



Michigan State University Extension  
Land Use Series

# # 1O:<sup>1</sup> Sample Joint Planning Commission Ordinance and Agreement

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Following is a sample of an Ordinance and Agreement that can be adopted by legislative bodies wishing to create a joint planning commission in Michigan. This sample is based on Public Act 226 of 2003, as amended, (being the Joint Municipal Planning Act, M.C.L. 125.131 *et seq.*), and recommendations of the author and reviewers of this pamphlet.

The Joint Municipal Planning Act is a statute, that provides for any two or more Michigan local governments – municipalities – to get together to create a single planning commission. As used here “municipalities” means a city(ies), village(s), and township(s). It does not include a county(ies). The joint planning commission can be created to have jurisdiction for:

- All of the territory of two or more participating municipalities
- Selected territory within two or more participating municipalities (such as around a lake, along a highway corridor, or some other feature held in common by two or more local governments).

The joint planning commission can be created to have powers and duties which include any one or combination of the following for the territory or jurisdiction:

- Joint planning (creation of a single joint master plan)
- Joint zoning ordinance and administration
- Joint capital improvement program (CIP)
- Infrastructure reviews
- Joint subdivision (and other land division) ordinance, regulation, and reviews.
- Joint planning and zoning coordination activities with neighboring planning commissions and county planning commissions.
- Other powers and duties that a municipal planning commission may have (such as hiring staff, receiving grants or gifts, and so on).

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*“Thirty seven million acres is  
all the Michigan we will ever have”*  
William G. Milliken

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<sup>1</sup> Number one (1) and letter “o” (oh).

This is a fact sheet developed by experts on the topic(s) covered within MSU Extension. Its intent and use is to assist Michigan communities making public policy decisions on these issues. This work refers to university-based peer reviewed research, when available and conclusive, and based on the parameters of the law as it relates to the topic(s) in Michigan. This document is written for use in Michigan and is based only on Michigan law and statute. One should not assume the concepts and rules for zoning or other regulation by Michigan municipalities and counties apply in other states. In most cases they do not. This is not original research or a study proposing new findings or conclusions.

The joint planning commission can be set up to emulate the procedural operation of a city/village planning commission or a township planning commission or a township planning commission organized under the old Municipal Planning Act. Also, the joint planning commission can be set up to emulate the procedural operation of zoning as though it is a city/village zoning system or a township zoning system.

One of the major characteristics of the Joint Municipal Planning Act is that there is flexibility in the different ways a joint planning commission can be set up. The number of ways a Joint Commission can be composed is almost infinite. This is a strength, because the intent is to provide a group of municipalities the maximum amount of flexibility to work out a system that best suits each municipality and accommodates a greater chance of communities working together to form a Joint Commission. There is flexibility in the appointment of joint planning commission members. For example: which members come from which municipalities, if they are elected or appointed by the legislative body of the municipalities, whether there are staggered terms or not, and the number of years of term of office.

Similarly, there is flexibility to determine how the costs of the joint planning commission are shared between the participating municipalities.

Finally, there are provisions to accommodate an additional municipality to join with the joint planning commission after it has been created and for a participating municipality to withdraw from an existing joint planning commission. There are also provisions for the transition from existing planning commissions to the newly formed joint planning commission.

Creation of a joint planning commission is a two-step process. The first step is to negotiate the terms of the agreement. This is where the broad flexibility can be valuable. The second step is for each municipality to adopt an ordinance which adopts the negotiated agreement. The sample provided in this flyer incorporates the terms of the agreement into the ordinance that may be adopted by participating municipalities. One benefit of doing it this way is that if the participants decide to modify the agreement in the future, they will be reminded that any change to the agreement, like its original adoption, must be accomplished by ordinance.

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## Why Create a Joint Planning Commission?

There are many reasons to consider creating a joint planning commission. The main reason is that the best and most effective way for planning to be successful is for the planning activity to take place for the same geography as the issue being addressed. For example, if watershed protection is the issue, then the best planning approach is to do planning for the entire watershed. That often is not the same territory as

a municipality's political boundaries. Likewise, if the main issue is the economy, or a city/village hinterland, then the best planning approach is to do planning for the entire labor market area or the city/village hinterland. That often is not the same territory as encompassed by any one municipality's political boundaries.

Thinking and planning for larger geographic areas than that of one municipality is increasingly important for the global New Economy –increasingly seen as vital for Michigan's economic recovery. Benefits of a joint planning commission can include:

- Planning at the same scale as the issue at hand (watershed, lake, hinterland, labor market area, river corridor, highway development corridor, and so on).
- A strategy to move toward the global New Economy, and aid Michigan's economic recovery within the local region.
- Economies of scale resulting in cost savings by sharing the costs of planning and zoning activities among two or more municipalities.
- Efficiency of scale resulting in a volume of activity and business where the joint planning commission, and support staff, become better and more proficient, where higher skilled people and consultants can be attracted to do work for the area.
- Benefit of a public image of local governments cooperating and working together.

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## Help

Michigan State University Extension can assist with sample materials, providing meeting facilitation services and otherwise coordinating efforts to create a joint planning commission involving Michigan municipalities. This assistance could also be provided by professional planning consultant firms. This option is especially appropriate if two or more of the jurisdictions is already working with a single firm. Assistance by an intermediary could be the difference between success and failure, as a neutral party can serve as the coordinator and buffer as each jurisdiction works through the challenges of creating a joint planning commission

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## Important Notes

This sample is not designed as a substitute for reading and understanding the Michigan Planning Enabling Act (MCL 125.3801 *et seq.*), Michigan Zoning Enabling Act (MCL 125.3101 *et seq.*), and the Joint Municipal Planning Act. This outline is not a substitute for legal advice or for professional planning services.

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

The following is offered as sample ordinance or ordinance amendment language. It is intended as a starting point for a community to use when considering this issue.

This is a sample, meaning that it is not a definitive recommendation by the authors or MSU Extension. A sample is a starting point for discussion and development of an ordinance, ordinance amendment that is appropriate for a particular community. Conversely a model ordinance, or amendment, would be presented as the ideal or utopia intended as a recommended approach. This is not a model ordinance, or

ordinance amendment. That means any numerical standard offered in the sample is just a starting point for discussion. Often there is already discussion about the standard in the commentary which is intended to provide a community with information to decide what the numerical standard should be for a particular community.

This document is written for use in Michigan and is based only on Michigan law and statute. One should not assume the concepts and rules for an ordinance or zoning by Michigan municipalities and counties apply in other states. In most cases they do not.

This document is written for use in Michigan and is based only on Michigan law and statute. One should not assume the concepts and rules for ordinance or other regulation by Michigan municipalities applies in other states. In most cases they do not.

**If the ordinance is adopted by a township:** The ordinance needs to be adopted according to statute requirement for ordinance adoption by a township (MCL 41.181 *et seq.*).

**If the ordinance is adopted by a general law village:** The ordinance needs to be adopted according to statute requirement for ordinance adoption by a general law village (MCL 67.1 *et seq.*).

**If the ordinance is adopted by a home rule village:** The ordinance needs to be adopted according to both statute requirement for ordinance adoption by a home rule village (MCL 78.1 *et seq.*) and any further requirements found in the village charter.

**If the ordinance is adopted by a home rule city:** The ordinance needs to be adopted according to statute requirement for ordinance adoption by a home rule city (MCL 117.3 *et seq.*) and any further requirements found in the city charter.

**If the ordinance is to be adopted by a county:** A county cannot be a participant in a joint planning commission, A county would not have any role in this process.

There are many different ways for an ordinance to deal with the issues outlined here. The sample provided here is just one. It is written with the assumption municipality's attorney who is experienced in municipal law will review any proposed ordinance or amendments before they are adopted.

The following sample Ordinance and Agreement incorporates and constitutes an agreement to create a joint planning commission in Michigan. This sample attempts to cover most needs that may occur. Before adoption it should be reviewed, and selections should be made in sections which present choices. Sections which are not pertinent should be omitted. Text which appears in brackets ( [ ] ) should be replaced with the specific name, number, date, as indicated. Material in a commentary box, includes additional discussion and alternatives to consider.

Following is the sample ordinance with commentary.

**Joint Planning Commission Ordinance and Agreement**

[City/village/township] **of** [Name of Municipality]

**Ordinance No. \_\_\_\_**

**Ordinance and Agreement to Establish the**

[Name] **Joint Planning Commission**

AN ORDINANCE AND AGREEMENT TO APPROVE AN AGREEMENT ESTABLISHING THE [name] JOINT PLANNING COMMISSION CONSISTING OF [list participating municipalities]; TO SET FORTH THE TERMS OF SAID AGREEMENT AND TO SERVE AS THE AGREEMENT; TO TRANSFER ALL THE POWERS AND DUTIES OF A PLANNING COMMISSION UNDER THE MICHIGAN PLANNING ACT, 2008 PA 33 (MCL 125.3801 *ET SEQ.*) TO THE [name] JOINT PLANNING COMMISSION; TO TRANSFER ALL OF THE POWERS AND DUTIES OF A ZONING BOARD OR A ZONING COMMISSION UNDER THE MICHIGAN ZONING ENABLING ACT, 2006 PA 110 (MCL 125.3101 *ET SEQ.*) TO THE [name] JOINT PLANNING COMMISSION; TO DESCRIBE THE JURISDICTIONAL AREA OF THE [name] JOINT PLANNING COMMISSION; AND TO COMPLY WITH THE PROVISIONS OF 2003 PA 226 (MCL 125.133 *ET SEQ.*);

**THE** [City/Village/Township] **OF** [name] **HEREBY ORDAINS:**

**Section 1. Approval of Agreement; Purpose.**

Pursuant to the authority of 2003 PA 226 [MCL 125.133] the [City/Village/Township] of [name] hereby approves an agreement with [names of other participating municipalities] to form a joint planning commission for the purpose of cooperating on joint planning and joint zoning for the participating municipalities; to act jointly in these matters so as to coordinate said activities in the respective municipalities; in order to avoid duplicative efforts and duplicative expenditures of funds; and to plan and regulate land use in a larger geographic area; to better manage valuable public resources; to foster collaborative efforts in land use programs in order to preserve natural resources; to ensure that land uses are situated in appropriate locations and relationships; to limit inappropriate overcrowding of land and congestion of population; 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.

The terms and conditions of the agreement between the participating municipalities are set forth in Sections 2 through 15 herein.

**Section 2. Name.**

The joint planning commission established by the Agreement shall be referred to as the "[name] Joint Planning Commission," (hereinafter, the "Joint Commission.")

**Section 3. Jurisdictional Territory of the Joint Commission.**

The jurisdictional area of the Joint Commission shall comprise all of that area within the corporate limits of the [City(ies)/Village(s)/Township(s)] of [name municipalities].

**Commentary on Section 3. jurisdictional territory:** If only a portion of an area of a participating municipality is going to be included in the jurisdictional area of the joint commission, that area needs to be described. For example: “All of the area within the corporate limits of ABC Township except for the area in sections \_ and \_; or except for the area south of \_\_\_ and east of \_\_\_.”

Some communities may consider excluding lands under another jurisdiction, tribal lands. However, one should plan and zone for all the area in the jurisdiction, regardless if it currently comes under local zoning jurisdiction or not. If in the future those lands transfer to other ownership as does happen from time to time, the community then has territory that is then not subject to zoning or planning at all. Certain state-owned land is subject to zoning, even if it is state owned. [End of commentary]

#### Section 4. Powers and Duties

**Commentary on Section 4:** The participating municipalities can agree to have the Joint Commission do just planning, just zoning, or both planning and zoning. This sample Ordinance and Agreement assumes the parties want the Joint Commission to do both planning and zoning.

Likewise, the participating municipalities can agree to have the Joint Commission also exercise a planning commission's duties under the Michigan Planning Enabling Act with respect capital improvement programs, infrastructure reviews and subdivision review. If these responsibilities are not assigned to the Joint Commission, each municipality will have to decide who is going to perform that function in that municipality. This sample Ordinance and Agreement assumes that those functions will also be performed by the Joint Commission. [End of commentary]

**Commentary on Section 4.A., planning Powers and duties:** Since the procedures under the MPEA may vary depending on whether a municipality fits under one of the above categories, when you have more than one municipality, to avoid a conflict in the governing procedures, you must choose which category you want to govern for the Joint Commission.

Additional Note: In deciding which option to choose, you need to make an analysis of the differences between the different categories. For example, a village or city can plan for certain areas outside of the jurisdiction, but a township cannot. There could be other differences. [End of commentary]

- A. Planning powers and duties. Pursuant to 2003 PA 226 (MCL 125.135(2)) all the powers and duties of a planning commission under the Michigan Planning Enabling Act, 2008 PA 33 (MCL 125.380 *et seq.*) ("MPEA") are hereby transferred, effective immediately upon adoption of this Ordinance and Agreement, to the Joint Commission, and the Joint Commission shall have the sole power and duty under the Michigan Planning Enabling Act (MPEA) to develop a joint master plan with respect to the jurisdictional area of the Joint Commission. In exercising this power and duty the Joint Commission shall follow the procedures of:

[Choose one a designation of which of these 3 categories of municipalities' powers, duties, and procedures will be applicable to the joint planning commission.]

1. a township that on September 1, 2008 had a planning commission created under former 1931 PA 285.

[or]

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1. a township that on September 1, 2008, had a planning commission created under former 1959 PA 168.

[or]

1. a city or village that on September 1, 2008 had a planning commission created under former 1931 PA 285.]

Further, any joint master plan developed and adopted by the Joint Commission shall be subject to review and approval by the legislative bodies of the participating municipalities.

**Commentary on last sentence of Section 4.A. Joint Master Plan Review:** Note: This last sentence is optional, and only required if the legislative bodies wish to retain the right to approve the master plan. Otherwise, the final approval belongs to the Joint Commission.

Additional Note: The members may decide to include less than all of the duties of a planning commission under the MPEA. For example, a planning commission also has certain powers and duties with respect to the capital improvement plans, infrastructure reviews, and subdivision reviews. The agreement needs to state if all of these powers and duties are to be assumed by the Joint Commission or which, if any, are to be retained by the member municipalities. If it is not done by the Joint Commission, then this Ordinance and Agreement needs to specify who does have that duty, or other documentation by the respective municipality needs to specify how those additional duties are done. [End of commentary]

- B. Zoning powers and duties. Pursuant to 2003 PA 226 (MCL 125.135(2)) all the powers and duties of a zoning commission or a planning commission under the Michigan Zoning Enabling Act, 2006 PA 110 (MCL 125.3101 *et seq.*) ("MZEA") are hereby transferred, effective immediately upon adoption of this Ordinance and Agreement, to the Joint Commission, and the Joint Commission shall have the sole power and duty under the MZEA to develop a joint zoning ordinance with respect to the jurisdictional area of the Joint Commission which shall be submitted for approval to the participating municipalities. In exercising this power and duty the Joint Commission shall follow the procedures of the MZEA which are applicable to:

[Choose one]

1. a city or a village.

[or]

1. a township.

**Commentary on Section 4.B., zoning powers and duties:** Since the procedures under the MZEA may vary depending on whether a municipality is a city, a village or a township, to avoid a conflict in the governing procedures, you must choose which category you want to govern zoning procedures for the Joint Commission. Whichever entity is selected, there must be at least one such entity among the participating municipalities.

Additional Note: This provision is optional. You are not required to transfer the zoning powers and duties to the Joint Commission. Those powers and duties can be retained by a municipality. In making the decision as to which unit of government to emulate, you must analyze the differences between the different units. For example,

- A joint commission set up to emulate a township is subject to county planning review of zoning amendments unless the county board has waived that process.

- A joint commission set up to emulate a village/city does not have county review of zoning amendments.
  - A joint commission set up to emulate a township has voter referendum for adoption or amendment of all or part of zoning.
  - A joint commission set up to emulate a village/city has Protest petition (abutter's challenge) process for adoption or amendment of all or part of zoning.
  - A joint commission set up to emulate a township cannot have use variances.
  - A joint commission set up to emulate a village/city has the option to have use variances or not.
- There may be additional differences. [End of commentary]

C. A proposed amendment to the joint zoning ordinance is submitted by the Joint Planning Commission for approval to all participating municipalities.

1. The submittal shall include:

- a. a summary of the public and joint commission comments received at the public hearing,
- b. the proposed amendment, and
- c. any amended zoning maps), each of the participating municipalities shall:

2. After receiving the recommended zoning amendment, each of the participating municipalities, at a regular meeting or at a special meeting called for the purpose, shall consider and act on the recommendation(s) within 60 (sixty) days of the date the Joint Commission submits its recommendation. Amendment(s) shall be approved by the affirmative vote of a majority of the participating municipalities, provided however that if an amendment:

- a. proposes to rezone a parcel or parcels of land; or,
- b. proposes an amendment altering the purposes, uses or other regulation of a land use district by means of an amendment to a provision of Articles 20 to 79 (sections 2001 to 7999) of this Ordinance;

then all of the participating municipality or municipalities in which the lands to be rezoned are located, or in which the land use district whose purposes, uses or other regulations are proposed to be changed is located must vote in the affirmative for such an amendment to be adopted or adopted with modification(s).

3. Participating municipalities shall not make a change or departure from the proposed text of an amendment and/or rezoning (including map amendment), as recommended by the Joint Commission, unless the proposed change or departure is first submitted back to the Joint Commission. The Joint Commission shall have thirty (30) days from receipt of the proposed change or departure to review it and send its second recommendation to the participating municipalities. If the proposed change or departure is found by the Joint Commission not to comply with the Master Plan or other formal adopted plan, then further action to adopt the amendment shall cease until the Master Plan or other formal adopted plan(s) upon which this Ordinance is based, is first or simultaneously amended so the Joint Commission can find that the proposed amendment complies with the relevant plan(s). Upon receiving a second recommendation for adoption from the Joint Commission, the amendment may be adopted by a majority of the participating municipalities, stated in subsection 2, above.

**Commentary on 4.C, Procedure to amend a Joint Planning Commission Zoning Ordinance**

Article and Sections describing land use districts and regulations. Article numbering used here follow Organization and Codification of a Zoning Ordinance:

[https://www.canr.msu.edu/resources/organization\\_and\\_codification\\_of\\_a\\_zoning\\_ordinance](https://www.canr.msu.edu/resources/organization_and_codification_of_a_zoning_ordinance).

If the joint planning commission consists of a larger number of participating municipalities there could be a problem with obtaining adoption by each of the legislative bodies. One joint planning commission's experience was a proposed amendment did not get adopted because one or more legislative body simply took no action at all.

This language requires amendment(s) are approved by an affirmative vote of a majority of the participating municipalities. But the municipality's action must take place within 60 days. If the municipality does not act within 60 days that is deemed to be an approval, or an abstention.

If the amendment proposes to rezone land from one zoning district to another, or proposes to change any text of a zoning district then the municipality where the rezoning or modified zoning district text is located must vote in the affirmative for the amendment to be adopted. But if the municipality does not act within 60 days that is deemed to be an approval, or an abstention.

(Note, the proper motion for a legislative body to consider in these situations is always a motion to adopt the proposed amendment. A "nay" vote on that motion is a vote against adoption. The proposed amendment is rejected if the motion to adopt fails. It is not proper to have a motion "to reject." It is not proper to have a motion "to do nothing." If a legislative body wants to do nothing, then it simply does not do anything. [Imagine a motion and vote to do thing that fails: what would that even mean?] A motion to "adopt or reject" is not a proper motion as it asks the members to vote in a fashion other than a "yea" or "nay" vote.)

See Appendix C. (page 31) for corresponding amendment text in the joint zoning ordinance for this.

Text on Appendix C. and the text in this Section 4.C. should not be used, if this is not wanted.  
[End of commentary]

- D. Capital Improvement Review (Public Project Review). The Joint Commission shall be responsible for the review and approval function of public projects as provided in sections 61 and 62 of the Michigan Planning Enabling Act [MCL 125.3861; 125.3862]

**Commentary on Section 4.D., Capital Improvement Review:**

Assigning these duties to the Joint Commission is optional, but if not assigned to the Joint Commission, the participating municipalities will have to retain its planning commission in order to perform this function.

Additional Note: this is another area which is impacted by your selection under section 4(a), above, because the Michigan Planning Enabling Act provides for an override of a planning commission decision to disapprove a public project. The vote of the legislative body needed to overrule such disapproval is  $\frac{2}{3}$  for a city, a village, or a township organized under former 1931 PA 285. For all other townships, a simple majority vote of the legislative body is necessary to overrule the Joint Commission's disapproval of a public project.

Additional Note: You can also provide that any override would be up to the legislative body or bodies in which the public project is located; or, alternatively, if the project affects the entire

Joint Commission's jurisdictional area, by any one, or only by all of the legislative bodies. [End of commentary]

- E. Capital Improvements Program. The Joint Commission shall be responsible for the preparation of a capital improvements program for the Joint Commission's jurisdictional area as provided for in section 65 of the Michigan Planning Enabling Act (MCL 125.3865).

**Commentary on Section 4.E. Capital Improvement Program:**

Assigning the Capital Improvement Program (CIP) duties to the Joint Commission is optional, but if not assigned to the Joint Commission, the participating municipalities will have to each assume CIP responsibilities on their own. If CIP is not done by the Joint Commission, then this Ordinance and Agreement needs to specify who does have that duty, pursuant to section 65 of the Michigan Planning Enabling Act.

Additional Note: this is another area which is impacted by your selection under section 4(a), above, because the Michigan Planning Enabling Act provides that the preparation and adoption of a CIP is mandatory for a county, city, village, and a township if the township, alone or jointly with one or more other government(s), owns or operates a water supply or sewage disposal system. If there is such a water supply or sewage disposal system located in and owned by only one participating municipality, it is recommend that the Joint Commission be authorized to prepare and approve a CIP, or at least is actively engaged in the process of preparing a CIP. [End of commentary]

- F. Subdivision Review. The Joint Commission shall be responsible for the recommendation of a subdivision ordinance and approval of subdivision plats as provided for in section 71 of the Michigan Planning Enabling Act (MCL 125.3871).

- G. Zoning board of appeals. The joint zoning ordinance adopted pursuant to this Agreement that zoning ordinance shall

[Chose one:]

provide for a joint zoning board of appeals as created pursuant to the joint zoning ordinance,

[or]

shall provide for a zoning board of appeals for each member municipality.

**Commentary on Section 4.G., Zoning Board of Appeals:**

This provision is optional. The Agreement may provide for a joint zoning board of appeals, but that is not required. If there is one ZBA, then the issue if use variances are to be considered or not also needs to be resolved. The participating municipalities may agree to retain individual ZBAs. [End of commentary]

- H. Administration. This Agreement provides for a joint planning department with staff consisting of one or more individual(s) whom perform the duties of a planning director, planner, zoning administrator, and enforcement officer in the name of the municipality where the violation occurred. These positions may be full or part time, and may be combined together as one job or separate jobs, as deemed necessary from time to time by the joint planning commission and within budgetary appropriations and other funds available to it for such purposes.

1. At a minimum the Joint Commission shall hire a planning director who shall be under the supervision and control of the Joint Commission, or its designee, if any, as specified in the Joint Commission bylaws.

2. Only the Joint Commission may hire or fire the planning director.
3. The management of other staff, if any, including any with planner, zoning administrator, and enforcement officer duties shall be supervised by the planning director.

**Commentary on Section 4.H., Administration:**

This provision is optional. The Agreement may provide for a joint zoning administrator, but that is not required. The participating municipalities may agree to retain individual zoning administrators and retain authority to hire, fire, evaluate their staff that provides services to the Joint Planning Commission. For example, one municipality may have staff already. So, this agreement could create an agreement where the other participating municipalities contribute to the costs of that staff, and the municipality with staff continues to be the employer in all respects. Regardless of which staffing system is used a single zoning administrator and other staff will help ensure uniform application of the joint zoning ordinance throughout the joint jurisdictional area. When staff is hired by one municipality, but does work for the Joint Commission another option to consider may include: The management of planning staff, if any, including any zoning administration staff, if any, shall be supervised by the county planner.

- i. The joint commission shall manage and direct the planning director for purposes of prioritization of projects, planning and zoning policy, planning, annual work plan, subdivision review, capital improvement program and reviews, other matters of business which come before or are assigned to the joint commission, developing a joint commission budget, and evaluation of performance in these areas.
- ii. The management of the planning director shall be under the general supervision and control of the governmental unit employing the planning director, or its designee, for purposes of being the sole employer, including but not limited to payroll, benefits, department head administrative and managerial duties, non-joint commission budget, and compliance with the employee policies and evaluation of performance in these areas.
- iii. The management of the planning director shall be under the general supervision and control of the governmental unit employing the planning director, or its designee, who shall have exclusive authority to hire or fire the planning director.
- iv. The governmental unit, and its designee, shall carry out its general supervision of the planning director with full consultation with the Joint Commission which shall be afforded the opportunity to consult on any planning staff management decision. [End of commentary]

- I. Professional services. The Joint Commission shall, within budgetary appropriations and other funds available to it for such purposes, have the authority to retain the services of such planning, legal, and other professional consultants as it deems necessary.

**Commentary on Section 4.I., Professional services:**

This is optional, but some provision should be made so that the Joint Commission can have access to appropriate and consistent professional services when necessary. [End of commentary]

**Section 5. Composition of the Joint Commission.**

- A. Composition. The Joint Commission shall be comprised of [\_\_number\_\_] members as provided in this Ordinance and Agreement. [\_\_Specify how many members are appointed by each participating municipality \_\_].

**Commentary on Section 5.A., Composition:**

If an odd number of members is desired, specify who gets to appoint the extra member and whether the right to do so rotates among the other municipalities. See examples below. These are only examples; the number of ways a Joint Commission can be composed is almost infinite. The intent is to provide the group of municipalities the maximum amount of flexibility to work out a system that best suits each municipality and accommodates a greater chance of communities working together to form a Joint Commission.

Example 1: The Township Board of the Township of ABC shall appoint three (3) members, and the Township Board of the Township of XYZ shall appoint three (3) members.

Example 2: The Township Board of the Township of ABC shall appoint three (3) members, and the Township Board of the Township of XYZ shall appoint four (4) members.

Example 3: The Township Board of the Township of ABC shall appoint three (3) members, and the Township Board of the Township of XYZ shall appoint three (3) members. The seventh member of the Joint Commission shall be appointed by the participating municipalities on a rotating basis with the Township of ABC initially appointing the seventh member to serve a term of [\_number\_] years. Thereafter, the Township Board of the Township of XYZ shall appoint the seventh member to serve a term of [\_number\_] years, after which the appointment of the seventh member shall rotate between the participating municipalities for equal [\_number\_] year terms. [End of commentary]

**Commentary on Section 5.A., Alternates:**

While the act permits the appointment of alternates in MCL 125.135(a), having alternates is not required, and not recommended. [End of commentary]

- B. Continuation of Service. Regular members shall continue to serve until their replacement is appointed and assumes the duties of his or her position on the Joint Commission. When a member serves on a case involving a site plan approval, special land use permit request, planned unit development which is not a zoning amendment for a specific property, such member shall continue to serve in said case until a final decision is made, even if said member's term has expired.

**Commentary on Section 5.B., Continuation of Service:**

You are not required to have members serve beyond their term until a replacement is appointed and assumes the duties of the office. You can, for instance provide that a member does not continue to serve beyond the expiration of the member's term. You run the risk in that situation, however, of having a vacant seat if the new member is not appointed in a timely fashion. Likewise, you run the risk of losing continuity if a new member takes over in the middle of an ongoing site plan approval or special land use permit proceeding. If a regular member is not replaced immediately and there is an alternate member, the alternate could sit in until a regular member is appointed and takes office. [End of commentary]

**Section 6. Terms and Qualifications of Office**

- A. Residence. All members of the Joint Commission shall reside within the jurisdictional area of the Joint Commission as defined in this Ordinance and Agreement. If a member changes his or her

residence to another location within the jurisdictional area of the Joint Commission municipality but outside of the municipality from which that member was appointed, that member may complete the appointed term but would not be eligible for re-appointment from his or her original jurisdiction.

**Commentary on Section 6.A., Residence:**

Where the participating municipalities include a township and a village located within that township, they may want to add the following requirement (but they are not required to): "Members appointed by the Township shall reside in the township outside the corporate limits of the Village, and members appointed by the Village shall reside within the corporate limits of the Village."

Additional Note: The act also provides for the possibility of election of Joint Commission members, (MCL 125.135(b)). We do not, however, recommend that option for several reasons, some of which are:

- Elections are costly and time consuming;
- Elections bring politics into play;
- Zoning is not a popularity contest and elections are;
- Planning and zoning decisions should be based on legal, not political considerations and failure to adhere to that principle can result in costly litigation. [End of commentary]

B. Terms. The initial members of the Joint Commission appointed by each participating municipality shall be appointed for staggered terms with one third of the members appointed to a three-year term, and one third of the members appointed to a two-year term, and one third of the members appointed to a one-year term. After the initial terms, all appointed members shall serve for terms of three years ending on [\_date\_] of the applicable year. Initially the first appointed terms shall be:

1. One-year term ending [\_date\_] for representatives of [\_list municipalities\_];
2. Two-year term ending [\_date\_] for representatives of [\_list municipalities\_];
3. Three-year term ending [\_date\_] for representatives of [\_list municipalities\_];

**Commentary on Section 6.B., Terms:**

The act does not require staggered terms for Joint Commission members (M.C.L. 125.136(b)), but we believe staggered terms are a good idea for the following reasons:

- It's easier to replace 1 or 2 members at a time as opposed to the entire panel;
- Staggered terms help assure more continuity in the Joint Commission's decisions and actions;
- Staggered terms avoid undesirable wholesale changes in membership for political reasons;
- Staggered terms provide for a more orderly flow and transition from old to new members, helping to insure the retention of an experienced commission

This sample uses three-year terms of office. In creating a Joint Commission one may choose to have a term of office with a different length of time. When Planning Commissions were first created in Michigan the term of office was three years, and township board and county board terms of office were two years -so members of planning commissions served 1.5 times longer than the elected body which appointed them. In the 1980s township boards of trustees' terms of office were changed from two to four years, but the planning commission terms were never adjusted. [End of commentary]

- C. Existing Planning Commission Members. Each of the members originally appointed to the Joint Commission by a participating municipality shall be members of the municipality's existing planning commission if one exists and such member is willing to except appointment to the Joint Commission.

**Commentary on Section 6.C., Existing Planning Commission Members:**

This section is optional. [End of commentary]

**Commentary on Section 6.D., Interests Represented:**

The section 5.d. has two examples presented on the following pages. The Municipal Joint Planning Act, MCL 125.131 *et seq.* does not require the representation of "important segments", but the Michigan Planning Enabling Act (MCL 125.3815(3)) does. The language on the following pages follows the "important segments" representation concept from the Michigan Planning Enabling Act as a starting point for discussion.

The different ways membership for a joint planning commission can be set up is almost infinite. Thinking about this part should not be limited to only what is presented here. [End of commentary]

**Commentary A.** Use this sample for a joint planning commission that has relatively small population, where there may be a challenge to find people to serve. [End of commentary]

- D. Interests Represented. The membership shall be representative of the important segments of the community, such as the economic, governmental, educational, and social development of the jurisdiction of the Joint Commission, in accordance with the major interests as they exist in the jurisdiction of the Joint Commission, as follows:

**Commentary, Representation**

One will need to review what the specific "major interests" are in the community. The task is picking from the list provided here (including additional "major interests" which might also be considered.)

The Ordinance and Agreement should specify the actual "major interests" chosen and assign each one (or two, or three) to one of the seats held by members of the Joint Commission, so that changing the list of "major interests" and seat assignments requires amending the Ordinance and Agreement.

The text here, is relatively general and provides an unstructured appointment process, and likely best suited for a small rural township. However, a more structured approach may be desired. If that is the case, consider the approach recommended on page 15. [End of commentary]

1. Agriculture;
2. Natural resources;
3. Recreation;
4. Education;
5. Public health;
6. Government;
7. Transportation;
8. Industry;
9. Commerce;
10. [\_\_other\_\_] \_\_\_\_\_.

The membership shall also be representative of the entire geography of the jurisdiction of the Joint Commission to the extent practicable, and as a secondary consideration to the representation of the major interests.

**Commentary B.** Use this sample for a Joint Commission for an area with a large population, where it is probably to have memberships able to represent specialized “major interests”. [End of commentary]

D. **Interests Represented.** The membership shall be representative of the important geographic and interest segments of the of jurisdiction of the Joint Commission, as follows.

**Commentary, Representation**

One will need to review what the specific “major interests” are in the community. The task is picking from the list provided here (including additional “major interests” which might also be considered.)

The list includes:

1. Agriculture;
2. Natural resources;
3. Recreation;
4. Education;
5. Public health;
6. Government;
7. Transportation;
8. Industry;
9. Commerce;
10. other \_\_\_\_\_.

The Ordinance and Agreement shall specify the actual “major interests” chosen and assign each one (or two, or three) to one of the seats held by members of the joint commission, so that changing the list of “major interests” and seat assignments requires amending the Ordinance and Agreement.

The Ordinance and Agreement text here, is relatively detailed, and provides a very formal system of appointment, and is likely best suited for a area with a larger population. However a more informal/less structured approach may be desired if the community is very rural and small in population (less than10,000). If that is the case consider the approach recommended on page 14. [End of commentary]

1. One citizen at-large member representing interests of the jurisdiction of the Joint Commission shall be appointed for a three-year term of office, or remainder of an unexpired term of office who meet the following conditions:
  - c. shall be appointed from names submitted in response to advertisements in a newspaper with paid circulation in jurisdiction of the Joint Commission, and;
  - d. shall not hold any elected office or employment position in any member municipality other than by virtue of membership on the Joint Commission.

2. One citizen member representing the environmental interests of jurisdiction of the Joint Commission shall be appointed for a three-year term of office, or remainder of an unexpired term of office, who meet the following conditions:
  - a. shall be a member in good standing of one of the non-profit corporation(s) with their corporate office in jurisdiction of the Joint Commission whose bonafide purpose is to be an environmental organization; and
  - b. shall be appointed from names nominated by non-profit corporations with their corporate offices within jurisdiction of the Joint Commission whose bonafide purpose is to be environmental organizations; and
  - c. shall not hold any elected office or employment position in any member municipality other than by virtue of membership on the Joint Commission.
3. One citizen member representing the agricultural, forestry, land use interests of jurisdiction of the Joint Commission shall be appointed for a three-year term of office, or remainder of an unexpired term of office, who meet the following conditions:
  - a. shall be
    - i. a member of the County Conservation District Board, or
    - ii. a member of the board of the local Chapter of Farm Bureau, or
    - iii. a professional forester with his or her business office in the jurisdiction of the Joint Commission, or
    - iv. an employee of the United States Forest Service, or Michigan Department of Natural Resources; and
  - b. shall be appointed from names nominated by the County Conservation District Board, County Chapter of Farm Bureau, the United States Forest Service, Michigan Department of Natural Resources, professional foresters in the jurisdiction of the Joint Commission; and
  - c. shall not hold any elected office or employment position in a participating municipality other than by virtue of membership on the Joint Commission.
4. One citizen member representing the governmental municipal interests of the jurisdiction of the Joint Commission shall be appointed for a three-year term of office, or remainder of an unexpired term of office, who meets the following conditions:
  - a. shall be appointed from names nominated by the Chapter of the Michigan Townships Association; and
  - b. shall not hold any elected office or employment position in a participating municipality other than by virtue of membership on the Joint Commission.
5. One citizen member representing the educational interests of the jurisdiction of the Joint Commission shall be appointed for a three year term of office, or remainder of an unexpired term of office, or an initial two year term of office, who meets the following conditions:
  - a. shall be appointed from names nominated by school district board(s) of education included, in whole or in part, within the jurisdiction of the Joint Commission; and
  - b. shall be a member of a public school board or an administrative employee of a school district included, in whole or in part, within the jurisdiction of the Joint Commission; and
  - c. shall not hold any elected office or employment position in a participating municipality other than by virtue of membership on the Joint Commission.

6. One member representing recreational and tourist interests of the jurisdiction of the Joint Commission shall be appointed for a three-year term of office, or remainder of an unexpired term of office, who meets the following conditions:
  - a. shall be:
    - i. a) a member of the board for a Visitor and Convention Bureau whose corporate office is in the jurisdiction of the Joint Commission, or
    - ii. b) who shall be a member in good standing of one of the non-profit corporations with its corporate office in the jurisdiction of the Joint Commission whose bonafide purpose is to be a tourist promotion organization; and
  - b. shall be appointed from names nominated by Visitor and Convention Bureaus whose corporate offices are in the jurisdiction of the Joint Commission or a non-profit corporations with their corporate offices in the jurisdiction of the Joint Commission whose bonafide purpose is to be a tourist promotion organization; and
  - c. shall not hold any elected office or employment position in a participating municipality other than by virtue of membership on the Joint Commission.
7. One citizen member representing the industrial and economic interests of the jurisdiction of the Joint Commission shall be appointed for a three-year term of office, or remainder of an unexpired term of office, who meets the following conditions:
  - a. shall be a member in good standing of one of a non-profit corporations with its corporate office in the jurisdiction of the Joint Commission , or a County funded agency, whose bonafide purpose is to promote business, commerce, and industry in the county; and
  - b. shall be appointed from names nominated by non-profit corporations with their corporate office in the County whose bonafide purpose is to promote business, commerce and industry in the county; and
  - c. shall not hold any elected office or employment position in a participating municipality other than by virtue of membership on the Joint Commission.
8. One member representing the transportation and communication interests of the jurisdiction of the Joint Commission shall be appointed for a three-year term of office, or remainder of an unexpired term of office, who meets the following conditions:
  - a. who shall be appointed from names nominated by the County Board of Road Commissioners.
9. One member representing sanitation, environmental health, housing, and human services interests of the jurisdiction of the Joint Commission shall be appointed for a three year term of office, or remainder of an unexpired term of office, who meets the following conditions:
  - a. shall be
    - i. an employee of the environmental health division of the public health department, or district, which has jurisdiction in the County, or
    - ii. a member of a county housing commission or county-wide housing organization, or
    - iii. a member in good standing of a county-wide human services coordination organization;
    - iv. and
  - b. who shall be appointed from names nominated by the environmental health division of the public health department, or district, which has jurisdiction in the County, the housing commission, a housing organization, and a human services coordination organization.
10. One member shall be a member of the participating municipality legislative body.

**Commentary:** The samples for membership (Section 6.d.) ends here. The sample Ordinance and Agreement continues from this point. [End of commentary]

- E. Continuing Education. When funds are budgeted or otherwise available for such purposes, appointed members of the Joint Commission shall in their first year of being appointed to the Joint Commission attend no less than 16 hours, and annually thereafter attend no less than 6 hours of education programs designed for training members of Michigan planning commissions. Nothing in this paragraph shall prevent a member who has not had training from finishing his or her term of office unless the member resigns or is otherwise removed by as provided by law. Unless the appointing municipality finds that such member has special skills desired for service on the Joint Commission, a member who fails to attend any training made available shall be ineligible for re-appointment at the conclusion of his or her term.

Training programs which qualify to meet this requirement shall be those designed to maintain or increase the skill level of planning commission members in the area of planning, zoning and/or the law relative thereto and shall include:

1. educational programs presented by established educational institutions such as universities, colleges, or community colleges and MSU Extension;
2. educational programs presented by an established association of governmental units or governmental officials, such as the Michigan Townships Association, the Michigan Municipal League or the Michigan Association of Municipal Attorneys;
3. educational programs presented by experienced planning and/or legal consultants, or associations thereof, such as the Michigan Association of Planners or the Michigan Bar Association.

The Joint Commission and joint appeals board may add additional requirements for training, such as number of hours, sources, and other requirements in its bylaws.

**Commentary for Section 6.E., Continuing Education:**

This provision is optional but recommended. The number of hours of training is given as an example. The actual number specified in this Ordinance and Agreement should take into account both needed training and available budget that is anticipated for training. [End of commentary]

**Section 7. Removal from Office; Vacancies.**

A. Removal.

1. The Joint Commission may request the removal of one of its members by submitting a written request to the appointing municipality. A member may also be removed and replaced upon the initiative of the appointing municipality. Only the legislative body of the municipality which appointed the member may remove such member.
2. A member of the Joint Commission may be removed for cause from office by the appointing municipality following written notice and a public hearing. "Cause" shall include, but not be limited to: performance, conduct or behavior that adversely affects the orderly or efficient operation of the Joint Commission. Examples of performance, conduct or behaviors that constitute "cause" for purposes of this provision include but are not limited to the following:
  - a. Conduct constituting a material breach of this Agreement;
  - b. Violation of established by-laws, rules, regulations and policies, whether written or oral, including conduct violating provisions regarding conflicts of interest;

- c. [\_number\_] unexcused absences from Joint Commission meetings;
- d. Conviction of any felony or misdemeanors involving a violation of his or her oath of office or Code of Conduct set forth in the Joint Commission's bylaws;
- e. Removal of residency from the Joint Commission jurisdictional area; and/or
- f. Any other situation which constitutes misfeasance, malfeasance, or nonfeasance in office, as provided by law.

**Commentary on Section 7.A., Removal:**

The provision providing for removal by the appointing authority upon the request of the Joint Commission or upon its own initiative mirrors what is found in the Michigan Planning Enabling Act and the Michigan Zoning Enabling Act. There may, however, be other options to consider for how removal from the Joint Commission is handled.

Additional Note: The act does not require a Code of Conduct, but it is recommended that the Joint Commission consider adopting one. A Code of Conduct can be a free-standing document and referenced in the Joint Commission's bylaws or it can be included in the bylaws. For a sample of a Code of Conduct, see Land Use Series: "Sample #8: Planning Commission and Zoning Board of Appeals Code of Conduct":

<http://web5.msue.msu.edu/lu/pamphlet/Bclsam/pamphlet1B%20PlanComm%20Ordinance.pdf>

[End of commentary]

- B. Vacancies. The office of a member becomes vacant when the member dies, resigns, is convicted of any felony or of a misdemeanor involving a violation of his or her oath of office, or the Joint Commission's Code of Conduct, is removed by the appointing municipality for cause, or ceases to be a resident of the jurisdictional area of the Joint Commission. If a vacancy occurs, the vacancy shall be filled for the balance of the unexpired term by an appointment made by the legislative body representing the jurisdiction of the vacancy.

**Section 8. Organization and Procedures.**

- A. Officers. At its first meeting of each calendar year, the Joint Commission shall elect a chairperson, vice chairperson, and secretary from its members and appoint such other officers as may be provided for in its bylaws. The term of each officer shall be 1 year, with opportunity for reelection as specified in the Joint Commission's bylaws.

**Commentary on Section 8.A., Officers:**

You can change the date for election of officers, but it should be the same date for each year (i.e., "first meeting in June," etc.) You may also want to require that the officer positions be spread among the various participating municipalities. Consider, for example, the following: "Each officer selected shall represent a different participating municipality, with no more than two (2) officers from the same participating municipality." You may also want to limit the years a single person can hold a specific office. For example, "No person shall serve more than [\_number\_] consecutive years in the same office." [End of commentary]

- B. Bylaws. The Joint Commission shall adopt bylaws, which shall include a Code of Conduct, for the transaction of its business, and shall keep a public record of its resolutions, transactions, findings, and determinations.

**Commentary on Section 8.B., Bylaws:**

The Joint Planning Act does not specifically require that the Joint Commission adopt bylaws, but the Michigan Planning Enabling Act requires that of other planning commissions and those “duties” under the MPEA are transferred to the Joint Commission by MCL 125.137. [End of commentary]

- C. Committees. The Planning Commission may appoint committees of its own membership or whose members may not necessarily members of the Joint Commission as provided for in its bylaws. Any committee shall be subservient to the joint Commission, and any committee action subject to veto by the Joint Commission.
- D. Annual Report. No later than the first day of [\_month\_] of each year, the Joint Commission shall submit an annual written report concerning its operations and the status of planning and zoning activities to the legislative body of to each of the participating municipalities. Said report shall also include a report of activities for the current year, a work program and a budget request for the coming year. The report may also make recommendations to the legislative body of any or all of the participating municipalities regarding planning, zoning, and development. The legislative bodies of all the participating municipalities may approve or disapprove the budget pursuant to section 9 of this Ordinance and Agreement.

**Commentary on Section 8.D., Annual Report:**

The Joint Planning Act does not require that the Joint Commission prepare and submit such an annual report, but the Michigan Planning Act requires that of other planning commissions and those "duties" under the MPEA are transferred to the Joint Commission by MCL 125.137. [End of commentary]

- E. Meetings. The Joint Commission shall hold not less than 4 regular meetings each year. The time and place of the meetings shall be established by resolution. Unless the bylaws provide otherwise, a special meeting of the Joint 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 Joint Commission members not less than 48 hours before the meeting.

**Commentary on Section 8.E., Meetings:**

The Joint Planning Act does not require that the Joint Commission to meet a minimum of four times per year, but the Michigan Planning Act requires that of other planning commissions and those “duties” under the MPEA are transferred to the Joint Commission by MCL 125.137. [End of commentary]

- F. Open Meetings Act. The business that the Joint Commission may perform shall be conducted at public meetings 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.
- G. Freedom of Information Act. A document prepared, owned, used, in the possession of, or retained by the Joint Commission and any staff members in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, 1976 PA442, and MCL 15.231 to 15.246.

**Section 9. Operating Budget.**

- A. The Joint Commission's office shall be established from time-to-time in the Joint Commission's bylaws and shall be the office of record. For the first year [\_name of municipality\_] shall provide the office of record. If at all possible, the individual office(s) shall include an ability to lock the door, receive

U.S. Mail, have a telephone, have high-speed Internet, and have outside sign(s) identifying the location of the office.

- B. The Joint Commission shall be funded by the participating municipalities on an annual basis. At the time of adoption of the annual budget, the Joint Commission shall designate one of its participating municipalities to serve as the fiduciary municipality. For the first year [\_name of municipality\_] shall be the fiduciary. The responsibilities of the fiduciary municipality shall include accounting for the funds, assets, and serving the role of the employer of record for staff of the Joint Commission. Funds shall be jointly held in an account by the fiduciary municipality which is funded by all of the participating municipalities in proportion to their required contributions; however payment for authorized goods, services and expenses drawn from said account shall be approved by the Joint Commission. The duly elected officers of the Joint Commission shall have access to the account for the purposes stated herein. Funds shall be jointly held by all of the participating municipalities in proportion to their required contributions. Payment for goods, services and per diem member fees drawn from said account shall be approved by the Joint Commission.
- C. The Joint Commission shall establish an annual budget, which requires the approval of all of the participating municipalities. Approval of the budget by each municipality shall be granted no later than [\_date\_]. Each municipality shall transfer its share of the funds necessary for the operating budget to the fiduciary municipality no later than the first day of the fiscal year of the Joint Commission. The fiscal year shall be [\_date\_] to [\_date\_].
- D. Each year, funding for the annual budget shall be proportionally divided among the participating municipalities as follows:
- E. \_ [\_insert formula for funding Joint Planning Commission\_]

**Commentary on Section 9, Operating Budget:** Here is where you set forth the formula agreed upon for funding the Joint Planning Commission. That formula could be an equal 50:50 ratio, or some other ratio, such as  $\frac{1}{3}$  and  $\frac{2}{3}$ . It can also be a formula based on some comparative factor such as population, acreage, State Equalized Value, Taxable Value, total tax revenue collected, or it could be a combination of such factors. [End of commentary]

- F. In the event a municipality does not timely (section 9.d.) pay its full Participating Municipality Share, as reflected in the approved budget, the Joint Commission may proceed to take one or more of the following actions:
  - 1. Increase zoning permit fees, and other fees, for services in that municipality so that the funds collected during the fiscal year are anticipated to equal the amount of that municipality's Participating Municipality Share, as reflected in the budget, that was not paid, provided, however, that the fee for any one permit or service may not exceed the total of all costs for providing that permit or service.
  - 2. Stop issuing permits or providing any other services in that municipality, including zoning enforcement.
  - 3. The that municipality right of the Joint Commission member from to make motions, second motions, vote, or otherwise participate as a member of the Joint Commission shall be suspended during the period(s) its full Participating Municipality Share, as reflected in the budget, remains unpaid.
  - 4. Start the procedure for permanently withdrawing that municipality from the Joint Commission pursuant to Section 11.

## Section 10. Procedure for Joining the Joint Commission

**Commentary on Section 10, Procedure for Joining the Joint Commission:**

The parties may agree on a different method for accepting or rejecting new members. For example, they may want to provide for:

- Majority vote of participating municipalities in order to reject or accept a new member,
- Super majority (e.g., 2/3) vote of participating municipalities in order to reject or accept a new member,
- Cost sharing for updating the master plan and zoning ordinance (and CIP, subdivision/land division ordinance etc.)
- Not allow additional members.
- And any number of additional possibilities.[End of commentary]

- A. The original participating members of this Agreement are those that have adopted this Ordinance and Agreement on or before [date] and have provided a certified copy of the Ordinance and Agreement and appointment of their member to the Joint Commission by [date].
- B. After [date] a city, village, or township may file a written request with the legislative body of each participating municipality requesting permission to become a participating municipality in the Joint Commission. Such written request shall include a certified copy of a resolution adopted by the requesting municipality's legislative body supporting such request. A copy of such request shall be submitted to the Joint Commission for review and recommendation to the legislative body of each participating municipality.
- C. After receiving the Joint Commission's recommendation, each participating municipality shall vote to accept or reject the request to join. If both participating municipalities vote to accept the request to join, then the Joint Commission will develop and present recommendations concerning any revisions of this Agreement to the participating municipalities. Upon the revision of this Agreement by a duly enacted ordinance adopted by each participating municipality and the requesting municipality, the requesting municipality shall become a participating municipality.
- D. The requesting municipality shall bear the entire cost of revising the Ordinance and Agreement, and all cost of updating a Joint Commission's master plan and joint zoning ordinance then in effect, and any other ordinances or documents then in effect. If either of the participating municipalities votes to reject the request to join, then the request shall be denied, and no further action will be taken. The Joint Commission shall provide written notice of its decision to the requesting municipality.
- E. If a municipality requests and is not accepted to join the Joint Commission that municipality may apply again after one year.

**Section 11. Procedure for Withdrawing from the Joint Commission; Removal of Municipality**

- A. A participating municipality shall have the right to withdraw from the Joint Commission only upon completion of the following conditions:
  - 1. The withdrawing municipality shall have paid its proportional share of any and all obligations of the Joint Commission to the end of the current budget year, including the balance of any contractual fees, service contracts, legal and other costs minus the proportional sum of zoning permit fees collected for permits in that participating municipality in the current fiscal year to be transferred from the Enterprise Fund to the Joint Commission (identified Section 9.e.);
  - 2. The legislative body of the withdrawing municipality shall have held a public hearing on its intent to withdraw from the Joint Commission. Notice of such public hearing shall be given to the Joint Commission and each of the participating municipalities not less than 45 days before the date the public hearing. Notice of such public hearing shall be published in a newspaper of general circulation in the local unit of government not less than 15 days before the date of the hearing.

3. Following such public hearing the legislative body of the withdrawing municipality shall have adopted a written findings of fact, recitation of reasons, and a declaration of intent to withdraw from the Joint Commission, which shall be delivered to the Joint Commission immediately after adoption.
  4. Following receipt of the withdrawing municipality's findings, recitation and declaration of intent, the Joint Commission shall prepare a plan and a budget to accomplish the withdrawal and shall present its plan, budget and the request for withdrawal to each of the other participating municipalities, a copy of which shall be delivered to the withdrawing municipality.
  5. Following receipt of the Joint Commission's plan and budget, the legislative body of the withdrawing municipality may act to withdraw from the Joint Commission, provided that it has paid, or made arrangements satisfactory to the remaining municipalities to pay, the costs identified pursuant to section 11, paragraph a.6.
  6. The reasonable cost of amending any joint master plan amendments, joint ordinance amendments, other ordinance amendments, Joint Commission Ordinance and Agreement remaining in effect in for the other participating municipalities, and all other associated costs shall be borne by the withdrawing municipality. If there are only two (2) participating municipalities at the time of withdrawal from the Joint Commission the reasonable cost of replacing any joint master plan, joint ordinance, and other associated costs shall be borne by the withdrawing municipality for the remaining municipality unless another cost sharing formula is mutually agreed upon. Withdrawal shall not be effective until these costs are paid.
- B. The withdrawal shall become effective at the end of the fiscal year in which these requirements have been satisfied; provided, however, that if the requirements are satisfied less than sixty days before the end of the fiscal year, the withdrawal shall not take effect until the end of the following fiscal year. When there are only two (2) participating municipalities in the Joint Commission, upon the withdrawal of either participating municipality, and after division of the assets and liabilities of the Joint Commission between the two municipalities in accordance with their proportional shares, this Agreement and this ordinance shall become null and void and the Joint Commission shall cease to function and shall have no further legal authority.
- C. If a municipality does not timely (section 9.c.) pay, its Participating Municipal Share, as reflected in the budget, the remaining participating municipalities may take action to remove the fiscally delinquent municipality from the Joint Commission, the above in this section notwithstanding.

**Commentary on Section 11. Procedure for Withdrawing from the Joint Commission:**

The above procedures for withdrawal are in use in some current agreements, but they are not the only method available. The parties may agree on any method that makes sense to them. We recommend, however that withdrawal not be made too easy. The Joint Commission cannot be successful if members can opt in or opt out easily.

Additional Note: The option also exists to include more detail in this section about how to assign proportional shares of assets and liabilities, how to track who paid for what. If such detail is included the participating governments need to decide on what those details are.

There are also other means on how to address the continuation of a plan, master plan, and zoning ordinance. Such consideration should be done with advice of a lawyer experienced in municipal, planning, and zoning law. [End of commentary]

**Section 12. Statutory powers.**

Except as otherwise provided in this Ordinance and Agreement, the Joint Commission shall have all the powers and duties provided for such joint planning commissions in the Joint Municipal Planning Act, 2003 PA 226 (MCL 125.131 *et seq.*).

**Section 13. Transition provision.**

**Commentary on Section 13. Transition provision:**

Whichever option you choose, it should be understood that the powers being exercised include not just zoning and/or planning, but also a planning commission's duties with respect to public projects, capital improvements and subdivision approval. If you do not want that, you will have to say so in this Ordinance and Agreement. [End of commentary]

[Choose one:]

A. Until such time as a joint zoning ordinance is adopted, an existing zoning commission or planning commission of a participating municipality shall continue to exercise their powers and duties under the Michigan Zoning Enabling Act with respect to the Joint Commission's area of jurisdiction.

[Or:]

A. Until such time as a joint zoning ordinance is adopted, the Joint Commission shall exercise the powers of a zoning commission or a planning commission under the Michigan Zoning Enabling Act with respect to the Joint Commission's area of jurisdiction.

B. Until such time as a joint master plan is adopted, an existing master plan of a participating municipality shall continue to be the master plan under the Michigan Planning Enabling Act with respect to the Joint Commission's area of jurisdiction.

**Section 14. Amendments**

This Ordinance and Agreement may only be changed by an amendment to this Ordinance and Agreement duly adopted by the legislative body of each participating municipality.

**Section 15. Effective date.**

- A. This Ordinance and Agreement incorporated herein shall be effective on the later of the following:
1. the eighth day following the last date of publication by a participating municipality if no notice of intent to file a petition for a referendum is filed as provided for in MCL 125.139; or
  2. the 31st day following the filing of a notice of intent to file a petition for a referendum if no petition for a referendum is filed within 30 days after the filing of the notice; or
  3. the day following the day upon which a determination is made by the clerk of each municipality in which a petition for referendum is filed that the petition calling for the referendum is inadequate; or
  4. the day the Ordinance and Agreement is approved by the electors in each municipality in which a referendum is held.

**Section 16. Repealer.**

All ordinances or parts of ordinances in conflict herewith are repealed to the extent of the conflict.

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## Appendix A - Glossary

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

**§** means the section number of Public Act 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 *et. seq.*),

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

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

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

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

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

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

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

**Planning Commission** means the local unit of government planning commission created under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled. In a few communities it may still be a “zoning board” (townships) or “zoning commission” (city and villages). Has used here, the use of the term “planning commission” includes all of these terms.

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

- legal boundaries of a city or village for a city or village respectively;
- legal boundaries of a township outside the limits of a city(ies) and village(s) for a township;
- legal boundaries of a county outside the limits of a city(ies), and village(s); of the county including any city(ies) and village(s) which has adopted the county plan (See §209, M.C.L. 125.3209).

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## Appendix B – Related Publications

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

- *Land Use Series*: “Check List #1A; To Create a Planning Commission or Amend an Existing Planning Commission Ordinance.”
- *Land Use Series*: “#1B; Sample Ordinance to create a planning commission”
- *Land Use Series*: “#1C; Summary of changes between new Michigan Planning Enabling Act and the three old planning acts: Municipal Planning Act, County Planning Act, and Township Planning Act.”
- *Land Use Series*: “Checklist #1D; Steps to Transition an Existing Planning Commission to Comply with the Michigan Planning Enabling Act”
- *Land Use Series*: “#1E; Sample Bylaws for a planning commission.”
- *Land Use Series*: “Checklist #1F; What Should be in a Master Plan”
- *Land Use Series*: “Checklist #1G; For Adoption of a Plan in Michigan”
- *Land Use Series*: “Checklist #1H; The Five Year Plan Review.”
- *Land Use Series*: “Checklist #1I; For Adoption of an Amendment to a Plan”
- *Land Use Series*: “Checklist #1J; Adopting and Updating a Capital Improvement Program”
- *Land Use Series*: “Checklist #1K; Review of Infrastructure and Public Capital Expenditure”
- *Land Use Series*: “Checklist #1L; Adoption or Amendment of Subdivision Rules”
- *Land Use Series*: “#1M; How Governments Make Submissions on a Neighbor’s or County’s Proposed Plan”
- *Land Use Series*: “#1N; How a Planning Commission Should Respond to Submissions”
- *Land Use Series*: #1O; Sample joint Planning Commission Ordinance and Agreement”
- *Land Use Series*, “Checklist #2; for Adoption of a Zoning Ordinance in Michigan.”
- *Land Use Series*, “Checklist #3; for Adoption of an Interim Zoning Ordinance in Michigan.”
- *Land Use Series*, “Checklist #4; for Adoption of a Zoning Ordinance Amendment (Including PUD) in Michigan”

- *Land Use Series*, “Checklist #5: for Processing a Special Use Permit (Including PUD) Application in Michigan.”
- *Land Use Series*, “Checklist #6: for Processing a Zoning Appeal and Variance in Michigan.”
- *Land Use Series*, “#7: Sample Zoning Board of Appeals Rules of Procedure”
- *Land Use Series*, “#8: Sample Planning Commission and Zoning Board of Appeals Code of Conduct”

All of these are available at [www.msue.msu.edu/lu/](http://www.msue.msu.edu/lu/).

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## Appendix C – Certification and initial appointment of Joint Planning Commission Members

This illustration is an example of a certification of agreement/ordinance adoption and includes the initial appointment of a joint planning commission member for that municipality.



## Appendix D – Corresponding Amendment Text in Joint Zoning Ordinance

The following is the corresponding zoning amendment text referred to on page 8, concerning Section 4.C. The sample text for the zoning ordinance about amending the zoning ordinance follows.

Add this text to the part of the zoning ordinance (§9802.F.) about pre-application meetings for a zoning amendment (if such meetings are required).

F. After the public hearing and the finding in Section 9802.E.2.a.(1) or 9802.E.2.a.(2) has been made:

1. The Commission shall submit:
  - a. a summary of the public and commission comments received at the public hearing,
  - b. the proposed amendment, and
  - c. any amended zoning maps,to each of the participating municipalities.
2. After receiving the recommended zoning amendment, each of the participating municipalities, at a regular meeting or at a special meeting called for the purpose, shall consider and act on the recommendation(s) within 60 (sixty) days of the date the Commission submits its recommendation. Amendment(s) shall be approved by the affirmative vote of a majority of the participating municipalities, provided however that if an amendment:
  - a. proposes to rezone a parcel or parcels of land; or,
  - b. proposes an amendment altering the purposes, uses or other regulation of a land use district by means of an amendment to a provision of Articles 20 to 79 (sections 2001 to 7999) of this Ordinance;then all of the participating municipality or municipalities in which the lands to be rezoned are located, or in which the land use district whose purposes, uses or other regulations are proposed to be changed is located must vote in the affirmative for such an amendment to be adopted or adopted with modification(s).
3. Participating municipalities shall not make a change or departure from the proposed text of an amendment and/or rezoning (including map amendment), as recommended by the Commission, unless the proposed change or departure is first submitted back to the Commission. The Commission shall have thirty (30) days from receipt of the proposed change or departure to review it and send its second recommendation to the participating municipalities. If the proposed change or departure is found by the Commission not to comply with the Master Plan or other formal adopted plan, then further action to adopt the amendment shall cease until the Master Plan or other formal adopted plan(s) upon which this Ordinance is based, is first or simultaneously amended so the Commission can find that the proposed amendment complies with the relevant plan(s). Upon receiving a second recommendation for adoption from the Commission, the amendment may be adopted by a majority of the participating municipalities, stated in subsection 2, above.

**Commentary on Appendix C, Procedure to amend a Joint Planning Commission Zoning Ordinance**

Article and Sections describing land use districts and regulations. Article numbering used here follow Organization and Codification of a Zoning Ordinance:

[https://www.canr.msu.edu/resources/organization\\_and\\_codification\\_of\\_a\\_zoning\\_ordinance](https://www.canr.msu.edu/resources/organization_and_codification_of_a_zoning_ordinance).

If the joint planning commission consists of a larger number of participating municipalities there could be a problem with obtaining adoption by each of the legislative bodies. One joint planning commission's experience was a proposed amendment did not get adopted because one or more legislative body simply took no action at all.

This language requires amendment(s) are approved by an affirmative vote of a majority of the participating municipalities. But the municipality's action must take place within 60 days. If the municipality does not act within 60 days that is deemed to be an approval, or an abstention.

If the amendment proposes to rezone land from one zoning district to another, or proposes to change any text of a zoning district then the municipality where the rezoning or modified zoning district text is located must vote in the affirmative for the amendment to be adopted. But if the municipality does not act within 60 days that is deemed to be an approval, or an abstention.

(Note, the proper motion for a legislative body to consider in these situations is always a motion to adopt the proposed amendment. A "nay" vote on that motion is a vote against adoption. The proposed amendment is rejected if the motion to adopt fails. It is not proper to have a motion "to reject." It is not proper to have a motion "to do nothing." If a legislative body wants to do nothing, then it simply does not do anything. [Imagine a motion and vote to do thing that fails: what would that even mean?] A motion to "adopt or reject" is not a proper motion as it asks the members to vote in a fashion other than a "yea" or "nay" vote.)

See Section 4.C. (page 8) for corresponding joint planning ordinance/agreement text for this.

Section 4.C. and the text in this Appendix C should not be used, if this is not wanted. [End of commentary]