

# Land Use Series

December 21, 2005

Bringing  
Knowledge  
to Life!

## Check List # C2

### For Adoption of a County Zoning Ordinance in Michigan

This is a step-by-step procedure for planning, land use and zoning. It is designed to provide a list of steps -- in order -- which leads to a well planned and zoned township. This outline is based on Michigan Public Act 184 of 1943, as amended, (being the Michigan County Zoning Act, M.C.L. 125.201 *et. seq.*), and recommendations of Kurt H. Schindler, MSU Extension Land Use and Community Development Specialist.

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

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

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

This checklist is divided into three columns: The first column has a place to check when the task is done, and a place to check when the documentation has been placed in a permanent file. The second column is the step, or task, to complete to adopt a proper plan/zoning ordinance, or amendment to either. The third column is what should be included in a permanent file to document the work has been done.

*"Thirty seven million  
acres is all the Michigan  
we will ever have."*

Former Governor  
William G. Milliken

Michigan State University  
Extension Land Use Team

[http://ntweb11a.ais.msu.  
edu/luaoe/index.asp](http://ntweb11a.ais.msu.edu/luaoe/index.asp)

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#### Author:

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

Phone: (231)779-9480

Fax: (231)779-9105

e-mail: [schindlk@msue.msu.edu](mailto:schindlk@msue.msu.edu)

overland mail:

MSU Extension, Wexford County  
401 N. Lake Street

Cadillac, Mich. 49601-1891

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bulletin.

<input type="checkbox"/> Task is done	<p>Step 1. A county plan, or at least the land use component of a county Plan has been adopted following each of the proper steps (see checklist # C1).</p> <p>PLANS. There is an importance to plans: Unless specified otherwise the plan adopted by a county under P.A. 282 of 1945, as amended, <u>is to be the basis for a zoning ordinance</u> adopted pursuant to section 9 of P.A. 183 of 1943, as amended (County Zoning Act). There is dispute over the need for a formal adopted plan. A formal plan may not be needed, however, the county must have some record or indication of the discussion, merits and reasoning behind each regulation in a zoning ordinance. The “plan” should contain all the points outlined above, but can simply be in the form of minutes of planning commission or zoning board meetings. The plan can be informal in that the formal hearing and adoption listed in the steps above does not have to take place. A minimum requirement, however, is a record of discussion, merits and reasoning explaining why a zoning ordinance is written the way it is and a record of who did the writing, time spent on research, who was consulted and what information was researched and used. This should be kept on file so years from now it is still available. By way of recommendation -- should courts require an existence of a plan in the future -- adopting a formal plan is advised.</p>	See check list # C1 for the documentation and steps which should be followed.
<input type="checkbox"/> Task is done  <input type="checkbox"/> In the file	<p>Step 2. The County Board of Commissioners acts to form a zoning commission as specified under P.A. 183 of 1943, as amended. (Membership shall be 5 to 11, selected by the County Board of Commissioners, except that two shall be individuals recommended by townships subject to county zoning. One member may also be a member of the County Board of Commissioners.) Later, or in the same action, the County Board of Commissioners can act to combine the zoning commission and its powers into the county planning commission as specified under P.A. 282 of 1945, as amended (County Planning Act, M.C.L. 125.101 <i>et. seq.</i>). In effect, then, the planning commission has all the powers and duties of a zoning commission.</p>	Copy of County Board of Commissioners minutes where creation of zoning commission (or combining it with planning) took place.
<input type="checkbox"/> Task is done	<p>Step 3. The zoning/planning commission should author (1) the text of a zoning ordinance and (2) prepare the zoning map (establish zoning districts). In doing so the zoning/planning commission may use information, experts and assistance as is available. (County zoning will only have jurisdiction in townships which are not zoned by the township, and never has jurisdiction in a village or city. However the county should consider writing county zoning to include the territory of zoned townships in case the township repeals its zoning or it is revoked by court action.)</p>	---

<input type="checkbox"/> Task is done  <input type="checkbox"/> In the file	<p>Step 4. The zoning/planning commission should determine and author a procedure, policy for the administration and enforcement of the zoning ordinance. This should be contained in a zoning administrator's manual including: sample zoning permit applications; special use permit applications; occupancy permits; form letters for handling violations and other situations; policy for handling violation/enforcement problems and at what point an attorney becomes involved and prosecution is started; where records are kept; expectations for patrol and inspections in the county; permit fees, appeals fees, special meeting fees; bylaws and rules of procedures for planning/zoning commission considering amendments, and administration of the ordinance.</p>	<p>Copy of office manual, application forms, etc.</p>
<input type="checkbox"/> Task is done  <input type="checkbox"/> In the file	<p>Step 5. (Optional) Submit the proposed ordinance for an informal review to the County Planning Office, MSU Extension Land Use Area of Expertise team member, or a professional planner; <u>and (strongly recommended) review by an attorney.</u></p>	<p>Copy of the review (letters, minutes, other) by county planning, MSUE, or professional planner; and attorney.</p>
<input type="checkbox"/> Task is done  <input type="checkbox"/> In the file (notices, etc.)  <input type="checkbox"/> In the file (minutes)	<p>Step 6. The zoning/planning commission should hold at least one public hearing on the zoning ordinance:</p> <ul style="list-style-type: none"> <li>- The first notice for the hearing shall be given in a local newspaper not more than 30 days nor less than 20 days before the hearing. (The notice must include the date, time, location, purpose of the hearing, where and when the proposed zoning ordinance and maps may be inspected or purchased prior to the hearing.)</li> <li>- The second notice for the hearing shall be given in a local newspaper not more than 8 days before the hearing. (The notice must include the date, time, location, purpose of the hearing, where and when the proposed zoning ordinance and maps may be inspected or purchased prior to the hearing.)</li> <li>- Notice should be sent by mail, not less than 20 days before the hearing, to all utility companies (phone, gas, electric, pipeline, sewer, water, etc.) which operate or have facilities in the township or district affected which has registered with the township clerk to receive such notice. (Keep an affidavit of mailing.)</li> <li>- In case of an amendment to an existing zoning ordinance, a notice shall be sent to each property owner in the area affected by the proposed change (e.g. a zoning map change). The notice is delivered by mail or in person. If mailed, an affidavit of mailing is filed with the zoning/planning commission before the hearing. The notice shall be made at least 20 days prior to the hearing.</li> <li>- If the hearing involves an amendment to the zoning ordinance, to all owners of property within the affected area. The notice shall include a listing of all existing street addresses within the affected area.</li> </ul>	<p>Copy of notices of public hearing, affidavit notices were delivered, affidavit of publication, list of who notices were sent to.</p> <p>Minutes of public hearing</p>

<input type="checkbox"/> Task is done	Step 7. The zoning/planning commission should adopt and file with the county board of commissioners:	Copy of zoning ordinance, zoning map, zoning manual and forms.
<input type="checkbox"/> In the file	<ul style="list-style-type: none"> <li>- A land use or zoning plan (omit for interim)</li> <li>- A proposed set of zoning districts</li> <li>- A proposed text of a zoning ordinance, with an official map and zoning regulations.</li> <li>- The manner of administering and enforcing the proposed zoning ordinance.</li> <li>- A written summary of each comment made at the zoning board public hearing(s). (omit for interim)</li> </ul>	
<input type="checkbox"/> Task is done	Step 8. The county board of commissioners shall review the proposed zoning ordinance.	Minutes of the county board of commissioners meeting.
<input type="checkbox"/> In the file		
<input type="checkbox"/> Task is done	Step 9. (Optional) The county board of commissioners may hold additional hearings on the proposed ordinance if it considers them necessary. Notice of these hearings shall be published in a local newspaper between 15 and five days before the hearing date.	Copy of notices of public hearing, affidavit notices were delivered, affidavit of publication, list of who notices were sent to.
<input type="checkbox"/> In the file (notices, etc.)		
<input type="checkbox"/> In the file (minutes)		Minutes of public hearing
<input type="checkbox"/> Task is done	Step 10. If the county board of commissioners considers changes, additions or amendments to the proposed ordinance; the changes, etc., will be referred back to the zoning board for a report within a specified period of time.	Copy of county board of commissioners's request.
<input type="checkbox"/> In the file		
<input type="checkbox"/> Task is done	Step 11. The county board of commissioners shall vote on the adoption of the proposed ordinance, and adopts the zoning ordinance.	Copy of minutes (including motion and vote) to adopt the zoning ordinance.
<input type="checkbox"/> In the file		

<input type="checkbox"/> Task is done	Step 12. A copy of the zoning ordinance and zoning map, both signed by the chair of the county board of commissioners and certified by the county clerk shall be submitted to the state of Michigan for approval. (Approval is conclusively presumed unless the state, within 30 days after receipt (15 days for an interim ordinance), notifies the county clerk of its disapproval due to noncompliance or conflict with either state or federal law or administrative rule or regulation or a decision of a state or federal court.)	Copy of the registered mail return receipt and an affidavit indicating when and what was mailed to the state. Copy of all communications back from the state.
<input type="checkbox"/> In the file		
<input type="checkbox"/> Task is done	Step 13. Following adoption of the ordinance and approval by the state the ordinance shall take effect:	Copy of minutes (including motion and vote) to adopt the zoning ordinance.
<input type="checkbox"/> In the file	<ol style="list-style-type: none"> <li>1. seven days after a "notice of adoption" has been published (step 16), or</li> <li>2. 30 days after a notice of intent (step 17) has been filed, but then a petition was not filed, or</li> <li>3. Immediately after the county clerk has determined the petition is inadequate (e.g. not enough qualified signatures, drafted improperly), if a petition was filed, or</li> <li>4. After the results of an election (step 17) on the zoning ordinance have been certified, or</li> <li>5. some other later date specified by the county board of commissioners.</li> </ol> <p>The county board of commissioners should also adopt a policy or procedure for administration and enforcement of the ordinance (step 13). The county board should act to appoint a board of appeals as specified in the new zoning ordinance. (The board of appeals should meet as soon as possible to elect their officers, adopt their rules of procedure and bylaws.) The county board of commissioners should also act to appoint or hire a zoning administrator (the administrator should be instructed to follow the procedure and policy set by the planning/zoning commission and adopted by the county board of commissioners. The zoning administrator should create an inventory of existing buildings in the township and non-conforming uses (easiest way is through use of tax roll or tax map air photos to establish uses at the start of a new ordinance or amendment).</p>	Most recent copy of the appeals board appointments.
<input type="checkbox"/> Task is done	Step 14. A copy of the adopted, and state approved zoning ordinance and zoning map is filed with the county clerk who shall maintain a copy for public use and a archive copy in the clerk's office.	Copy of the policy or procedure for administration and enforcement of the ordinance.
<input type="checkbox"/> In the file	A copy of the adopted, and state approved zoning ordinance and zoning map is filed with the Michigan Secretary of State Office of the Great Seal.	Copy of the registered mail return receipt and an affidavit indicating when and what was mailed to the county clerk and state.

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| <input type="checkbox"/> Task is done<br><br><input type="checkbox"/> In the file | Step 15. One notice of “ordinance adoption” within 15 days of state approval (step 13), as worded and specified in the act shall be published in a local newspaper or the ordinance is published in full at local option.   | Copy of the “notice of ordinance adoption” and affidavit of publication.  |
| <input type="checkbox"/> Task is done   | Step 16. Within seven days after the “notice of adoption” has been published (step 13) a registered elector in the county (outside villages and cities) may file a notice of intent to file a petition to bring all or part of the zoning ordinance to a vote.<br><br>Within 30 days of the ordinance adoption (step 13) that elector can file a petition to have the zoning ordinance adoption (or a specified portion of the zoning ordinance) placed on the ballot. (Fifteen percent of the qualified and registered voters not, living in villages or cities, of the total vote cast for all candidates for governor at the last preceding general election is needed on such a petition.) The county board of commissioners sets the date for that election. | Copy of “notice of intent,” copy of petition or letter from clerk saying was not received, copy of clerk’s determination of the petition, copy of election results. |
| <input type="checkbox"/> Task is done   | Step 17. The zoning board shall periodically prepare a report on the operations of the zoning ordinance, recommendations for amendments and supplements for the county board.   |   |

NOTES:

AMENDMENTS. Are made in the same manner as described above (steps 1-16) for enacting the original zoning ordinance. (All the steps given above.)

INTERIM ORDINANCE. To adopt an interim zoning ordinance, omit steps 3, 6, 8, and 17. An interim ordinance can only be in effect for one year, and only renewed twice, for a total of three years.