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Check List # T2 For Adoption of a Township 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 Township Zoning Act, M.C.L. 125.271 *et. seq.*), Michigan Public Act 282 of 1945, as amended, (being the Michigan County Planning Act, M.C.L. 125.101 *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 both acts. 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.

Michigan State University
Extension Land Use Team

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

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| <input type="checkbox"/> Task is done | <p>Step 1. A township plan, or at least the land use component of a township Plan has been adopted following each of the proper steps (see checklist # 1).</p> <p>PLANS. The Township Planning Act gives importance to plans: First, "Basic (comprehensive) plan" means master plan. . .or the plan referred to in Act No. 184 of the public Acts of 1943 (Rural Township Zoning Act) <u>being the basis on which the zoning plan (ordinance) is developed.</u>" (emphasis added) There is dispute over the need for a formal adopted plan. A formal plan may not be needed, however, the township 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> | <p>See check list # 1 for the documentation and steps which should be followed.</p> |
| <input type="checkbox"/> Task is done

<input type="checkbox"/> In the file | <p>Step 2. The township board acts to form a zoning board as specified under P.A. 184 of 1943, as amended. Later, or in the same action, the township board can act to combine the zoning board and its powers into the township planning commission as specified under P.A. 168 of 1959. In effect, then, the planning commission has all the powers and duties of a zoning board.</p> | <p>Copy of township board minutes where creation of zoning board (or combining it with planning) took place.</p> |
| <input type="checkbox"/> Task is done | <p>Step 3. The zoning board/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 board/planning commission may use information, experts and assistance as is available.</p> | <p>---</p> |
| <input type="checkbox"/> Task is done

<input type="checkbox"/> In the file | <p>Step 4. The zoning board/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 township; permit fees, appeals fees, special meeting fees; bylaws and rules of procedures for planning commission/zoning board 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 board/planning commission should hold at least one public hearing on the zoning ordinance:</p> <ul style="list-style-type: none"> - 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.) - 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.) - 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.) - 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); to all persons who has real property within 300 feet of the land affected by the proposed change, to all persons who live in a single or two family dwelling within 300 feet. The notice is delivered by mail or in person. If mailed, an affidavit of mailing is filed with the zoning board before the hearing. The notice shall be made at least eight days prior to the hearing. - The notice shall include a listing of all existing street addresses within the proposed rezoned property. 	<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 <input type="checkbox"/> In the file	<p>Step 7. After the hearing the township zoning board/planning commission shall submit the proposed ordinance to the County Planning Commission. (One should check with the County Planning Department to find out the deadline prior to the County Planning Commission meeting for submittal.) It is recommended the following be provided with the submittal to the county: A letter from the township's lawyer stating:</p> <ol style="list-style-type: none"> a. He or she reviewed the proposed ordinance. b. It is written properly. c. It has been adopted properly to date. d. In his or her opinion he or she can uphold its provisions in court. 	<p>Letter of transmittal to the County Planning Commission</p> <p>Copy of attorney's letter to County Planning Commission.</p>

<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>Step 8. The zoning board/planning commission should adopt and file with the township board of trustees:</p> <ul style="list-style-type: none"> - A land use or zoning plan (omit for interim) - A proposed set of zoning districts - A proposed text of a zoning ordinance, with an official map and zoning regulations. - The manner of administering and enforcing the proposed zoning ordinance. - A written summary of each comment made at the zoning board public hearing(s). (omit for interim) - Copy of County Planning Commission recommendation. 	<p>Copy of zoning ordinance, zoning map, zoning manual and forms: Copy of County Planning Commission recommendation on zoning ordinance.</p>
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>Step 9. The township board shall review the proposed zoning ordinance.</p>	<p>Minutes of the township board meeting.</p>
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file (notices, etc.) <input type="checkbox"/> In the file (minutes)	<p>Step 10. (Optional) The township board 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.</p>	<p>Copy of notices of public hearing, affidavit notices were delivered, affidavit of publication, list of who notices were sent to.</p>
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>Step 11. If the township board 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.</p> <p>If a property owner, by certified mail, addressed to the township clerk, requests a hearing on the report (above) such a hearing shall be held. The zoning board shall be requested to attend such a hearing.</p>	<p>Minutes of public hearing</p> <p>Copy of township board's request.</p> <p>Copy of landowner's request</p>
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>Step 12. The township board shall vote on the adoption of the proposed ordinance. The ordinance shall take effect:</p> <ol style="list-style-type: none"> 1. seven days after a "notice of adoption" has been published (step 14), or 2. 30 days after a notice of intent (step 16) has been filed, but then a petition was not filed, or 3. Immediately after the township clerk has determined the petition is inadequate (e.g. not enough qualified signatures, drafted improperly), if a petition was filed, or 4. After the results of an election (step 16) on the zoning ordinance have been certified, or 	<p>Copy of minutes (including motion and vote) to adopt the zoning ordinance.</p> <p>Most recent copy of the appeals board appointments.</p>

5. some other later date specified by the township board.

The township board should also adopt a policy or procedure for administration and enforcement of the ordinance (step 13). The township 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 township board 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 township board. 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).

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| <input type="checkbox"/> Task is done | Step 13. A copy of the ordinance, amendments, supplements, and maps shall be filed with the township clerk and county clerk. | Copy of the adopted ordinance |
| <input type="checkbox"/> In the file | | |
| <input type="checkbox"/> Task is done | Step 14. One notice of “ordinance adoption” within 15 days of adoption (step 12), 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"/> In the file | | |
| <input type="checkbox"/> Task is done | Step 15. (Optional) A copy of the ordinance can be placed on file with the county planning commission. | Statement of effective date of the ordinance |
| <input type="checkbox"/> Task is done | Step 16. Within seven days after the “notice of adoption” has been published (step 14) a registered elector in the township (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.
Within 30 days of the ordinance adoption (step 12) that elector can file a petition to have the zoning ordinance adoption (or a specified portion of the zoning ordinance) placed on the ballot. (Ten percent of the qualified and registered voters of the total vote cast for all candidates for governor at the last preceding general election is needed on such a petition.) The township board 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 township board of trustees.

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 6, 10, 16, parts of 3 and 8. An interim ordinance can only be in effect for one year, and only renewed twice, for a total of three years.