that, as determined by the local unit of government, could otherwise be developed under existing ordinances, laws, and rules on the entire land area.

(ii) If the landowner exercises the option provided by subparagraph (i), the portion of the land not developed will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land.

(b) On or before December 15, 2001, a landowner exercised the option provided under the zoning ordinance provision referred to in subdivision (a) with at least 50% of the land area for a county or township or 20% of the land area for a city or village, remaining perpetually in an undeveloped state.

(5) The zoning ordinance provisions required by subsection (1) shall be cited as the "open space preservation" provisions of the zoning ordinance.

(6) As used in this section, "qualified local unit of government" means a county, township, city, or village that meets all of the following requirements:

(a) Has adopted a zoning ordinance.

(b) Has a population of 1,800 or more.

(c) Has land that is not developed and that is zoned for residential development at a density described in subsection (1)(a).

**History:** 2006, Act 110, Eff. July 1, 2006.

### **125.3507 Purchase of development rights program; adoption of ordinance; limitations; agreements with other local governments.**

Sec. 507. (1) As used in this section and sections 508 and 509, "PDR program" means a purchase of development rights program.

(2) The legislative body may adopt a development rights ordinance limited to the establishment, financing, and administration of a PDR program, as provided under this section and sections 508 and 509. The PDR program may be used only to protect agricultural land and other eligible land. This section and sections 508 and 509 do not expand the condemnation authority of a local unit of government as otherwise provided for in this act.

(3) A PDR program shall not acquire development rights by condemnation. This section and sections 508 and 509 do not limit any authority that may otherwise be provided by law for a local unit of government to

protect natural resources, preserve open space, provide for historic preservation, or accomplish similar purposes.

(4) A legislative body shall not establish, finance, or administer a PDR program unless the legislative body adopts a development rights ordinance. If the local unit of government has a zoning ordinance, the development rights ordinance may be adopted as part of the zoning ordinance under the procedures for a zoning ordinance under this act. A local unit of government may adopt a development rights ordinance in the same manner as required for a zoning ordinance.

(5) A legislative body may promote and enter into agreements with other local units of government for the purchase of development rights, including cross-jurisdictional purchases, subject to applicable development rights ordinances.

**History:** 2006, Act 110, Eff. July 1, 2006.

### **125.3508 PDR program; purchase of development rights by local unit of government; conveyance; notice; requirements for certain purchases.**

Sec. 508. (1) A development rights ordinance shall provide for a PDR program. Under a PDR program, the local unit of government purchases development rights, but only from a willing landowner. A development rights ordinance providing for a PDR program shall specify all of the following:

(a) The public benefits that the local unit of government may seek through the purchase of development rights.

(b) The procedure by which the local unit of government or a landowner may by application initiate purchase of development rights.

(c) The development rights authorized to be purchased subject to a determination under standards and procedures required by subdivision (d).

(d) The standards and procedures to be followed by the legislative body for approving, modifying, or rejecting an application to purchase development rights, including the determination of all the following:

(i) Whether to purchase development rights.

(ii) Which development rights to purchase.

(iii) The intensity of development permitted after the purchase on the land from which the development rights are purchased.

(iv) The price at which development rights will be purchased and the method of payment.

(v) The procedure for ensuring that the purchase or sale of development rights is legally fixed so as to run with the land.

(e) The circumstances under which an owner of land from which development rights have been purchased under a PDR program may repurchase those development rights and how the proceeds of the purchase are to be used by the local unit of government.

(2) If the local unit of government has a zoning ordinance, the purchase of development rights shall be consistent with the plan referred to in section 203 upon which the zoning ordinance is based.

(3) Development rights acquired under a PDR program may be conveyed only as provided under subsection (1)(e).

(4) A county shall notify each township, city, or village, and a township shall notify each village, in which is located land from which development rights are proposed to be purchased of the receipt of an application for the purchase of development rights and shall notify each township, city, or village of the disposition of that application.

(5) A county shall not purchase development rights under a development rights ordinance from land subject to a township, city, or village zoning ordinance unless all of the following requirements are met:

(a) The development rights ordinance provisions for the PDR program are consistent with the plan upon which the township, city, or village zoning is based.

(b) The legislative body of the township, city, or village adopts a resolution authorizing the PDR program to apply in the township, city, or village.

(c) As part of the application procedure for the specific proposed purchase of development rights, the township, city, or village provides the county with written approval of the purchase.

**History:** 2006, Act 110, Eff. July 1, 2006.

### **125.3509 PDR program; financing sources; bonds or notes; special assessments.**

Sec. 509. (1) A PDR program may be financed through 1 or more of the following sources:

(a) General appropriations by the local unit of government.

(b) Proceeds from the sale of development rights by the local unit of government subject to section 508(3).

(c) Grants.

- (d) Donations.
- (e) Bonds or notes issued under subsections (2) to (5).
- (f) General fund revenue.
- (g) Special assessments under subsection (6).
- (h) Other sources approved by the legislative body and permitted by law.

(2) The legislative body may borrow money and issue bonds or notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, subject to the general debt limit applicable to the local unit of government. The bonds or notes may be revenue bonds or notes, general obligation limited tax bonds or notes, or, subject to section 6 of article IX of the state constitution of 1963, general obligation unlimited tax bonds or notes.

(3) The legislative body may secure bonds or notes issued under this section by mortgage, assignment, or pledge of property, including, but not limited to, anticipated tax collections, revenue sharing payments, or special assessment revenues. A pledge made by the legislative body is valid and binding from the time the pledge is made. The pledge immediately shall be subject to the lien of the pledge without a filing or further act. The lien of the pledge shall be valid and binding as against parties having claims in tort, contract, or otherwise against the local unit of government, irrespective of whether the parties have notice of the lien. Filing of the resolution, the trust agreement, or another instrument by which a pledge is created is not required.

(4) Bonds or notes issued under this section are exempt from all taxation in this state except inheritance and transfer taxes, and the interest on the bonds or notes is exempt from all taxation in this state.

(5) The bonds and notes issued under this section may be invested in by the state treasurer and all other public officers, state agencies, and political subdivisions, insurance companies, financial institutions, investment companies, and fiduciaries and trustees and may be deposited with and received by the state treasurer and all other public officers and the agencies and political subdivisions of this state for all purposes for which the deposit of bonds or notes is authorized. The authority granted by this section is in addition to all other authority granted by law.

(6) A development rights ordinance may authorize the legislative body to finance a PDR program by special assessments. In addition to meeting the requirements of section 508, the development rights ordinance shall include in the procedure to approve and establish a special assessment district both of the following:

(a) The requirement that there be filed with the legislative body a petition containing all of the following:

(i) A description of the development rights to be purchased, including a legal description of the land from which the purchase is to be made.

(ii) A description of the proposed special assessment district.

(iii) The signatures of the owners of at least 66% of the land area in the proposed special assessment district.

(iv) The amount and duration of the proposed special assessments.

(b) The requirement that the legislative body specify how the proposed purchase of development rights will specially benefit the land in the proposed special assessment district.

**History:** 2006, Act 110, Eff. July 1, 2006.

### **125.3513 Biofuel production facility as permitted use of property; requirements; special land use approval; application; hearing; conditions; applicability of subsections (2) to (5); authority of local unit of government; definitions.**

Sec. 513. (1) A biofuel production facility with an annual production capacity of not more than 100,000 gallons of biofuel is a permitted use of property and is not subject to special land use approval if all of the following requirements are met:

(a) The biofuel production facility is located on a farm.

(b) The biofuel production facility is located not less than 100 feet from the boundary of any contiguous property under different ownership than the property on which the biofuel production facility is located and meets all applicable setback requirements of the zoning ordinance.

(c) On an annual basis, not less than 75% of the feedstock for the biofuel production facility is produced on the farm where the biofuel production facility is located, and not less than 75% of the biofuel or another product or by-product produced by the biofuel production facility is used on that farm.

(2) Subject to subsections (6) and (7), each of the following is a permitted use of property if it receives special land use approval under subsections (3) to (5):

(a) A biofuel production facility with an annual production capacity of not more than 100,000 gallons of biofuel that meets the requirements of subsection (1)(a) and (b) but that does not meet the requirements of subsection (1)(c).

(b) A biofuel production facility with an annual production capacity of more than 100,000 gallons but not more than 500,000 gallons of biofuel that meets the requirements of subsection (1)(a) and (b).

(3) An application for special land use approval for a biofuel production facility described in subsection (2) shall include all of the following:

(a) A site plan as required under section 501, including a map of the property and existing and proposed buildings and other facilities.

(b) A description of the process to be used to produce biofuel.

(c) The number of gallons of biofuel anticipated to be produced annually.

(d) An emergency access and fire protection plan that has been reviewed and approved by the appropriate responding police and fire departments.

(e) For an ethanol production facility that will produce more than 10,000 proof gallons annually, completed United States department of the treasury, alcohol and tobacco tax and trade bureau, forms 5000.29 (environmental information) and 5000.30 (supplemental information on water quality considerations under 33 USC 1341(a)), or successor forms, required to implement regulations under the national environmental policy act of 1969, 42 USC 4321 to 4347, and the federal water pollution control act, 33 USC 1251 to 1387.

(f) Information that demonstrates that the biofuel production facility will comply with the requirements of subsections (2) and (5).

(g) Any additional information requested by the body or official responsible for granting special land use approval and relevant to compliance with a zoning ordinance provision described in section 502(1) or 504.

(4) A local unit of government shall hold a hearing on an application for special land use approval under subsection (2) not more than 60 days after the application is filed. For the purposes of this section, the notice required under section 502(2) shall provide notice of the hearing, rather than notice of a right to request a hearing.

(5) Special land use approval of a biofuel production facility described in subsection (2) shall be made expressly conditional on the facility's meeting all of the following requirements before the facility begins operation and no additional requirements:

(a) Buildings, facilities, and equipment used in the production or storage of biofuel comply with local, state, and federal laws.

(b) The owner or operator of the biofuel production facility provides the local unit of government with proof that all necessary approvals have been obtained from the department of environmental quality and other state and federal agencies that are involved in permitting any of the following aspects of biofuel production:

(i) Air pollution emissions.

(ii) Transportation of biofuel or additional products resulting from biofuel production.

(iii) Use or reuse of additional products resulting from biofuel production.

(iv) Storage of raw materials, fuel, or additional products used in, or resulting from, biofuel production.

(c) The biofuel production facility includes sufficient storage for both of the following:

(i) Raw materials and fuel.

(ii) Additional products resulting from biofuel production or the capacity to dispose of additional products through land application, livestock consumption, sale, or other legal use.

(6) Subsections (2) to (5) do not apply to a biofuel production facility if the zoning ordinance provides different criteria for special land use approval of a biofuel production facility located on a farm. An amendment to a zoning ordinance adopted only to provide such criteria is not subject to a protest petition under section 403.

(7) A local unit of government may authorize a biofuel production facility described in subsection (2) as a permitted use of property not subject to a special land use approval.

(8) This section does not affect the authority of a local unit of government to prohibit or authorize biofuel production facilities that are not located on farms.

(9) As used in this section:

(a) "Biofuel" means any renewable fuel product, whether solid, liquid, or gas, that is derived from recently living organisms or their metabolic by-products and meets applicable quality standards, including, but not limited to, ethanol and biodiesel. Biofuel does not include methane or any other fuel product from an anaerobic digester.

(b) "Ethanol" means a substance that meets the ASTM international standard in effect on the effective date of this section as the D-4806 specification for denatured fuel grade ethanol for blending with gasoline.

(c) "Farm" means that term as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(d) "Proof gallon" means that term as defined in 27 CFR 19.907.

**History:** Add. 2011, Act 97, Imd. Eff. July 19, 2011.

**125.3514 Wireless communications equipment as permitted use of property; application for special land use approval; approval or denial; authorization by local unit of government; definitions; applicability to small cell wireless communications facilities.**

Sec. 514. (1) Wireless communications equipment is a permitted use of property and is not subject to special land use approval or any other approval under this act if all of the following requirements are met:

(a) The wireless communications equipment will be collocated on an existing wireless communications support structure or in an existing equipment compound.

(b) The existing wireless communications support structure or existing equipment compound is in compliance with the local unit of government's zoning ordinance or was approved by the appropriate zoning body or official for the local unit of government.

(c) The proposed collocation will not do any of the following:

(i) Increase the overall height of the wireless communications support structure by more than 20 feet or 10% of its original height, whichever is greater.

(ii) Increase the width of the wireless communications support structure by more than the minimum necessary to permit collocation.

(iii) Increase the area of the existing equipment compound to greater than 2,500 square feet.

(d) The proposed collocation complies with the terms and conditions of any previous final approval of the wireless communications support structure or equipment compound by the appropriate zoning body or official of the local unit of government.

(2) Wireless communications equipment that meets the requirements of subsection (1)(a) and (b) but does not meet the requirements of subsection (1)(c) or (d) is a permitted use of property if it receives special land use approval under subsections (3) to (6).

(3) An application for special land use approval of wireless communications equipment described in subsection (2) shall include all of the following:

(a) A site plan as required under section 501, including a map of the property and existing and proposed buildings and other facilities.

(b) Any additional relevant information that is specifically required by a zoning ordinance provision described in section 502(1) or 504.

(4) After an application for a special land use approval is filed with the body or official responsible for approving special land uses, the body or official shall determine whether the application is administratively complete. Unless the body or official proceeds as provided under subsection (5), the application shall be considered to be administratively complete when the body or official makes that determination or 14 business days after the body or official receives the application, whichever is first.

(5) If, before the expiration of the 14-day period under subsection (4), the body or official responsible for approving special land uses notifies the applicant that the application is not administratively complete, specifying the information necessary to make the application administratively complete, or notifies the applicant that a fee required to accompany the application has not been paid, specifying the amount due, the running of the 14-day period under subsection (4) is tolled until the applicant submits to the body or official the specified information or fee amount due. The notice shall be given in writing or by electronic notification. A fee required to accompany any application shall not exceed the local unit of government's actual, reasonable costs to review and process the application or \$1,000.00, whichever is less.

(6) The body or official responsible for approving special land uses shall approve or deny the application not more than 60 days after the application is considered to be administratively complete. If the body or official fails to timely approve or deny the application, the application shall be considered approved and the body or official shall be considered to have made any determination required for approval.

(7) Special land use approval of wireless communications equipment described in subsection (2) may be made expressly conditional only on the wireless communications equipment's meeting the requirements of other local ordinances and of federal and state laws before the wireless communications equipment begins operation.

(8) If a local unit of government requires special land use approval for wireless communications equipment that does not meet the requirements of subsection (1)(a) or for a wireless communications support structure, subsections (4) to (6) apply to the special land use approval process, except that the period for approval or denial under subsection (6) is 90 days.

(9) A local unit of government may authorize wireless communications equipment as a permitted use of property not subject to a special land use approval.

(10) This section does not apply to an activity or use that is regulated by the small cell wireless

communications facilities deployment act.

(11) As used in this section:

(a) "Colocate" means to place or install wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound. "Collocation" has a corresponding meaning.

(b) "Equipment compound" means an area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located.

(c) "Wireless communications equipment" means the set of equipment and network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding wireless communications support structures.

(d) "Wireless communications support structure" means a structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or building.

**History:** Add. 2012, Act 143, Imd. Eff. May 24, 2012;—Am. 2018, Act 366, Eff. Mar. 12, 2019.

## ARTICLE VI ZONING BOARD OF APPEALS

### **125.3601 Zoning board of appeals; appointment; procedural rules; membership; composition; alternate member; per diem; expenses; removal; terms of office; vacancies; conduct of meetings; conflict of interest.**

Sec. 601. (1) A zoning ordinance shall create a zoning board of appeals. A zoning board of appeals in existence on June 30, 2006 may continue to act as the zoning board of appeals subject to this act. Subject to subsection (2), members of a zoning board of appeals shall be appointed by majority vote of the members of the legislative body serving.

(2) The legislative body of a city or village may act as a zoning board of appeals and may establish rules to govern its procedure as a zoning board of appeals.

(3) A zoning board of appeals shall be composed of not fewer than 5 members if the local unit of government has a population of 5,000 or more or not fewer than 3 members if the local unit of government has a population of less than 5,000. The number of members of the zoning board of appeals shall be specified in the zoning ordinance.

(4) In a county or township, 1 of the regular members of the zoning board of appeals shall be a member of the zoning commission, or of the planning commission if the planning commission is functioning as the zoning commission. In a city or village, 1 of the regular members of the zoning board of appeals may be a member of the zoning commission, or of the planning commission if the planning commission is functioning as the zoning commission, unless the legislative body acts as the zoning board of appeals under subsection (2). A decision made by a city or village zoning board of appeals before February 29, 2008 is not invalidated by the failure of the zoning board of appeals to include a member of the city or village zoning commission or planning commission, as was required by this subsection before that date.

(5) The remaining regular members of a zoning board of appeals, and any alternate members under subsection (7), shall be selected from the electors of the local unit of government residing within the zoning jurisdiction of that local unit of government or, in the case of a county, residing within the county but outside of any city or village. The members selected shall be representative of the population distribution and of the various interests present in the local unit of government.

(6) Subject to subsection (2), 1 regular or alternate member of a zoning board of appeals may be a member of the legislative body. Such a member shall not serve as chairperson of the zoning board of appeals. An employee or contractor of the legislative body may not serve as a member of the zoning board of appeals.

(7) The legislative body may appoint to the zoning board of appeals not more than 2 alternate members for the same term as regular members. An alternate member may be called as specified in the zoning ordinance to serve as a member of the zoning board of appeals in the absence of a regular member if the regular member will be unable to attend 1 or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. An alternate member serving on the zoning board of appeals has the same voting rights as a regular member.

(8) A member of the zoning board of appeals may be paid a reasonable per diem and reimbursed for expenses actually incurred in the discharge of his or her duties.

(9) A member of the zoning board of appeals may be removed by the legislative body for misfeasance,

malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

(10) The terms of office for an appointed member of the zoning board of appeals shall be 3 years, except for a member serving because of his or her membership on the zoning commission or legislative body, whose term shall be limited to the time he or she is a member of that body. When members are first appointed, appointments may be for less than 3 years to provide for staggered terms. A successor shall be appointed not more than 1 month after the term of the preceding member has expired.

(11) A vacancy on the zoning board of appeals shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

(12) A zoning board of appeals shall not conduct business unless a majority of the regular members of the zoning board of appeals are present.

(13) A member of the zoning board of appeals who is also a member of the zoning commission, the planning commission, or the legislative body shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the zoning commission, the planning commission, or the legislative body. However, the member may consider and vote on other unrelated matters involving the same property.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008;—Am. 2010, Act 330, Imd. Eff. Dec. 21, 2010.

#### **125.3602 Meetings; call of the chairperson; oaths; attendance of witnesses; record of proceedings.**

Sec. 602. (1) Meetings of the zoning board of appeals shall be held at the call of the chairperson and at other times as the zoning board of appeals in its rules of procedure may specify. The chairperson or, in his or her absence, the acting chairperson may administer oaths and compel the attendance of witnesses.

(2) The zoning board of appeals shall maintain a record of its proceedings which shall be filed in the office of the clerk of the legislative body.

**History:** 2006, Act 110, Eff. July 1, 2006.

#### **125.3603 Zoning board of appeals; powers; concurring vote of majority of members.**

Sec. 603. (1) The zoning board of appeals shall hear and decide questions that arise in the administration of the zoning ordinance, including the interpretation of the zoning maps, and may adopt rules to govern its procedures sitting as a zoning board of appeals. The zoning board of appeals shall also hear and decide on matters referred to the zoning board of appeals or upon which the zoning board of appeals is required to pass under a zoning ordinance adopted under this act. It shall hear and decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcement of a zoning ordinance adopted under this act. For special land use and planned unit development decisions, an appeal may be taken to the zoning board of appeals only if provided for in the zoning ordinance.

(2) The concurring vote of a majority of the members of the zoning board of appeals is necessary to reverse an order, requirement, decision, or determination of the administrative official or body, to decide in favor of the applicant on a matter upon which the zoning board of appeals is required to pass under the zoning ordinance, or to grant a variance in the zoning ordinance.

**History:** 2006, Act 110, Eff. July 1, 2006.

#### **125.3604 Zoning board of appeals; procedures.**

Sec. 604. (1) An appeal to the zoning board of appeals may be taken by a person aggrieved or by an officer, department, board, or bureau of this state or the local unit of government. In addition, a variance in the zoning ordinance may be applied for and granted under section 4 of the uniform condemnation procedures act, 1980 PA 87, MCL 213.54, and as provided under this act. The zoning board of appeals shall state the grounds of any determination made by the board.

(2) An appeal under this section shall be taken within such time as prescribed by the zoning board of appeals by general rule, by filing with the body or officer from whom the appeal is taken and with the zoning board of appeals a notice of appeal specifying the grounds for the appeal. The body or officer from whom the appeal is taken shall immediately transmit to the zoning board of appeals all of the papers constituting the record upon which the action appealed from was taken.

(3) An appeal to the zoning board of appeals stays all proceedings in furtherance of the action appealed.

However, if the body or officer from whom the appeal is taken certifies to the zoning board of appeals after the notice of appeal is filed that, by reason of facts stated in the certificate, a stay would in the opinion of the body or officer cause imminent peril to life or property, proceedings may be stayed only by a restraining order issued by the zoning board of appeals or a circuit court.

(4) Following receipt of a written request for a variance, the zoning board of appeals shall fix a reasonable time for the hearing of the request and give notice as provided in section 103.

(5) If the zoning board of appeals receives a written request seeking an interpretation of the zoning ordinance or an appeal of an administrative decision, the zoning board of appeals shall conduct a public hearing on the request. Notice shall be given as required under section 103. However, if the request does not involve a specific parcel of property, notice need only be published as provided in section 103(1) and given to the person making the request as provided in section 103(3).

(6) At a hearing under subsection (5), a party may appear personally or by agent or attorney. The zoning board of appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit.

(7) If there are practical difficulties for nonuse variances as provided in subsection (8) or unnecessary hardship for use variances as provided in subsection (9) in the way of carrying out the strict letter of the zoning ordinance, the zoning board of appeals may grant a variance in accordance with this section, so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done. The ordinance shall establish procedures for the review and standards for approval of all types of variances. The zoning board of appeals may impose conditions as otherwise allowed under this act.

(8) The zoning board of appeals of all local units of government shall have the authority to grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance.

(9) The authority to grant variances from uses of land is limited to the following:

(a) Cities and villages.

(b) Townships and counties that as of February 15, 2006 had an ordinance that uses the phrase "use variance" or "variances from uses of land" to expressly authorize the granting of use variances by the zoning board of appeals.

(c) Townships and counties that granted a use variance before February 15, 2006.

(10) The authority granted under subsection (9) is subject to the zoning ordinance of the local unit of government otherwise being in compliance with subsection (7) and having an ordinance provision that requires a vote of 2/3 of the members of the zoning board of appeals to approve a use variance.

(11) The authority to grant use variances under subsection (9) is permissive, and this section does not require a local unit of government to adopt ordinance provisions to allow for the granting of use variances.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

### **125.3605 Decision as final; appeal to circuit court.**

Sec. 605. The decision of the zoning board of appeals shall be final. A party aggrieved by the decision may appeal to the circuit court for the county in which the property is located as provided under section 606.

**History:** 2006, Act 110, Eff. July 1, 2006.

### **125.3606 Circuit court; review; duties.**

Sec. 606. (1) Any party aggrieved by a decision of the zoning board of appeals may appeal to the circuit court for the county in which the property is located. The circuit court shall review the record and decision to ensure that the decision meets all of the following requirements:

(a) Complies with the constitution and laws of the state.

(b) Is based upon proper procedure.

(c) Is supported by competent, material, and substantial evidence on the record.

(d) Represents the reasonable exercise of discretion granted by law to the zoning board of appeals.

(2) If the court finds the record inadequate to make the review required by this section or finds that additional material evidence exists that with good reason was not presented, the court shall order further proceedings on conditions that the court considers proper. The zoning board of appeals may modify its findings and decision as a result of the new proceedings or may affirm the original decision. The supplementary record and decision shall be filed with the court. The court may affirm, reverse, or modify the decision.

(3) An appeal from a decision of a zoning board of appeals shall be filed within whichever of the following deadlines comes first:

(a) Thirty days after the zoning board of appeals issues its decision in writing signed by the chairperson, if

there is a chairperson, or signed by the members of the zoning board of appeals, if there is no chairperson.

(b) Twenty-one days after the zoning board of appeals approves the minutes of its decision.

(4) The court may affirm, reverse, or modify the decision of the zoning board of appeals. The court may make other orders as justice requires.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008;—Am. 2010, Act 330, Imd. Eff. Dec. 21, 2010.

**125.3607 Party aggrieved by order, determination, or decision; circuit court review; proper party.**

Sec. 607. (1) Any party aggrieved by any order, determination, or decision of any officer, agency, board, commission, zoning board of appeals, or legislative body of any local unit of government made under section 208 may obtain a review in the circuit court for the county in which the property is located. The review shall be in accordance with section 606.

(2) Any person required to be given notice under section 604(4) of the appeal of any order, determination, or decision made under section 208 shall be a proper party to any action for review under this section.

**History:** 2006, Act 110, Eff. July 1, 2006.

ARTICLE VII  
STATUTORY COMPLIANCE AND REPEALER

**125.3701 Compliance with open meetings act; availability of writings to public.**

Sec. 701. (1) All meetings subject to this act shall be conducted in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(2) A writing prepared, owned, used, in the possession of, or retained as required by this act shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

**History:** 2006, Act 110, Eff. July 1, 2006.

**125.3702 Repeal of MCL 125.581 to 125.600, 125.201 to 125.240, and 125.271 to 125.310; construction of section.**

Sec. 702. (1) The following acts and parts of acts are repealed:

(a) The city and village zoning act, 1921 PA 207, MCL 125.581 to 125.600.

(b) The county zoning act, 1943 PA 183, MCL 125.201 to 125.240.

(c) The township zoning act, 1943 PA 184, MCL 125.271 to 125.310.

(2) This section does not alter, limit, void, affect, or abate any pending litigation, administrative proceeding, or appeal that existed on June 30, 2006 or any ordinance, order, permit, or decision that was based on the acts repealed under subsection (1). The zoning ordinance need not be readopted but is subject to the requirements of this act, including, but not limited to, the amendment procedures set forth in this act.

**History:** 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

[Print](#)

## Mason, MI Code of Ordinances

### Sec. 1-2. Definitions.

The following definitions shall apply to this Code and to all ordinances and resolutions unless the context requires otherwise. When provisions conflict, the specific shall prevail over the general. All provisions shall be liberally construed so that the intent of the council may be effectuated. Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings.

*Abandoned vehicle* means, a vehicle which has remained on private property for a period of 48 continuous hours without the consent of the owner or occupant of the property, or a vehicle which has remained on public or private property for a period of 48 continuous hours after a police agency or other governmental agency has affixed a written notice to the vehicle.

*Accessory structure* means a structure located on the same lot as the principal structure, the use of which is customarily incidental or secondary to the principal structure or use.

*Accessory use* means a use of land or of a structure or portion thereof which is customarily and naturally incidental to, subordinate to, and devoted exclusively to the principal use of the land or building and located on the same lot with the principal use.

*Aggregate* means an inert material used as a component of concrete, mortar, plasters, and bituminous pavements. Sand, gravel or crushed stone are the most common aggregates.

*Agricultural land* means substantially undeveloped land devoted to the production of plants and animals useful to humans including, but not limited to, forage and sod crops, grains, feed crops, field crops, dairy products, poultry and poultry products, livestock, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables, Christmas trees, and other similar uses and activities.

*Agricultural land use* is characterized by the act or business of cultivating or using agricultural land and soil for the production of animals, crops and plants useful to animals or humans, and includes purposes related to agriculture, farming, dairying, pasturage, nursery, horticulture, floriculture, viticulture, aquaculture, animal and poultry husbandry, and other similar uses and activities producing food, seed, fiber or fur. See "farm" and "prime agricultural land".

*Airport approach plan* and *airport layout plan* mean a plan, or an amendment to a plan, filed with the Mason planning commission under section 151 of the Aeronautics Code of the state of Michigan, 1945 PA 327 (MCL 259.151).

*Alcoholic liquor* means alcoholic liquor as defined by the Michigan Liquor Control Code of 1998.

*Alley* means a public or private right-of-way shown on a plat which provides secondary access to a lot, block or parcel of land.

**State Law References:** Similar provisions, MCL 560.102(2).

*Alteration* means any modification, remodeling, change or rearrangement in a structural or supporting member such as footings, bearing walls, columns, or girders, as well as any change in the doors, windows, roof or exterior walls which affect the means of egress which is undertaken without adding to the floor area, height, or physical size of the building or structure.

*Alternative tower structure* means any manmade trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

*Ambient noise* means background noise or noise that cannot be identified as coming from any particular source.

*Animal clinic* means a building where animal patients, who may or may not be lodged overnight, are admitted for examination and treatment by a veterinarian or similar professionals.

*Animal unit* means a number of animals based upon animal type under tables published by the Michigan Commission of Agriculture which are generally calculated as 1,000 pounds live weight equals one animal unit.

*Antenna* means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

*Apartment* means a room or group of rooms that is designed to function as a single, complete dwelling unit and is located in a multiple-family dwelling or a multiple use building.

*Appraised value* means the value of property as determined by an individual qualified to appraise that type of property.

*Aquifer* means subsurface rock or other materials capable of holding a significant amount of water in their crevices. Certain types of material such as coarse sands, gravel and limestone, are more likely to produce aquifers.

*Area of special flood hazard* means the land in the floodplain within the city subject to a one percent or greater chance of flooding in any given year.

*Automobile repair garage* means a premises where the following services may be carried out in a completely enclosed building: General repairs, engine rebuilding, collision repair, painting, and undercoating of vehicles.

*Automobile service station* means structures and premises used or designed to be used for the retail sale of fuels, lubricants, and other operating commodities for motor vehicles, including the customary space and facilities for the installation of such commodities; and including space for minor vehicle repairs or service such as polishing, washing, cleaning, and greasing, but not including bumping, painting, or refinishing.

*Base flood* means the flood having a one percent chance of being equaled or exceeded in any given year, often referred to as a 100-year flood.

*Base flood level* means the highest elevation of a flood having a one percent chance of being equaled or exceeded in any given year. Commonly referred to as the 100-year flood level. See "floodplain".

*Basement* means the portion of a building which is partly below and partly above grade where greater than one-half of the height of that portion is below grade. A basement shall not be counted as a story.

*Bathroom* is a room containing plumbing fixtures including a toilet, bathtub or shower, or any other combination thereof.

*Bed and breakfast* means an owner-occupied residential structure that meets the provisions of section 94-192(7) of this chapter.

*Bedroom* is any room or space used or intended to be used for sleeping purposes.

*Berm* means an earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise.

*Bicycle facilities* means a public way designated for the use of cyclists.

*Bicycle way* means a bicycle facility parallel and adjacent to but separate from the roadway.

*Blighted structure* means, without limitation, any dwelling, garage, or outbuilding, or any factory, shop, store, warehouse, or any other structure or part of a structure which, because of fire, wind, or other natural disaster, or physical deterioration, is no longer habitable as a dwelling, nor useful for the purpose for which it may have been intended.

*Block* means a piece of or parcel of land entirely surrounded by public highways, streets, streams, railroads, rights-of-way, a park, etc., or a combination thereof.

*Bond* means a form of insurance required of an individual or firm to secure the performance of an obligation. (See "performance guarantee").

*Buffer* means a strip of land or space, including a specified type and amount of planting or structures intended to protect or screen one type of land use from another, or minimize or eliminate off-site ecological degradation.

*Buildable acre* means an acre of land remaining after excluding land classified as a wetland or regulated water body.

*Building* means a combination of materials, whether portable or fixed, forming a structure affording a facility or shelter for use or occupancy by persons, animals or property. The term does not include a building incidental to the use for agricultural purposes of the land on which the building is located if it is not used in the business of retail trade. The term shall be construed as though followed by the words "or part or parts of the building and all equipment in the building" unless the context clearly requires a different meaning.

*Building area* means the area included within surrounding exterior walls (including fire walls) exclusive of vents, shafts and courts. Areas of the building not provided with surrounding exterior walls shall be included in the building area if underneath the vertical projection of the roof or floor above.

*Building envelope* means the area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the master deed for the site condominium project (See figure 100-104 in ch. 100).

*Building line* means a line established on a parcel parallel to an adjacent public right-of-way or adjacent property line for the purpose of prohibiting construction of a structure between such line and the right-of-way or property lines. Building line is commonly referred to as the setback line.

*Building materials* means lumber, bricks, concrete or cinder blocks, plumbing materials, electric wiring or equipment, heating ducts or equipment, shingles, mortar, concrete, or cement, nails, screws or any other materials used in constructing any structure.

*Business districts* means, the C-1 and C-2 zoning districts.

*Business sign* means a sign which directs attention to a business or profession conducted or to a commodity, product, service or entertainment sold, manufactured or offered upon the premises where such sign is located.

*Caliper* means a measure of the size of vegetation defined as the average diameter of the main trunk measured at a point five feet from the ground at the base of the vegetation.

*Call box stand* means a place alongside a street, or elsewhere where the police chief has authorized a holder of a taxicab certificate of public convenience and necessity to install a telephone or call box for the taking of calls and the dispatching of taxicabs.

*Camper* means a vehicular portable structure which is mounted or built upon a chassis, is less than 35 feet in length and is of such a width and weight as not to require special highway movement permits when moved or drawn by a vehicle.

*Campground* is as defined in Public Health Code (MCL 331.12501 et seq.).

*Carport* means a partially open structure intended to shelter one or more vehicles. Such structures shall comply with all yard requirements applicable to a private garage.

*Casino* means a facility licensed and operating under the Michigan Gaming Control and Revenue Act, initiated law of 1996, MCL 432.201 as defined by Section 2(g) of the Act, MCL 432.202(g).

*Cellar*. See "basement".

*Change in use* means a use of a building, structure or parcel of land, or portion thereof which is different from the previous use as classified in this chapter or in the building code.

*Charter* means the Charter of the City of Mason, Michigan.

*Church use*. See "religious institution".

*City* means the City of Mason, Michigan.

*Clear vision area* means the unobstructed view across a corner space which is created by the intersection of two vehicular ways that allows a motorist to see on-coming traffic or pedestrians (See figure 100-103 in ch. 100). This vision area shall be clear of any opaque obstructions within a specified distance along or from the right-of-way line(s) of all streets and drives.

*Cluster development* means a development where structures are arranged in closely related groups, typically of the same type or character of design thus creating greater densities in certain areas of a site while preserving the natural features in other areas on the same site.

*Code* means the Mason City Code, as designated in section 1-1.

*Cold storage* means the keeping of farm produce or goods under climate controlled conditions.

*Collocation* means the shared use by more than one licensed carrier of a single tower or other useable antenna support structure.

*Commercial garage*. See "automobile repair garage".

*Commercial recreation facility* means a recreational facility including campgrounds, athletic fields, golf courses, race tracks, or other spectator/participatory facilities that charge a fee for use.

*Commercial use* means an activity carried out for financial gain including retail sales, repair service, salvage operations, business offices, food service, entertainment and brokerages.

*Commercial vehicle* means any motor vehicle registered as a commercial vehicle under the Michigan Vehicle Code (MCL 257.1 et seq.) or which is used for the transportation of passengers for hire, or constructed or used for transportation of goods, wares, or merchandise, and/or all motor vehicles designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or loads so drawn.

*Common land* means a parcel or parcels of land together with the improvements thereon, the use, maintenance and enjoyment of which are intended to be shared by the owners and occupants of the individual building units in a particular development.

*Common open space* means a parcel or parcels of land or an area of water or combination of land and water dedicated for the use or enjoyment of the residents in a particular development or of the general public. Common open space does not include any proposed street right-of-way, open parking areas, or commercial areas. Common open space may contain accessory structures and improvements necessary or desirable for religious, educational, non-commercial, recreational, or cultural uses.

*Community commercial center* means a shopping center containing more than one use relating to wholesale and/or retail services and utilizing shared vehicular ingress and egress and on-site parking.

*Compensation* means any money, property, thing of value or benefit received by any person in return for services rendered.

*Concessionaire* means any person, whether a resident of the city or not, who receives a license under the provisions of this article to sell or offer for sale goods, services or merchandise from a temporary or portable structure or fixture at a specified location within a business district.

*Condominium* means an estate in real property consisting of an undivided interest in common with other purchasers in a portion of a parcel of real property, together with a separate interest in space in a building. A condominium may include, in addition, a separate interest in other portions of such real property.

*Condominium Act* as defined in Public Act No. 59 of 1978 (MCL 559.101 et seq.).

*Condominium documents* means the master deed, recorded pursuant to the Condominium Act, and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner of the condominium.

*Condominium lot* means the condominium unit and the limited common area reserved for the exclusive use of the co-owner of an adjacent condominium unit together in a site condominium development. A condominium lot is considered the functional equivalent of a standard subdivision lot and the boundaries thereof shall be the functional equivalent of the boundaries of a platted lot.

*Condominium project* means a project developed under the Michigan Condominium Act (MCL 559.101 et seq.) consisting of more than one condominium unit which is not subject to the provisions of the Land Division Act (MCL 560.101 et seq.).

*Condominium structure* means the principal building or structure intended for or constructed upon a lot or development site together with any attached accessory structures; e.g., in a residential development, the condominium structure would refer to the house and any attached garage. A condominium structure can also be a building envelope.

*Condominium subdivision plan* means the drawings and information prepared in accordance with Section 66 of the Condominium Act (MCL 559.166) and filed with the register of deeds as an exhibit to the condominium master deed.

*Condominium unit* means an area of land or volume of space separately described in a condominium master deed and intended for separate ownership or use.

*Conflict of interest* means either a personal interest or a duty or loyalty to a third party that competes with or is adverse to the duty of a city official or city employee to the public interest in the exercise of official duties or official actions.

*Congregate housing* means a structure containing two or more rooming units limited in occupancy and occupied by persons 60 years and older, their spouses, or surviving spouses, except for rooms or units occupied by resident staff personnel, providing indoor, conveniently located, shared food preparation service and major dining areas, and common recreation, social, and service facilities for the exclusive use of all residents.

*Construction contractors establishment* means a parcel of land, building, or structure, or a portion thereof used to store trucks, excavating equipment, supplies, tools, or materials utilized by a construction contractor, subcontractor, or builder.

*Contiguous parcels* means, as used in this chapter shall mean two or more parcels of property which have one or more common property lines.

*Contractible condominium* means a condominium project from which any portion of the submitted land or building may be withdrawn in accordance with this chapter and the Condominium Act MCL 559.101 et seq.).

*Convalescent home* means a residential nursing facility other than a hospital, that is designed to provide a range of personal and medical care services to aged, chronically ill or disabled individuals and which is licensed by the State of Michigan.

*Convenience retail* means establishments which sell primarily goods which are edible or disposable in small quantities directly to the consumer.

*Conversion condominium* means a condominium project containing units, some or all of which were occupied before filing of a notice of taking reservations under Section 71 of the Condominium Act (MCL 559.171), as defined by Subsection 5(2) of the Condominium Act (MCL 559.105(2)).

*Corner lot* means a lot that is situated at the junction of at least two streets at which the angle of interception is no greater than 135 degrees and defined as having one front yard, one rear yard and two side yards.

*Council* and *city council* mean the Council of the City of Mason, Michigan.

*County* means Ingham County, Michigan.

*Cul-de-sac* means a minor street of short length having one end open to traffic and being permanently terminated at the other end by a vehicular turn around.

*Customary agricultural operation* means an agricultural land use, condition or activity which occurs on land in connection with the commercial production of farm products and includes but is not limited to noise, odors, dust, fumes, operation of machinery and irrigation pumps, ground and aerial seeding and spraying, application of chemical fertilizers, insecticides and herbicides, and employment of labor when such conditions or activities are conducted in accordance with generally accepted agricultural and management practices. (See "farm").

*Cyclist* means a person who is not afoot and is driving or is in actual physical control of a bicycle.

*Dangerous building* means any building, dwelling, structure, or dwelling unit that has one or more of the following defects or is in one or more of the following conditions:

- (1) A door, aisle, passageway, stairway, or other means of exit does not conform to the applicable fire code of the city, or is not so arranged as to provide safe and adequate means of exit in case of fire or panic for all persons housed or assembled therein who would be required to or might use such door, aisle, passageway, stairway, or other means of exit.
- (2) A portion of the building or structure is damaged by fire, wind, flood, or other cause so that the structural strength or stability of the building or structure is appreciably less than it was before the catastrophe and does not meet the minimum requirements of this article or the applicable building code of the city.
- (3) A part of the building or structure is likely to fall, become detached or dislodged, or collapse and injure persons or damage property.
- (4) A portion of the building or structure has settled to such an extent that walls or other structural portions of the building or structure have materially less resistance to wind than is required in the case of new construction by this article or the applicable building code of the city.
- (5) The building or structure, or a part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, or the removal or movement of some portion of the ground necessary for the support, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.
- (6) The building, structure, or a part of the building or structure is manifestly unsafe for the purpose for which it is used.

(7) The building or structure is damaged by fire, wind, or flood, or is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, or becomes a harbor for vagrants, criminals, or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful or immoral act.

(8) A building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, because of dilapidation, decay, damage, faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation, is in a condition that the health officer determines is likely to cause sickness or disease, or is likely to injure the health, safety, or general welfare of people living in the dwelling.

(9) A building or structure is vacant, dilapidated, and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

(10) A building or structure remains unoccupied for a period of 180 consecutive days or longer, and is not listed as being available for sale, lease, or rent with a real estate broker licensed under Article 25 of the Occupational Code, MCL 339.2501 et seq. For purposes of this subdivision, "building or structure" includes, but is not limited to, a commercial building or structure. This subdivision does not apply to either of the following:

a. A building or structure as to which the owner or agent does both of the following:

1. Notifies the police department that the building or structure will remain unoccupied for a period of 180 consecutive days. The notice shall be given to the police department by the owner or agent not more than 30 days after the building or structure becomes unoccupied.

2. Maintains the exterior of the building or structure and adjoining grounds in accordance with this article and the applicable building code of the city.

b. A secondary dwelling of the owner that is regularly unoccupied for a period of 180 days or longer each year, if the owner notifies the police department that the dwelling will remain unoccupied for a period of 180 consecutive days or more each year. An owner who has given the notice prescribed by this subsection shall notify the police department not more than 30 days after the dwelling no longer qualifies for this exception. As used in this subsection, "secondary dwelling" means a dwelling such as a vacation home, hunting cabin, or summer home, that is occupied by the owner or a member of the owner's family during part of a year.

(11) Is in such a condition as to constitute a nuisance.

(12) Is otherwise a "dangerous building" as described and defined in Section 139 of the Housing Law of Michigan (MCL 125.539).

*Day care facility* means a state licensed facility receiving more than six preschool or school age children for group care for periods of less than 24 hours per day, and where the parents or guardians are not immediately available to the child. It includes a facility which provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. A child/day care facility is regulated by Public Act No. 116 of 1973 (MCL 722.111 et seq.).

*Density* means the number of dwelling units situated on or to be developed per acre of land. Refer to "gross density" and "net density".

*Development* means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

*Development site* means a parcel meeting the requirements of Sections 108 and 109 of the Land Division Act (MCL 560.108, 560.109) and chapter 74, article III of this Code; a platted lot meeting the requirements of the Land Division Act (MCL 560.101 et seq.) and chapter 74, article II of this Code; or a condominium

lot on which exists, or which is intended for, building development. Development site shall not include the following:

(1) Agricultural use involving the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities.

(2) Forestry use involving the planting, management, or harvesting of timber.

*District/zoning district* means the zoning districts described in chapter 94 of this Code.

*Disturbed land* means a parcel of land which is graded, filled, excavated, mined, or stripped of its natural vegetative cover or grass for a purpose other than agriculture land use.

*Divided* or *division* means the partitioning or splitting of a parcel or tract of land by the proprietor or by his heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale or lease of more than one year, or of building development, that results in one or more parcels of less than 40 acres or the equivalent, and satisfies the requirements of Sections 108 and 109 of the Land Division Act (MCL 560.108, 560.109).

**State Law References:** Similar provisions, MCL 560.102(d).

*Drive-in facility* means commercial enterprises that permit the consumer to transact business, receive a service, or be entertained while remaining in a motor vehicle.

*Drive-thru facility.* See "drive-in facility".

*Driveway* means a path of travel connected to a public or private street over which a vehicle may be driven to access one or more parcels of land.

*Dump* means a disposal site on which solid wastes are placed and left and which is not licensed under Part 115 of Public Act No. 451 of 1994 (MCL 325.11501 et seq.) as a solid waste disposal site.

*Duplex.* See "two-family dwelling".

*Dwelling unit* means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, utilities, and sanitation.

*Easement* means a grant by the owner of the use of a strip of land by the public, or persons, for specific uses or purposes, and shall be designated as public or private depending on the nature of the user and in conformance with the Land Division Act (MCL 560.101 et seq.).

*Equestrian center* means an enclosed or unenclosed facility which provides public instruction, training or practice in the equestrian arts, including public exhibitions or competition in such skills.

*Excavation* means the removal or recovery of exposed or submerged soil, rock, sand, gravel, peat, muck, marrow, shale, limestone, clay, or other mineral or organic substances except vegetation, from water or land, whether exposed or submerged.

*Exempt split* or *exempt division* means the partitioning or splitting of a parcel or tract of land by the proprietor or by his heirs, executors, administrators, legal representatives, successors or assigns that does not result in one or more parcels of less than 40 acres or the equivalent provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access.

**State Law References:** Similar provisions, MCL 560.102(e).

*Expandable condominium* means a condominium project to which additional land may be added in accordance with this chapter and the State Condominium Act (MCL 559.101 et seq.).

*Explosive* means a chemical compound or mechanical mixture commonly used, or intended, for the purpose of producing an explosion, that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities, or packing, that an ignition by fire, by friction, by concussion, by percussion or by detonation of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or destroying life and limb.

*Exterior* property is the open space on the premises and on adjoining property under the control of owners or operators of such premises.

*Extermination* means the control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

*FAA* means the Federal Aviation Administration.

*FCC* means the Federal Communications Commission.

*Family* means one or more persons living together in a dwelling unit as a single domestic housekeeping unit. Where there are more than two persons living in a dwelling unit, a family shall be comprised of individuals in accordance with one of the following standards. Anyone seeking the rights and privileges afforded a member of a family by this chapter shall have the burden of proof by clear and convincing evidence of compliance with this definition.

(1) A domestic family comprised of persons related by blood, marriage or adoption with the addition of not more than one unrelated person.

(2) The functional equivalent of a domestic family comprised of persons living together whose relationship is of a regular and permanent nature and has a distinct domestic character, or a demonstrable and recognizable bond, where each person is responsible for the basic material needs of the others and all persons are living and cooking as a single housekeeping unit. The functional equivalent of a domestic family shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie or organization, nor include a group of persons whose association is temporary or seasonal in character or nature or for the limited duration of their education, nor a group whose sharing of a house is not to function as a domestic family, but merely for convenience and economics.

*Farm* means a parcel of land containing at least ten acres which is utilized for an agricultural land use, including necessary farm structures and equipment, but not including the raising of fur bearing animals, livery or boarding stables and dog kennels.

*Fee simple title* refers to the broadest, most extensive and unconditional estate in land that can be enjoyed. A fee simple estate is unlimited as to duration, disposition and descendibility, subject to the sovereign power of eminent domain, and may be conveyed by its owner either during his life or upon his death.

*Feedlot* means a premises used to feed livestock in preparation for market and slaughter.

*Fence* means any wall (except a retaining wall or lawful sign), screen, partition or similar structure that encloses land, divides land into distinct portions, separates contiguous properties, prevents intrusion from without or straying from within, obstructs the passage of light or air into adjacent land, or obstructs the view of property.

*Filing date* means the date upon which any properly completed application pursuant to this chapter is submitted and the required filing fee is paid.

*Filling* means the depositing or dumping of any matter, except common household gardening or general yard maintenance refuse, into or onto the ground.

*Financial benefit* means a financial benefit which accrues to a greater extent than any benefit which could reasonably be expected to accrue from the proposed action to the general public or to the general business,

occupation or profession taken as a group.

*Fireworks* means any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, and special effects as defined by Public Act 256 of 2011.

(1) *Consumer fireworks* means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States consumer product safety commission under 16 CFR parts 1500 and 1507, and that are listed in APA standard 87-1 3.1.2, 3.1.3 or 3.5. Consumer fireworks does not include low-impact fireworks.

(2) *Articles pyrotechnic* means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as UN0431 or UN0432 under 24 CFR 172.101.

(3) *Display fireworks* means large fireworks devices that are explosive materials intended for use in fireworks displays and designated to produce visible or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA standard 87-1, 4.1.

(4) *Special effects* means a combination of chemical elements or chemical components capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical, or thermal effect as an integral part of a motion picture, radio, television, theatrical, or opera production or live entertainment.

**State Law References:** Similar provisions, MCL 750.243a(1).

*Flood or flooding* means a rise in the water level of a water body, or the rapid accumulation of water from runoff or other sources, so that land that is normally dry is temporarily inundated by water. For the purpose of the National Flood Insurance Program, flooding is also defined to include mud slides connected with accumulation of water, and land subsidence along water bodies.

*Flood insurance rate map (FIRM)* means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the city.

*Flood insurance study* means the official report provided in which the Federal Insurance Administration has provided flood profiles, as well as the flood boundary floodway map and the water surface elevation of the base flood.

*Floodplain* means that area of land adjoining a channel of a river, stream, watercourse, lake, or similar body of water which will be inundated by a flood which can reasonably be expected for the region.

*Floodproofing* means any combinations of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

*Floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

*Floor area ratio* means the ratio between the total amount of floor area of all floors permitted to be constructed on a development site and the area of the site.

*Foster care facility* means the provision of supervision, personal care and protection, in addition to room and board, for 24 hours a day and five or more days per week for two or more consecutive weeks, with or without compensation.

*Forty acres or the equivalent* means either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.

**State Law References:** Similar provisions, MCL 560.102(l).

*Front yard* means an open, unoccupied space extending the full width of the lot between the front lot line and the nearest line of the principal building on the lot (See figure 100-101 in ch. 100). The depth of the front yard shall be measured at right angles to the property line in the case of a straight property line and radial to the property line in the case of a curved property line. On a corner lot, the front yard shall be the yard fronting on a street with the largest setback.

*Garage* means an accessory building used for parking or storage of vehicles in connection with the permitted use of the principal building.

*Garage sale* means the public sale of any new or used tangible personal property which is conducted at a private residence in a residentially zoned district and which is advertised by any means, and shall include by example and not by way of limitation all sales entitled "garage sale," "yard sale," "lawn sale," "attic sale" or "rummage sale," when conducted on a private residence, and shall exclude auctions that are presided over by a licensed auctioneer.

*Garbage* is the animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

*Guard* is a building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

*General common elements* means the land area other than the limited common element of the site condominium development that are held in common by all co-owners and used for parks, streets, open space, or other common activities. (See figure 100-104 in ch. 100).

*General retail* means stores which sell dry goods, package foods, hardware, appliances, computers, jewelry and other similar merchandise and services directly to the public.

*Generally accepted agricultural and management practices* means practices adopted by the Michigan Commission of Agriculture pursuant to the Michigan Right to Farm Act (MCL 286.471 et seq.).

*Gift* means any thing of value, money, loan of money, goods, or services given without due consideration. "Gift" does not include:

(1) Information-gathering trips paid for by a person or entity seeking approval of a proposal from a decision-making body of the city, provided that the decision-making body, prior to the trip, makes all of the following determinations: (a) the information will be useful and material; (b) the trip will improve and not unduly influence the decisional process; and (c) the decision-making body designates the official(s) who will participate.

(2) Small items of a nominal value and any reportable campaign contributions pursuant to state law.

*Government building.* See "public building".

*Grade* means a reference plane representing the average of finished ground level adjoining the building at all exterior walls.

*Grading* means any stripping, excavating, filling, stockpiling, or any combination of such activities, and shall include the land in its excavated or filled condition.

*Gross acre* means an acre of land inclusive of all amenities and features.

*Gross density* means a figure which equals the total number of dwelling units on a development site divided by the total number of acres included in the development site.

*Gross floor area* means the area within the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, elevator shafts, closets, thickness of walls, columns, or other features.

*Ground cover* means grasses or other plant growth or plant material sufficient to prevent soil erosion.

*G.V.W.R.* means gross vehicle weight rating, a measure of vehicle weight.

*Habitable floor area* means any floor area usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination of such activities. A floor area used only for storage purposes is not a habitable floor.

*Hazardous material* means any material, waste, or a combination of waste and material, including solid, liquid, semi-solid or contained gaseous material, which, because of its quantity, quality, concentration or other physical, chemical or general characteristics pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed of or otherwise managed.

*Hazardous substance/waste*, as defined by Section 101(14) of the United States Comprehensive Environmental Response Compensation and Liability Act (CERCLA), means:

- (1) Any substance designated pursuant to Section 311(B)(2)(A) of the federal Water Pollution Control Act;
- (2) Any element, compound, mixture, solution or substance designated pursuant to Section 102 of CERCLA;
- (3) Any hazardous waste having characteristics identified under or listed pursuant to Section 3001 of the Solid Waste Disposal Act (not including waste regulation suspended by acts of Congress);
- (4) Any toxic pollutant listed under Section 307(a) of the federal Water Pollution Control Act;
- (5) Any hazardous air pollutant listed under Section 102 of the Clean Air Act; and
- (6) Any hazardous chemical substance or mixture with respect to which the administrator has taken action pursuant to Section 7 of the Toxic Substance Control Act.

*Height* means the vertical distance measured from the average finished ground level at the front of the structure to the highest point of the structure.

*Home occupation* means an accessory use of a dwelling unit by the residents thereof for gainful employment on a reoccurring basis involving the manufacture, sale, or provision of goods, materials, or services.

*Hotel* means a building containing six or more individual guest rooms or suites, intended to be rented or hired out for sleeping purposes by transient guests.

*Household pet* means a animal that is customarily kept for personal use or enjoyment and is not restricted by other local, state, or federal regulations. Household pets shall include but not be limited to domestic dogs, domestic cats, domestic tropical birds, and rodents.

*Housekeeping unit* is a room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet; lavatory and bathtub or shower.

*Immediate family* means a spouse, child, parent, sister or brother, and parent-in-law, sister-in-law or brother-in-law wherever residing, or any relative sharing the same household. All relationships shall include individuals in a step or adoptive relationship.

*Imminent danger* means, a condition which could cause serious or life-threatening injury or death at any time.

*Improvements* means those features and actions associated with a project that are considered necessary by the body or official granting zoning approval to protect natural resources or the health, safety, and welfare of the residents of the city and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. Improvements do not include the entire project that is the subject of zoning approval.

*Incite a riot* means but is not limited to urging or instigating other persons to riot; but the term shall not be deemed to mean the mere oral or written advocacy of ideas or expression of belief not involving advocacy of any act of violence or assertion of the rightness of or the right to commit any such act.

*Industrial park* means the development of a parcel in a unified manner in which multiple lots or similar building sites are created to accommodate separate industrial facilities, all of which are accessed by a road or drive constructed as an integral part of the development, and which include open spaces and landscape features to enhance the visual setting of the development.

*Industrial use* means a structure, building, or parcel of land, or portion thereof, utilized or inherently designed to be utilized for the purpose of production, manufacturing, processing, cleaning, testing, rebuilding, assembly, distribution, finishing, construction or printing of goods or products and related research and development facilities.

*Infestation* is the presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

*Inoperable motor vehicle* means a motor vehicle, as defined in the Michigan Vehicle Code, (MCL 257.1 et seq.) which by reason of dismantling, disrepair, accident, or other cause is incapable of being propelled under its own power, or is in such an unsafe condition as to endanger a person in violation of Section 683 of the Michigan Vehicle Code (MCL 257.683), and which condition exists and continues for a period of seven days or which has no current State of Michigan license or registration properly attached in the manner required by law.

*Intensity of land use* means the amount of activity associated with a specific land use based upon the following criteria:

- (1) Amount of vehicular traffic generated (including parking);
- (2) Amount of pedestrian traffic generated;
- (3) Noise, odor and air pollution generated;
- (4) Potential for litter;
- (5) Type and quantity of materials stored in connection with the operation;
- (6) Total residential units and density, where applicable; and
- (7) Total coverage and height of structures on the parcel.

*Junk* means dry solid waste material resulting from housekeeping, construction, mercantile and manufacturing enterprises and other solid waste producing enterprise, including scrap metals, wood, rubber, paper, plastics, cloth, abandoned, wrecked, unlicensed or inoperable motor vehicles, rags, bottles, tin cans, and comparable items. Junk shall include unlicensed and inoperable travel trailers and campers, as well as include unused furniture and appliances.

*Junk automobiles* means, without limitation, any motor vehicle which is not licensed for use upon the highways of the State of Michigan for a period in excess of 20 days, and shall also include, whether licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of ten days, provided that there is excepted from this definition unlicensed, but operative, vehicles which are kept as the stock in trade of a regularly licensed and established new or used automobile dealer.

*Junk yard* means any land, enclosure, or building with a minimum of 200 square feet in area used for the abandonment, disposal, storage, keeping, collecting, processing, or baling of paper, rags, scrap metals, wood, rubber, plastics, other scrap or discarded materials, or for abandonment, demolition, dismantling, storage or salvaging of automobiles, trailers, other vehicles, machinery, or parts thereof.

*Kennel* means any lot or premises used for the commercial sale, boarding, or treatment of dogs, cats or other domestic animals and which has a license from the Ingham County Animal Control Office.

*Landscaping* means an arrangement of elements which may include plant materials such as trees, shrubs, ground covers, perennial and annual plants; landscape materials such as rocks, water features, fences, screens, walls, pedestrian walks, paving products, and site lighting; and site furnishings and ornamental objects such as statuary, sculpture, benches, drinking fountains, trash receptacles, and planters for aesthetic and functional purposes.

*Let for occupancy* or *let* is to permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement or contract for the sale of land.

*Limited common elements* means a portion of the general common element reserved in the master deed for the exclusive use of less than all of the co-owners. (See figure 100-104 in ch. 100).

*Livestock feeding operation* means a premises used to feed livestock in preparation for market.

*Livestock production facility* means a facility where farm animals as defined in the Michigan Right to Farm Act, Public Act No. 93 of 1981; MCL 286.471, are confined with the capacity of 50 animal units or greater and the associated manure storage facilities.

*Loading space* means an off-street space on the same lot with a building, or group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

*Lot.* See "development site".

*Lot area* means the area of land within the boundary of a lot excluding any part within a regulated waterway.

*Lot coverage* means the part of a lot, expressed as a percentage, occupied by buildings or structures, including accessory buildings or structures, but excluding drives and uncovered surface parking areas.

*Lot depth* shall be measured on a straight line which connects the mid-point of the front lot line with the lot line mid-point which is located farthest from the mid-point of the front lot line. (See figure 100-102 in chapter 100).

*Lot frontage* shall be measured along the front property line from the intersection point with one side lot line to the intersection point with the opposite side lot line (see figure 100-102 in chapter 100). If the front property line is a curved line the frontage shall be the lineal distance along this curved line.

*Lot of record* means a lot which is part of a subdivision and is shown on a map thereof which has been recorded in the office of the county register of deeds.

*Lot width.* Lot width shall be measured as follows. (See figure 100-102 in ch. 100):

(1) *Lot width with parallel side lot lines.* Lot width shall be measured on a straight line which is perpendicular to the side lot lines.

(2) *Lot width with non-parallel side lot line.* The width shall be measured on a straight line, which shall be a measuring line, which is parallel to a straight line which connects the side lot lines where they intersect the front property line. The measuring line shall be located the distance of the minimum front yard setback from the front property line. The lot width shall be measured on a straight line between the intersection

points of the measuring line with the side lot lines. If the measuring line is located behind the rear line of the required front yard, the measuring line shall be the front building line.

*Marquee sign* means a sign which identifies the business and/or owner and which is attached to a legally established marquee, canopy or awning projecting from and supported by the building. If suspended, it shall not exceed a depth of 12 inches nor be less than eight feet above sidewalk level.

*Master deed* means the recorded document establishing a condominium project, as required by the Condominium Act (MCL 559.10 et seq.).

*Medical clinic* means a building where human patients, who are not lodged overnight, are admitted for examination and treatment by physicians, dentists, or other health care professionals.

*Mini-warehouse* means a building or portion thereof designed or used exclusively for storing personal property of an individual or family when such is not located on the lot with their residence.

*Mobile home* means a structure transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. A mobile home does not include a motor home.

*Mobile home park* means any lot, parcel or tract of land under the control or management of any person upon which is located or which is designed for occupancy by three or more mobile homes on a continual non-recreational basis and including any accessory buildings, structures or enclosures comprising facilities used by the park residents. Such parks shall comply with the provisions of this chapter and Public Act No. 496 of 1987 (MCL 125.2301 et seq.).

*Modular housing unit* means an assembly of materials or products intended to comprise all or part of a residential building or structure, that is assembled at other than the final location of the unit of the building or structure by a repetitive process under circumstances intended to insure uniformity of quality and material content. The roof pitch ratio shall be a minimum of four foot vertical rise to 12 foot horizontal run.

*Month* means a calendar month.

*Motel*. See "hotel".

*Motor home* means a motorized vehicle designed to be utilized as a temporary living quarter for recreation, camping or travel purposes having self-contained kitchen or bathroom facilities or both.

*Mounted wireless communication facility* means any antenna, base mount, and associated transmission cables which are permanently affixed to the roof, wall, or structural support of any principal building or other structure on a site.

*Multiple-family dwelling* means a building containing three or more dwelling units which complies with the building code and this chapter.

*Multiple-family housing*. See "multiple-family dwelling".

*Municipal civil infraction action* means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

*Municipal civil infraction citation* means a written complaint or notice prepared by an authorized city official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

*Municipal civil infraction violation notice* means a written notice prepared by an authorized city official, directing a person to appear at the city Municipal Ordinance Violations Bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the city, as authorized under sections 8396 and 8707(6) of the 1961 PA 236 [MCL 600.8396, 600.8707(6)].

*Net acre* means an acre of land remaining after excluding land used as a public or private street, or land classified as a wetland, regulated water body, or floodway.

*Net density* means a figure which equals the total number of dwelling units on a development site divided by the total number of net acres included in the development site.

*Nonconforming lot* means a lot lawfully existing on June 10, 2001 that does not conform to the dimensional requirements of chapter 94 of this code, including lot area or lot width. Refer to section 94-322 of this code.

*Nonconforming sign* means a sign lawfully existing on October 15, 2007 that does not conform to the provision of chapter 58. Refer to section 58-131 of this code.

*Nonconforming use* means a use of land lawfully existing on June 10, 2001 that does not conform to the provisions of chapter 94 of this code. Refer to section 94-323 of this code.

*Noxious weeds* means Canada thistle (*Cirsium arvense*), dodders (any species of *Cuscuta*), mustards (charlock, black mustard and Indian mustard, species of *Brassica* or *Sinapis*), wild carrot (*Daucus carota*), bindweed (*Convolvulus arvensis*), perennial sowthistle (*Sonchus arvensis*), hoary alyssum (*Berteroa incana*), quackgrass (*Syntherisma repens*), crab-grass (*Digitaria sanguinalis*), poison ivy (*Rhus toxicodendron*), poison sumac (*Rhus vernix*), or other plant or grass which, in fact constitutes a nuisance or a fire hazard.

*Nuisance* means an activity consisting of an unreasonable, unwarranted, or unlawful use of property by a person that causes injury or damage to or obstructs the right of another or the public in general.

*Nursing home*. See "convalescent home".

*Occupancy* means, the purpose for which a building or portion thereof is utilized or occupied.

*Occupancy permit* means a document issued by the building official certifying that all facets of a development have complied with this chapter and the building code and that the land, building, or structures may lawfully be occupied for the purpose designated.

*Occupant* is any individual living or sleeping in a building, or having possession of a space within a building.

*Off-premises sign* means a sign not exceeding 300 square feet in area and which contains a message unrelated to a business or profession conducted or to a commodity, activity, service or entertainment carried on, sold or offered upon the premises where such sign is located.

*Official duties* or *official actions* are decisions, recommendations, approvals, disapprovals or other actions which involve the use of discretionary authority or the performance of ministerial duties required by law.

*Official zoning map* means the city map that is an integral part of this chapter illustrating the location of the various zoning use districts described in this chapter.

*On-premises sign* means a sign not exceeding 80 square feet in surface area, relating in its subject matter to the premises on which it is located, or its products, accommodations, services or activities on the premises.

*Open space* means the ground area and space above a lot which is open, unoccupied, and unobstructed by any structure or any part thereof.

*Open-space ratio* means the ratio between open space on a development site and the total site area.

*Open stand* means a public place alongside the curb of a street or elsewhere in the city which has been designated by the police chief as reserved exclusively for the use of taxicabs.

*Openable area* is that part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

*Operator* is any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

*Outlot*, when included within the boundary of a recorded plat, means a lot set aside for purposes other than a building site, park, or other land dedicated to public use or reserved for private use.

**State Law References:** Similar provisions, MCL 560.102(n).

*Owner* as applied to property, is any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian or conservator of the estate of any such person, and the personal representative of the estate of such person and includes any part owner, joint owner, tenant in common, tenant in partner ship, joint tenant or tenant by the entirety of the whole or part of such property. With respect to special assessments, however, the owner shall be considered to be the person appearing on the assessment roll for the purpose of giving notice and billing.

*Parade* means any parade, march, ceremony, show, exhibition, pageant or procession of any kind, or any similar display, in or upon any street, park or other public place in the city.

*Parcel* means a continuous area or acreage of land which can be described as provided for in the Michigan Land Division Act, 1967 PA 288, MCL 560.102, *et seq.* and article 3 of chapter 74 of this code.

*Park* means a parcel of land, building, or structures used for active or passive recreational purposes including playgrounds, sport fields, game courts, trails, picnicking areas and leisure time activities.

*Park trees* means trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.

*Parking lot* means an off-street, surface facility providing vehicular parking spaces for more than five vehicles along with adequate drives and aisles for maneuvering so as to provide for entrance and exit access.

*Parking space* means a clearly delineated land area exclusive of driveways and aisles, so prepared as to be usable for the parking of a motor vehicle, and so located as to be readily accessible to a public street or alley. A parking space may be located in a parking lot or a parking structure.

*Peddler* means any person, whether a resident of the city or not, or any firm, partnership, corporation, whether organized for profit or not, or other business entity, who travels by foot, wagon, cart, motor vehicle, or other conveyance, from place to place, and sells or offers for sale goods or services from a motor vehicle, wagon, trailer, railroad car, or other vehicle or conveyance, or from a cart, stand, booth, display case, or other temporary portable structure or fixture. The word "peddler" shall include "hawker" and "huckster" and shall include route salespersons selling randomly to customers along a fixed route, but not route salespersons supplying only prior customer orders.

*Performance guarantee* means a bond posted by a contractor or subcontractor that contains the financial guarantee of a surety that a specific project will be completed within the time and to the standards or specifications that have been agreed upon.

*Performance standard* means the general criteria to ensure that a particular structure, land use, or development will be able to meet certain minimum standards or will not exceed set limits for impact on the surrounding property or the surrounding areas.

*Person* means any individual, partnership, corporation, association, club, joint venture, estate, trust, limited liability company, governmental unit, and any other group or combination acting as a unit, and the individuals constituting such group or unit.

*Personal property* means any property other than real property.

*Personal services* means uses which include accountants, dentists, physicians, barbers, beauticians, attorneys and similar services.

*Plat* means a map or charge of a subdivision of land.

(1) *Preliminary plat* means a map showing the salient features of a proposed subdivision submitted to an approving agency for the purpose of preliminary consideration.

(2) *Final plat* means a map of all or part of a subdivision prepared and certified as to its accuracy by a registered professional civil engineer or registered land surveyor. The final plat map shall meet the requirements of the Land Division Act (MCL 560.101 et seq.) and be acceptable for recording in accordance with that or succeeding acts.

(3) *Replat* means the process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat. The legal dividing of an outlot within a recorded subdivision plat without changing the exterior boundaries of the outlot is not a replat.

*Pollution incident prevention plan (PIPP)* means a written procedure provided by an owner or his agent which will be followed to prevent a potentially polluting incident from resulting in soil or groundwater contamination.

*Portable sign* means a sign which by its description or nature may be or is intended to be moved from one location to another.

*Preexisting towers* and *preexisting antennas* mean any tower or antenna for which a building permit or special use permit has been properly issued prior to June 10, 2001.

*Pre-manufactured housing unit*. See "modular housing unit".

*Premises* is any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent public and private sidewalks and parking strips.

*Prime agricultural land* means land most efficiently suited to the production of forage, fiber, feed crops, and field crops. This land, due to inherent natural characteristics such as level topography, good drainage, adequate moisture supply, favorable soil depth and favorable soil texture, consistently produces the most feed, food and fiber with the least fertilizer, labor and energy requirements.

*Principal structure* means the main structure to which the premises is devoted.

*Principal use* means the main use to which a premises is devoted and the principal purpose for which the premises serves or is intended to serve.

*Private street* means a privately owned and maintained street or road constructed to municipal standards.

*Prohibited use* means a use which is not permitted within a particular zoning district.

*Proof of equitable title* means a recorded land contract agreement or recorded deed conveying to the purchaser interest in real estate and/or any assignments of the purchaser's interest therein.

*Property*. The term "property" means real and personal property.

*Proprietor* means a person, who may hold any ownership interest in land whether recorded or not.

*Public assembly building* means a structure, building or space, or a portion thereof used by the general public to view, hear or otherwise interact for the purposes of civic, social or religious functions, recreation, food or drink consumption or awaiting transportation.

*Public building* means buildings which house public safety and municipal services but do not serve as a residential facility.

*Public event facility* means a privately or publicly owned or operated facility that is used periodically for the holding of indoor or outdoor special events in which the public may participate or otherwise observe.

*Public open space* means land dedicated or reserved for public use. It includes parks, parkways, recreation areas, school sites, community or public building sites, and other public spaces.

*Public place* means any place to which the general public has access and a right to resort for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business, and also public grounds, areas or parks.

*Public utility* means any person or municipal authority providing such public utilities as gas, electricity, water, steam, telephone, sewer, transportation, and other services of a similar nature.

**State Law References:** Similar provisions, MCL 560.102(s).

*Public way* means any surface thoroughfare designed, constructed and maintained for passage to or from a place or between two points open as of right to the public and intended for travel by vehicle, on foot or in a manner limited by statute.

*Racetrack* means a facility licensed and operating under a track license issued pursuant to the Michigan Horse Racing Law of 1995, MCL 430.301 et seq.

*Racing theatre* means an enclosed facility licensed by the State of Michigan where patrons may view off-track telecasting of horse races and engage in off-track wagering on results of the telecast horse races.

*Rear lot line* is generally considered to be the line that is opposite from the front lot line and also farthest in distance from the front lot line.

*Rear yard* means an open, unoccupied space extending the full width of the lot between the rear line of the lot and the rear line of the principal building on the lot. (See figure 100-101 in ch. 100). The depth of the rear yard shall be measured at right angles to the rear property line.

*Refuse* means the following:

(1) All kitchen waste, including cans, bottles, household food, accumulations of animal food and vegetable matter attendant to the preparation, use, cooking and serving of food.

(2) General household trash and refuse, including ashes, empty cartons, crates, boxes, wrapping materials, newspapers and magazines, when neatly bound in conveniently sized bundles, cloth material, discarded toys, discarded clothing and similar materials.

*Refuse storage space* means any exterior space designated by a site plan for containers, structures, or other receptacles intended for temporary storage of solid waste refuse or trash materials.

*Rehabilitation* means the upgrading of an existing building or part thereof, which is in a dilapidated or substandard condition.

*Religious institution* means churches, synagogues, mosques, church schools, church residences, and church owned land used for related church functions as defined by the U.S. Tax Code.

*Resident* means one who has resided on a permanent basis in the city in excess of 60 days.

*Residential care facility* means a government or non-government establishment having as its principal function foster care for more than six persons. Residential care facility includes homeless persons, parolees, ex-offenders, aged, emotionally disturbed, developmentally disabled or physically handicapped persons who require supervision on an on-going basis but do not require continuous nursing care. A residential care facility does not include a nursing home, hospital, or facility for the developmentally disabled licensed by the state.

*Resolution.* The term "resolution" means a resolution adopted by the city council.

*Restaurant* means an establishment where food and/or beverages are cooked or prepared and offered for sale and consumed on the premises whether or not entertainment is offered, and includes establishments commonly known as bars, grills, cafes, taverns and nightclubs permitting consumption of food on the premises.

*Restoration* means the reconstruction or replication of an existing building's original architectural features.

*Right-of-way* means land reserved, used or to be used for a street, alley, walkway or other public purpose.

*Riot* means a public disturbance involving:

(1) An act of violence by one or more persons part of an assemblage of three or more persons, which act shall constitute a clear and present danger of or shall result in damage or injury to the property of any other person or to the person of any other individual; or

(2) A threat or the commission of an act of violence by one or more persons part of an assemblage of three or more persons having, individually or collectively, the ability of immediate execution of such threat, where the performance of the threatened act of violence would constitute a clear and present danger of or would result in damage or injury to the property of any other person or to the person of any other individual.

*Roadside stand* means a structure for the display and sale of agricultural/garden products, with no space for customers within the structure itself.

*Room* means an area of a dwelling unit used for living purposes, not including bathrooms, closets, kitchens, basements, cellars, or attics.

*Rooming house* means an owner occupied single-family dwelling, or a dwelling unit occupied by the owner in a two-family dwelling, occupied in such a manner that a room or certain rooms, in excess of those used and occupied as a home by the owner, are leased or rented as a rooming unit. In the case of single and two-family dwellings the number of such bedrooms leased or rented to roomers shall not exceed three, unless such dwellings are made to comply in all respects with the provisions of this code relating to multiple family dwellings.

*Rooming unit* means a single room within a rooming house that is leased or rented to adult persons not related to the owner by blood, marriage, or adoption without any attempt to provide cooking or kitchen accommodations within the rooming unit.

*Rubbish* means waste from construction or remodeling, concrete, rocks, sod, earth, automobile or truck parts, tires, manufacturing or trade waste accumulated by residential, commercial, individual or institutional uses and includes all other waste products not defined in this section.

*Salvage yard.* See "junk yard".

*Satellite dish antenna* means a device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. The antenna is intended to receive signals from orbiting satellites and other sources.

*Screen* means a fence, landscaping, berm, or combination thereof that obscures the view from one site to another.

*Secondhand store* means a building or portion thereof in which previously owned goods are sold.

*Setback* means the minimum horizontal distance between a road right-of-way line, an easement line, or an adjacent property line and a building or structure. In a condominium development, the minimum horizontal distance between a boundary line of the condominium lot and a building or structure.

*Setback line.* See "building line".

*Side yard* means an open, unoccupied space on the same lot with the principal building, between the side line of the principal building and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard. (See figure 100-101 in ch. 100). The width of the side yard shall be measured at right angles to the side property line.

*Sidewalk* means that portion of the street between the curb, or the lateral line of the roadway, and the adjacent property line, intended for the use of pedestrians.

*Sign* means a name, identification, description, display or illustration which is affixed to, or painted, or represented directly or indirectly upon a building, structure or piece of land, and which directs attention to an object, product, place, activity, person, institution, organization, or business and which is visible from any public street, right-of-way, sidewalk, alley, park or other public property.

*Sign area* means the area of the smallest square, rectangle or circle which encompasses the face of a sign, including the copy, insignia, background and borders. The structural supports of a sign are to be excluded in determining the surface area except where such supports are designed to form an integral part of the display. Where a sign has more than one face, the area shall be computed by encompassing the maximum single surface which is visible from any ground position.

*Sign, banner* means a sign made of fabric or any non-rigid material and generally with no enclosing framework, mounted at one or more edges to a pole, building, fence, wall or other structure.

*Sign, exempted* means a sign which is not required to obtain a sign permit, but must comply with all other provisions of chapter 58 of this code.

*Sign, freestanding* means any sign supported by uprights, braces, or a base placed and anchored into the ground and not attached to any building or other structure.

*Sign, marquee* means a sign which identifies the business and/or owner and which is attached to the fascia or underside of a legally established marquee, canopy or awning projecting from and supported by the building.

*Sign, off-premise* means a sign which contains a message unrelated to a business or profession conducted or to a commodity, activity, service or entertainment carried on, sold or offered upon the premises where such sign is located.

*Sign, on-premise* means a sign, relating in its subject matter to the premises on which it is located, or its products, accommodations, services or activities on the premises.

*Sign, portable* means a temporary sign which by its description or nature may be or is intended to be moved from one location to another.

*Sign, projecting* means a sign affixed at an angle or perpendicularly to a wall surface of any building or hung or suspended in such a manner as to be read from an angle or parallel to the wall surface on which it is mounted.

*Sign, reader board* means a portion of a sign on which copy is changed periodically either manually or electronically.

*Sign, real estate* means a temporary sign pertaining to the sale, rent, or lease of the premises, or portion of the premises, on which the sign is located.

*Sign, roof* means a sign which is located above, or projects above, the lowest point of the eaves, the roof line on a gable end wall, or parapet wall of any building, marquee, canopy or portico, or which is painted on or fastened to a roof, or onto any architectural feature intended to look like a roof.

*Sign, suspended* means a sign suspended from the underside of a horizontal plane surface and supported by such surface, usually a canopy, awning, portico, or marquee.

*Sign, temporary* means a display, information sign, banner, or other advertising device constructed of cloth, canvas, fabric, wood, or other temporary material with or without a structural frame and intended for a limited period of display; such signs may be supported by a mobile chassis other than a motor vehicle.

*Sign, wall* means any sign attached directly to a wall, or painted lettering on a wall or canopy parallel to a wall with the exposed face of the sign in a plane parallel to the wall and projecting not more than 18 inches from the wall surface to which it is affixed.

*Sign, window* means any sign, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window. Merchandise that is included in a window display shall not be considered as part of the area of a window sign. Flyers advertising charitable events or other similar announcements shall not constitute a window sign.

*Significant vegetation* means vegetation with a caliper of six inches or greater. (See "caliper").

*Single-family dwelling* means a detached building including a mobile home, containing one dwelling unit which complies with the building code and this chapter.

*Site condominium* means a development under the Michigan Condominium Act (MCL 559.10 et seq.) for uses permitted in the zoning district in which it is located, in which each co-owner owns in common with the other owners a specific amount of land space for common use, and in which each co-owner owns exclusive rights to an area of land space within which a structure or structures may be constructed, herein defined as a condominium unit, as described in the master deed.

*Site condominium subdivision project.* See "condominium project".

*Site plan* means and includes those documents and drawings required by article 7 of chapter 94 of the Mason City Code to ensure that a proposed land use or activity is in compliance with the Code of Ordinances of the City of Mason and state and federal statutes.

*Skateboard* means a device consisting of a short oblong board with wheels at each end intended to be ridden on a hard surface such as a floor or sidewalk.

*Solicitor* means any person, or any firm, partnership, profit or nonprofit corporation, or other business entity who travels by foot, motor vehicle, or other conveyance from place to place seeking to obtain orders for the purchase of goods, services or subscriptions for future delivery or performance, or who, without traveling from place to place, solicits from a motor vehicle or other conveyance or from a stand, cart, booth, or other temporary or portable structure or fixture, but not wholesalers or jobbers supplying only retail establishments.

*Solid waste* includes garbage, rubbish, paper, cardboard, metal, yard clippings, wood, glass, bedding, crockery, demolished building materials, ashes, incinerator ash, incinerator residue, street cleanings, municipal and industrial sludge, solid commercial and solid industrial waste, animal waste, but does not include human body waste, organic waste generated in the production of livestock and poultry, liquid or other waste regulated by statute, ferrous products, and slag or slag products.

*Special use* means a use that, owing to some special characteristics attendant to the operation of said use, such as potential danger, noise, smoke or traffic, is only permitted in a district subject to review and approval by the planning commission, and subject to special or conditional requirements in addition to the general requirements for the district in which the special use may be located.

*Special use permit* means a permit issued by the planning commission authorizing the operation of a special use as allowed under the regulations for special uses authorized by permit in the zoning district.

*Stable* means a building or facility with a capacity for housing more than four horses.

*Stable, riding* means a stable which provides recreational or instructional horseback riding or other equestrian skills to the public, including a riding academy.

*State.* The term "state" means the State of Michigan.

*State-licensed residential facility* means a structure constructed for residential purposes that is licensed by the state under the Adult Foster Care Licensing Act, 1979 PA 218 (MCL 400.7012 to 400.7137) or under 1973 PA 116 (MCL 722.111 to 722.128) and which provides residential services for six or fewer persons under 24-hour supervision or care.

*Story* means that portion of a building included between the surface of any floor and the surface of the adjacent floor above, or if there is no floor above, then the space between the floor and the ceiling above.

*Street* means a right-of-way dedicated to public use which provides vehicular access to adjacent properties, whether designated as a street, highway, thoroughfare, parkway, road, avenue, lane, or however otherwise designated, comprising all the land between right-of-way lines, whether improved or unimproved, and may include pavement, curbs, gutters, shoulders, sidewalks, parking areas, lawn areas, and other areas within the right-of-way lines.

(1) *Minor street* means a street supplementary to a secondary street or collector street intended to serve the local needs of the neighborhood and of limited continuity used primarily as access to abutting residential properties.

(2) *Cul-de-sac* means a minor street of short length having one end open to traffic and being permanently terminated at the other end by a vehicular turnaround.

(3) *Secondary or collector street* means a street intended to serve as a major means of access from minor streets to major thoroughfares with considerable continuity within the framework of the master street plan.

(4) *Major thoroughfare* means an arterial street of great continuity which is intended to serve as a large-volume trafficway for both the immediate municipal area and the region beyond, and be designated as a major thoroughfare on the master street plan.

(5) *Half street* means a street having lesser than the required right-of-way width for a street of full width as required by this article.

(6) *Marginal-access street* means a minor street parallel and adjacent to a major thoroughfare and which provides access to abutting properties and protection from through traffic.

*Street clock/temperature sign* means a sign which displays the current time or outdoor temperature or both and which is not larger than 16 square feet in surface area and projects no more than eight feet from the face of the building and is no less than eight feet above sidewalk level.

*Street trees* means trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the city.

*Structure* means anything constructed or erected the use of which requires location on the ground or attachment to something having location on the ground. A structure does not include a surface parking area, driveway, steps, patio or deck constructed at grade.

*Subdivide or subdivision* means the partitioning or splitting of a parcel or tract of land by the proprietor of the tract or by his heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that is not exempted from the platting requirements by Section 108 and 109 of the Land Division Act (MCL 560.108, 560.109). "Subdivide" or "subdivision" does not include a property transfer between two or more adjacent parcels if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the Land Division Act (MCL 560.101 et seq.) or the requirements of ordinance.

*Subdivider* means an individual, firm, association, syndicate, copartnership, corporation, trust or any other legal entity commencing proceedings under chapter 74, article II of this Code, to effect a subdivision of

land for himself or for another.

*Swimming pool* means a structure or container located either above or below grade designed to hold water to a depth of greater than 24 inches intended for swimming or bathing. A swimming pool shall be considered as an accessory structure.

*Taxicab* means a motor vehicle regularly engaged in the business of carrying passengers for hire, having a seating capacity of less than ten passengers and not operated on a fixed route.

*Taximeter* means a meter instrument or device attached to a taxicab which measures mechanically the distance driven and the waiting time upon which the fare is based.

*Tenant* is a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

*Thread of a stream* means the average centerline of the channel of a stream with the main current flow.

*Topographical map* means a map showing existing characteristics with contour lines at sufficient intervals to permit determination of proposed grades and drainage.

**State Law References:** Similar provisions, MCL 560.102(dd).

*Tower* means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio, and similar communication purposes, including self-supporting guyed towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

*Tract* means two or more parcels that share a common property line and are under the same ownership.

**State Law References:** Similar provisions, MCL 560.102(h).

*Transient merchant* means any natural person, or any firm, partnership, profit or nonprofit corporation, or any other business entity engaged in the retail sale or delivery of goods or services from any lot, premises, building, room or structure on a temporary basis where such person does not have a permanent business location within the city which is subject to the city's real or personal property taxes for the current year.

*Trash and rubbish* means any and all forms of debris not herein otherwise classified.

*Trash storage space.* See "refuse storage space".

*Travel trailer.* See "camper".

*Two-family dwelling* means a building containing two dwelling units which complies with the building code and this chapter.

*Usable floor area (UFA)* means the area used for or intended to be used for the display or sale of merchandise or services, or for use to serve patrons, clients, customers, or occupants. Such floor area which is used or intended to be used for hallways, stairways, elevator shafts, closets, columns, thickness of walls, utility or sanitary facilities shall be excluded from the computation of usable floor area. For office, merchandising, or service uses, those areas used for storage or processing merchandise or where customers, patients, clients and the general public are denied access shall be excluded from the computation of usable floor area. Measurement of usable floor area shall be the sum of the horizontal areas of each story of a structure measured from the internal faces of the exterior walls.

*Usable path for bicycles* means a bicycle way designated for the exclusive use of cyclists.

*Variance* means a modification of the area or dimensional regulations of chapter 94 granted in specific cases in accordance with article XI of chapter 94.

*Ventilation* is the natural or mechanical process of supplying conditions or unconditioned air to, or removing such air from, any space.

*Warehouse* means a building or portion thereof, other than a mini-warehouse, used for storage of goods, merchandise or other property. This shall not include a storage area in connection with a purely retail business when located on the same property.

*Watercourse* means any natural or artificial stream, ditch, river, creek, channel, canal, conduit, culvert, drain, waterway, gully or ravine in which water flows in a definite direction, either continuously or intermittently, and which has a definite bed channel or banks.

*Week* means seven consecutive days.

*Wetland* means an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, aquatic life or a prevalence of vegetation typically adapted for life in saturated soil conditions.

*Workmanlike* means, executed in a skilled manner; e.g. generally plumb, level, square, in line, undamaged and without marring adjacent work.

*Yard* is an open space on the same lot with a structure.

*Year* means 12 consecutive months.

*Zoning* means the dividing of the city into use districts of a number, type and shape considered best suited to the city.

*Zoning act* means 2006 PA 110, as amended, being the Michigan Zoning Enabling Act (MCL 125.3101, et seq.)

(Ord. No. 72, § 1, 6-5-1967; Ord. No. 73, § 5, 3-4-1968; Ord. No. 80, § 3, 7-6-1970; Ord. No. 87, § 2, 3-4-1974; Ord. No. 88, § 2, 3-18-1974; Ord. No. 97, § 1, 2-7-1977; Ord. No. 100, § 1, 10-3-1977; Ord. No. 101, § 9, 11-21-1977; Ord. No. 103, § 1, 6-19-1978; Ord. No. 72-A-82, § 1, 4-9-1982; Ord. No. 123, § 1, 12-17-1990; Ord. No. 51-A-96, § 2, 2-5-1996; Ord. No. 135, § 2(2.3), 5-21-2001; Ord. No. 145, 9-7-2004; Ord. No. 147, 6-6-2005; Ord. No. 148, 3-20-2006; Ord. No. 152, 5-1-2006 ; Ord. No. 156, 9-5-2006; Ord. No. 157, 11-6-2006; Ord. No. 158, 2-5-2007; Ord. No. 154, 5-7-2007; Ord. No. 159, 9-17-2007; Ord. No. 190, 7-2-2012)

**State Law References:** Definitions and rules of construction applicable to state statutes, MCL 8.3 et seq.

[Print](#)

## Mason, MI Code of Ordinances

## Chapter 50 PLANNING\*

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**\*Cross References:** Any ordinance adopting or amending the comprehensive plan saved from repeal, § 1-12(a)(14); any ordinance pertaining to zoning, including but not limited to the basic zoning ordinance and ordinances rezoning property, saved from repeal, § 1-12(a)(21); administration, ch. 2; buildings and building regulations, ch. 6; environment, ch. 22; floods, ch. 30; natural resources, ch. 38; signs, ch. 58; streets, sidewalks and other public places, ch. 70; subdivisions and other divisions of land, ch. 74; utilities, ch. 82; vegetation, ch. 86; zoning ch. 94.

**State Law References:** Municipal planning, MCL 125.31 et seq.

### Article I. In General

Secs. 50-1--50-30. Reserved.

### Article II. Planning Commission

- Sec. 50-31. Created.
- Sec. 50-32. Terms and qualifications.
- Sec. 50-33. Bylaws, meetings and records.
- Sec. 50-34. Expenditures.
- Sec. 50-35. Functions, duties, master plan.
- Sec. 50-36. Contents of master plan.
- Sec. 50-37. Functions and duties; zoning commission.
- Sec. 50-38. Functions, duties; capital improvements.
- Sec. 50-39. Subdivision review.
- Sec. 50-40. Annual report.

## ARTICLE I. IN GENERAL

**Secs. 50-1--50-30. Reserved.**

## ARTICLE II. PLANNING COMMISSION

For the purpose of cooperating with the governments of the United States and of the state and region, and to promote the comfort, convenience, health, safety, and general welfare of the city and its environs, a city planning commission is created with powers and duties as prescribed by the Michigan Planning Enabling Act, 2008 PA 33, which shall be designated and known as "The Mason Planning Commission." In general,

the planning commission shall have such lawful powers as may be necessary to enable it to promote local planning and otherwise carry out the purposes of the Michigan Planning Enabling Act, 2008 PA 33.

(Ord. No. 38-A-95, §§ 2, 3, 12-18-1995; Ord. No. 171, 5-4-2009)

**State Law References:** Authority to create planning commission, MCL 125.32.

### **Sec. 50-32. Terms and qualifications.**

The planning commission shall consist of nine members. Not less than eight members shall be qualified electors of the city. Eight members shall be appointed by the mayor with the approval of the city council. One member shall be selected from the city council by resolution of the council to serve ex officio. The membership of the commission shall be representative of important segments of the community, including agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the entire geography of the city. The term of each member shall be three years, except that the term of the ex officio member shall be stated in the resolution selecting said member, but the term shall not extend beyond the term of office for said member as member of the city council.

(Ord. No. 38-A-95, § 4, 12-18-1995; Ord. No. 38-A-98, § 1, 2-2-1998; Ord. No. 38-B-98, § 1, 9-8-1998; Ord. No. 143, 5-3-2004; Ord. No. 171, 5-4-2009)

**State Law References:** Similar provisions, MCL 125.33.

### **Sec. 50-33. Bylaws, meetings and records.**

The commission shall hold at least one regular meeting in each month. It shall keep a public record of its resolutions, transactions, findings and determinations as minutes in accordance with the Michigan Open Meetings Act, MCL 15.261 et seq. A writing prepared, owned, used, in the possession of, or retained by the planning commission in the performance of its official function shall be made available to the public in compliance with the Michigan Freedom of Information Act, MCL 15.231, et seq. The planning commission shall adopt bylaws for the transaction of its business.

(Ord. No. 38-A-95, § 5, 12-18-1995; Ord. No. 143, 5-3-2004; Ord. No. 171, 5-4-2009)

**State Law References:** Similar provisions, MCL 125.34.

### **Sec. 50-34. Expenditures.**

The expenditures of the planning commission, exclusive of gifts, shall be within the amounts appropriated for such purposes by the council.

(Ord. No. 38-A-95, § 6, 12-18-1995; Ord. No. 171, 5-4-2009)

**State Law References:** Similar provisions, MCL 125.35.

### **Sec. 50-35. Functions, duties, master plan.**

The planning commission shall make and approve a master plan as a guide for the development of the city, including any areas outside of its boundaries which in the commission's judgment bear relation to the planning of the city. In the preparation of a master plan, the planning commission shall do all of the following, as applicable:

- (1) Make careful and comprehensive surveys and studies of present conditions and future growth within the city with due regard to its relation to neighboring jurisdiction.
- (2) Consult with representatives of adjacent local units of government in respect to their planning so that conflicts in master plans and zoning may be avoided.
- (3) Cooperate with all departments of the state and federal governments and other public agencies concerned with programs for economic, social, and physical development within the city and seek the maximum coordination of the city's programs with these agencies.
- (4) In the preparation of the master plan, the planning commission may meet with other governmental planning commissions or agency staff to deliberate.
- (5) If an airport approach plan or airport layout plan has been filed with the planning commission by the airport manager, the planning commission shall incorporate the airport approach plan or airport layout plan into any amendments or revisions to the city master plan and shall receive and consider comments from the airport manager at or before a public hearing held to consider any amendment to the zoning ordinance or zoning use district map which affects property within the airport approach plan or airport layout plan filed with the city.
- (6) The planning commission may, by a majority vote of its members, adopt a sub-plan for a geographic area less than the entire city if, because of the unique physical characteristics of that area, more intense planning is necessary for the purposes set forth in section 50-31 and section 7 of the Michigan Planning Enabling Act, 2008 PA 33.

(Ord. No. 38-A-95, § 7, 12-18-1995; Ord. 157, 11-6-2006; Ord. 171, 5-4-2009)

**State Law References:** Similar provisions, MCL 125.36.

### **Sec. 50-36. Contents of master plan.**

A master plan shall address land use and infrastructure issues and may project 20 years or more into the future. A master plan shall include maps, plats, charts, and descriptive, explanatory, and other related matter and shall show the planning commission's recommendations for the physical development of the city. A master plan shall also include those of the following subjects that reasonably can be considered as pertinent to the future development of the city.

- (1) A land use plan that consists in part of a classification and allocation of land for agriculture, residences, commerce, industry, recreation, ways and grounds, public buildings, schools, soil conservation, forests, woodlots, open space, wildlife refuges, and other uses and purposes.
- (2) The general location, character, and extent of streets, railroads, airports, bicycle paths, pedestrian ways, bridges, waterways, and waterfront developments; sanitary sewers and water supply systems; facilities for flood prevention, drainage, pollution prevention, and maintenance of water levels; and public utilities and structures.
- (3) Recommendations as to the general character, extent, and layout of redevelopment or rehabilitation of blighted areas; and the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of streets, grounds, open spaces, buildings, utilities, or other facilities.
- (4) A zoning plan for various zoning districts controlling the height, area, bulk, location, and use of buildings and premises. The zoning plan shall include an explanation of how the land use categories on the future land use map relate to the districts on the zoning map.
- (5) Recommendations for implementing any of the master plan's proposals.

(6) If a master plan is or includes a master street plan, the means for implementing the master street plan in cooperation with the county road commission and the state transportation department shall be specified in the master street plan in a manner consistent with the respective powers and duties of and any written agreements between these entities and the city.

(Ord. No. 171, 5-4-2009)

#### **Sec. 50-37. Functions and duties; zoning commission.**

The planning commission shall have and exercise all those powers and duties of a zoning commission as provided by Article III of the Michigan Zoning Enabling Act, 2006 PA 110, and such other authority and duties as shall be detailed and set forth by law.

(Ord. No. 171, 5-4-2009)

#### **Sec. 50-38. Functions, duties; capital improvements.**

(a) *Construction of streets, squares, parks, public buildings, or other public way, ground, or open space.* A street; square, park, playground, public way, ground, or other open space; or public building or other structure shall not be constructed or authorized for construction in an area covered by the municipal master plan unless the location, character, and extent of the street, public way, open space, structure, or utility have been submitted to the planning commission by the city council or other body having jurisdiction over the authorization or financing of the project and has been approved by the planning commission. The planning commission shall submit its reasons for approval or disapproval to the body having jurisdiction. If the planning commission disapproves, the body having jurisdiction may overrule the planning commission by a vote of not less than two-thirds of its entire membership.

(b) *Rescission of authorization for opening, widening or extension of streets or acquisition or enlargement of park or other open space.* If the opening, widening, or extension of a street or the acquisition or enlargement of any square, park, playground, or other open space has been approved by the planning commission and authorized by the city council as provided above, the council shall not rescind its authorization unless the matter has been resubmitted to the planning commission and the rescission has been approved by the planning commission. The planning commission shall hold a public hearing on the matter. The planning commission shall submit its reasons for approval or disapproval of the rescission to the council. If the planning commission disapproves the rescission, the council may overrule the planning commission by a vote of not less than two-thirds of its entire membership. If the planning commission fails to act within 63 days after submission of the proposed rescission to the planning commission, the proposed rescission shall be considered to be approved by the planning commission.

(c) *Capital improvements program.* To further the desirable future development of the city under the master plan, the planning commission, after adoption of a master plan, shall annually prepare a capital improvements program of public structures and improvements. The capital improvements program shall show those public structures and improvements, in the general order of their priority, that in the commission's judgment will be needed or desirable and can be undertaken within the ensuing six-year period. The capital improvements program shall be based upon the requirements of the city for all types of public structures and improvements. Consequently, each agency or department of the city with authority for public structures or improvements shall upon request furnish the planning commission with lists, plans, and estimates of time and cost of those public structures and improvements.

(Ord. No. 171, 5-4-2009)

#### **Sec. 50-39. Subdivision review.**

(a) The planning commission may recommend to the city council provisions of an ordinance or rules governing the subdivision of land authorized under section 105 of the land division act, 1967 PA 288, MCL 560.105.

(b) Recommendations for a subdivision ordinance or rule may address plat design, including the proper arrangement of streets in relation to other existing or planned streets and to the master plan; adequate and convenient open spaces for traffic, utilities, access of firefighting apparatus, recreation, light, and air; and the avoidance of congestion of population, including minimum width and area of lots. The recommendations may also address the extent to which streets shall be graded and improved and to which water and sewer and other utility mains, piping, or other facilities shall be installed as a condition precedent to the approval of a plat.

(c) Before recommending an ordinance or rule described in subsection (a), the planning commission shall hold a public hearing on the proposed ordinance or rule. The planning commission shall give notice of the time and place of the public hearing not less than 15 days before the hearing by publication in a newspaper of general circulation within the city.

(d) The planning commission shall review and make recommendations on plats before action thereon by the city council under section 112 of the Land Division Act, 1967 PA 288, MCL 560.112.

(Ord. No. 171, 5-4-2009)

#### **Sec. 50-40. Annual report.**

The planning commission shall make an annual report to the city council concerning its operations and the status of planning activities, including recommendations regarding actions by the city council relating to planning and development.

(Ord. No. 171, 5-4-2009)

#### **Sec. 50-31. Created.**



## City Manager's Report: December 17, 2020

### COVID-19 UPDATES

- City Hall will be closed to the public until at least January 11, 2021 to limit exposure to staff. The Customer Service line is answered Monday - Friday, 8:00 a.m. to 5:00 p.m.
- Please see the Continuity of Operations document, as of December 7, 2020, available: [here](#).
- Please see the COVID-19 Preparedness and Response Plan, as of December 9, 2020 available: [here](#).
- Vaccine Deployment: We are working closely with partners at the Ingham County Health Department regarding vaccine deployment for eligible employees. It is likely we will begin vaccinating first responders in January. The City's current position is that vaccination will be voluntary. These vaccinations will be staggered to allow for recovery time for those with reactions.
- Virtual Public Meetings:
  - At the [July 6, 2020](#) meeting, City Council agreed to meet electronically as long as legally permitted or until Council determines otherwise.
  - Effective December 31, 2020, the current legislation restricts the ability to meet virtually unless there is a declared State of Emergency. Currently, the City falls under the Emergency Order declared by Ingham County that expires on January 31, 2021. This allows the City to meet virtually until that time with no additional action.
  - As the date of this report, it is likely that legislation will be passed to allow the continuing of meeting virtually for no reason until the end of March. As long as certain gathering restrictions are in place, the City's public meetings will be required to meet virtually. If gathering restrictions are lifted prior to March 31, the Council would need to make a motion to direct staff to meet in person. Otherwise, if the legislation passes, the City would only be able to meet virtually until March 31, 2021.

### ACTIVE PROJECTS STATUS UPDATES (PROJECTS NOT COORDINATED BY THE CITY)

Project Name	Status
<b>BUILDING PERMITS – COMMERCIAL PROJECTS UNDER CITY REVIEW</b>	
118 W. Oak St. – Arcade/Nail Salon <b>PENDING</b>	Two permits pending. 1. Change of Occupancy permit has been filed for Nail Tech in small office space. 2. Change of Occupancy permit has been filed to proceed with opening of the Arcade on the first floor only.
205 S. Cedar - DSN <b>PENDING</b>	Two building permits pending for this address. Both filed after code enforcement violations were noted. 1. Sign permit. 2. Installing door on front of building.
624 S. Cedar – EXIT Realty <b>PENDING</b>	Building permits pending to install illuminated sign on building and for a change in occupancy (former daycare to office).
790 E. Columbia <b>PENDING</b>	Building permit is pending for interior renovations.
124-136 W. Ash St. <b>ACTIVE</b>	Building permit active for 2 <sup>nd</sup> story interior renovations and replacement of all 2 <sup>nd</sup> story windows.
202 N. Mason St. – Doberman Technologies <b>ACTIVE</b>	Building permit is active for demolition of 3 residential structures. A temporary fence will be installed to prevent anyone from using the space.
204 N. Cedar – Westside Deli <b>ACTIVE</b>	Building permit is active for tear off and re-roof of building.
230 S. Cedar – Outpost <b>ACTIVE</b>	Building permit is active for change of occupancy of commercial space from laundromat to tack shop.
230 Temple St. – Sparrow <b>ACTIVE</b>	Building permit is active for tear off and re-roof of building.
600 Buhl – Ingham Animal Control <b>ACTIVE</b>	Building permit is active to construct a 14' x 24' pre-fabricated mini-barn.

700 Buhl – Ingham County Justice Complex <b>ACTIVE</b>	Second Permit is active for demolition of part of the building. Building permit is active for interior remodeling of existing storage facility to accommodate relocation of vehicle maintenance function. Part of a phased construction project for the new Ingham County Justice Complex.
1154 S. Jefferson – (former Hart Well Drilling) <b>ACTIVE</b>	Building permit is active for demolition of building, removal of debris, and restoration of disturbed areas.
1155 Temple St. – Paul Davis Restoration <b>ACTIVE</b>	Building permit is active for the construction of a new 22,500 square foot building that will be used as warehouse and office space.
525 N. Cedar- Timeless Treasures <b>TEMPORARY OCCUPANCY PERMIT</b>	Remaining work includes the installation of landscaping, repairs to parking lot lighting, and a site plan revision if they intend to include the outdoor flea market.
549 W. Ash- Dog Groomer <b>TEMPORARY OCCUPANCY PERMIT</b>	Staff is working with owner on a revised parking plan to address safety requirements and pre-existing, non-conforming layout. <i>Parking updates have been delayed until spring.</i>
301 Bush – Ingham County <b>COMPLETED</b>	Final inspection was approved for tear off and re-roof of building.
700 Buhl – Ingham 911 <b>COMPLETED</b>	Final inspection was approved for installation of antennas, microwave dishes and associated mounts on existing tower. Install unmanned equipment shelter.
1133 S. Cedar – MSU Federal CU <b>COMPLETED</b>	Final inspection was approved for interior renovations.
<b>BUILDING PERMITS – DANGEROUS BUILDINGS/FIRE RESTORATION</b>	
S. Jefferson – Private Residence <b>PENDING</b>	Building permit is pending after accident.
665 Hull Rd. – Cleanlites Recycling <b>PENDING</b>	Building permit is pending after fire; a second fire occurred on December 15, 2020 that caused significant damage to the facility. Owner has not determined how they will move forward at this point.
Private Residence – Park St. <b>PENDING</b>	Building permit is pending after fire.
111 Mason St. – Mason Depot <b>ACTIVE</b>	Building permit is active for reconstruction after fire.
<b>ZONING</b>	
840 E. Columbia St. – Masonic Lodge <b>PENDING</b>	Administrative Site Plan Application is being reviewed for changes to the parking lot for one-way traffic, and the addition of a new driveway to accommodate drop-off at the entrance to building where a new elevator is to be installed.

## OPERATIONS

- On December 9, 2020, "Tamarack" was officially adopted as a Police K9 from the Ingham County Animal Control and Shelter. Director Heidi Williams was instrumental in facilitating the opportunity for the City. The K-9 Handler selection process will begin after the first of the year. Until that selection is complete, Tamarack is being boarded at a facility recommended by Mid- Michigan Police K9. Tamarack and a student handler will be enrolled in a Police K9 School in Spring 2021. The City of Mason is very appreciative for all the support from the Mason Community and welcomes to Tamarack to our team!
- City Hall operations will be closed between Christmas and New Year's, as in previous years to allow our employees to spend time with their families. This continues to be one of our most appreciated benefits and after this stressful year, it is even more deserved. Essential operations will continue and members of our leadership team will be available to respond to any urgent issues.
- No Senior Without Christmas – On December 9, 2020, our police and fire teams delivered (29) packages to seniors in Mason as part of the Annual "No Senior without Christmas". This is an event put on by TRIAD, a partnership between law enforcement, fire agencies, senior citizens and community members.

## Staffing Updates:

- Internal Open Position – Part-time Permit Administration Specialist (Community Development) position was posted internally and closed Wednesday, December 16, 2020.
- Open Position – Seasonal Crossing Guard position posted and is open until filled.

**LARGE CITY PROJECTS**

<b>FY 2019-2020</b>			
<b>Project</b>	<b>Project Name/Description</b>	<b>Status</b>	<b>Completed</b>
<b>UTILITIES: SANITARY SEWER, STORM WATER, AND WATER DISTRIBUTION (U)</b>			
<b>2017-U11</b>	Turbine Aeration Blower at POTW	Estimated time of arrival of April 2021.	
<b>FY 2020-2021</b>			
<b>Project</b>	<b>Project Name/Description</b>	<b>Status</b>	<b>Completed</b>
<b>STREETS, SIDEWALKS, SIGNALS(S)</b>			
<b>2017-S17</b>	Center Street-Walnut St to N. Bush St	Completed	October
<b>2017-S18</b>	Brookdale St- W. South St to Willow St	Completed	August
<b>2017-S19 2020-U2</b>	Cherry- McRoberts St to Henderson St	Completed	October
<b>2017-S21</b>	Eaton Drive- All	Completed	June
<b>2017-S22</b>	W. Elm St- McRoberts St to Lansing St	Completed	October
<b>2019-S9a</b>	E. Maple– S. Jefferson to S. Barnes	Completed	June
<b>2019-S9b</b>	Signal at E. Maple & S. Jefferson	Delayed traffic study due to COVID-19.	
<b>2019-S5a</b>	Henderson Street– Entire length	Completed	October
<b>2019-S5b</b>	Alley- W. Columbia to W. Sycamore	Completed	October
<b>2018-S1</b>	Temple Street Pedestrian Crossing	Confirming with MPS, still priority project.	
<b>UTILITIES: SANITARY SEWER, STORM WATER, AND WATER DISTRIBUTION (U)</b>			
<b>2017-U8</b>	Replace PLCs on 3 Wells	Anticipated start date Spring of 2021	
<b>2017-U23</b>	Well No. 6 Rebuild	Anticipated start date Spring of 2021	
<b>2017-U25</b>	Gutters for Water Treatment Plant	Approved; expected to begin January 2021	
<b>2018-U32</b>	South Water Tower Repair	Staff reviewing report from Dixon Engineering	
<b>2019-U1</b>	Wastewater Treatment Plant - Design	Staff is drafting Request for Proposal for work.	
<b>2019-U4</b>	Study - Wastewater Solids System	Staff is drafting Request for Proposal for work.	
<b>PARKS/ CEMETERY/ FORESTRY/ NONMOTORIZED (P)</b>			
<b>2017-P8</b>	Laylin Park - Phase II	Anticipated start date Spring of 2021	
<b>2020-P2</b>	Columbia St Bridge Ped. Crossing Design	Anticipated Spring of 2021	
<b>2020-P5</b>	Jefferson St – RR Pedestrian Crossing	Feb Construction Meeting; start Spring 2021	
<b>2020-P6</b>	Lee Austin Park- Plan/Design	Staff is drafting Request for Proposal for work.	
<b>2020-P7</b>	Non- Motorized Prog: NE Quadrant	Completed	October
<b>2020-P8</b>	Rayner Park- Master Park Plan	Staff is drafting Request for Proposal for work.	
<b>MOTOR VEHICLE POOL (MVP)</b>			
<b>2017-MVP15</b>	Vehicle No. 16 Replacement	Anticipated purchase Spring of 2021	
<b>2017-MVP16</b>	Mower No. 77 Replacement	Anticipated purchase Spring of 2021	
<b>2017-MVP17</b>	Vehicle No. 85 Replacement	Vehicle ordered; expected Spring 2021	
<b>2017-MVP20</b>	Vehicle No. 18 Replacement	Anticipated purchase Spring of 2021	
<b>2017-MVP21</b>	Mower No. 66 Replacement	Anticipated purchase Spring of 2021	
<b>2017-MVP29</b>	Mower No. 69 Replacement	Anticipated purchase Spring of 2021	
<b>2018-MVP1</b>	Vehicle No. 22 Replacement	Anticipated purchase Spring of 2021	
<b>BUILDING, PROPERTY, EQUIPMENT (B)</b>			
<b>2017-B12</b>	IT New Servers	Anticipated start date Spring of 2021	
<b>2017-B17</b>	Fire SCBA units	Anticipated purchase Spring of 2021	
<b>2018-B14</b>	Fire Rehab 815 Replacement	Anticipated purchase Spring of 2021	

<b>2018-B22</b>	Police Body Worn Cameras	Approved; Order has been placed	
<b>2018-B23</b>	Masterplan/Zoning Update	Staff is drafting Request for Proposal for work	
<b>2019-B16b</b>	Election Tabulator Machines	Completed	October
<b>2019-B2a</b>	City Hall - Phase I Design and Security	Security approved. Design is still pending.	
<b>2020-B4a</b>	DPW- Design	Staff is working on refining design.	