



Michigan State University Extension Land Use Series

#1M: How Governments Make Submissions on a Neighbor’s or County’s Proposed Plan

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In 2002 Michigan Planning Commissions received a new duty – to review the plans of neighboring governments and their county’s plans, as well as the review of submissions made by others on your community’s proposed plan or plan amendment. This should be considered one of the major responsibilities of a planning commission – equally as important as adopting/updating your plan, recommendations on adopting/amending your zoning ordinance, acting upon special use permits, planned unit developments, site plans, and the coordination function of the commission.

This publication outlines the duties and tasks associated with review of the plans of neighboring governments as well as plans of your county. Another *Land Use Series* publication, “#1N: How a Planning Commission Should Respond to Submissions,” outlines what action a planning commission should take regarding submissions received in reference to a proposed plan.

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

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 Review Duty

In 2001, three amendments were made to the state's planning enabling acts, becoming effective January 9, 2002.¹ The amendments require notification be sent to all adjacent governments, as well as governments within the territory of a government for which a community is starting the planning process. In 2008, the three Planning Enabling Acts were consolidated into a single act – P.A. 33 of 2008, as amended, (the Michigan Planning Enabling Act, M.C.L. 125.3801 *et seq.*)

The Michigan Planning Enabling Act retains the notification requirements established by the 2001 amendments. The statute or Land Use Series “Check List # 1G For Adoption of a Plan in Michigan” and Land Use Series “Check List # II For Adoption of an Amendment to a Plan” should be consulted to determine the exact list of whom those notices should be sent to. Other publications concerning planning and the new planning act are listed in Appendix A.

Your government will receive an occasional notice indicating your county, a neighboring county, or neighboring municipality will be starting to develop a plan or amend an existing plan. When a draft of the new plan or amendment to the existing plan is done, a copy of that draft is then required to be sent to the same list of adjacent governments.² It is at this time your planning commission has a duty to review submitted draft and make comments on the draft, and then submit those comments. In this publication those comments are called “submissions.”

Timing: How Long Do You Have?

Review of plans, at this stage, are done by:

- The planning commission³ for a city, village, township, or county located within or contiguous to the local unit of government with the draft plan or draft plan amendment;

¹ HB 5038, being P.A. 263 of 2001 amended PA 168 of 1959, as amended, (the Township Planning Act, M.C.L. 125.321 *et seq.*); HB 5267, being P.A. 264 of 2001 amended PA 285 of 1931, as amended, (the Municipal (city, village, and some pre-1959 township planning) Planning Act, M.C.L. 125.31 *et seq.*); HB 5252, being P.A. 265 of 2001 amended PA 282 of 1945, as amended, (the County Planning Act, M.C.L. 125.101 *et seq.*)

² **Error! Main Document Only.**Section 41(2) of PA 33 of 2008, as amended, (the Michigan Planning Enabling Act, M.C.L. 125.3841(2)).

³ If there is not a city, village, township, or county planning commission then the draft plan should be sent to the legislative body (village council, city council, township board of trustees, county board of commissioners) and the legislative body is responsible for conducting the review and sending submissions back.

- The regional planning commission for the region in which the county is located and contiguous county planning commissions (if a county is drafting a plan or plan amendment);
- Each public utility or railroad operating in the area covered by the proposed plan and any government entity that registers with the planning commission for this purpose;
- A Native American tribal government owning 10 or more acres of land in the area covered by the proposed plan (recommended);
- If the draft plan or draft plan amendment contains a master street plan, the road commission in which the local government is located and the state transportation department; and
- Others who have requested or been asked to conduct a review.

For the above, there is a 63 day time limit in which a proposed plan may be reviewed, and submissions sent to the community creating the plan. The review period for an amendment to an existing plan is 42 days for all jurisdictions. Copies of your planning commission's written submissions should be sent to the government that drafted the plan or plan amendment and (optional and recommended) to your county's planning commission.

What to Review For

The draft plan should be reviewed for several things. First and foremost, the process is intended to increase coordination of planning between governments. Remember, the plan you are reviewing is from a neighboring government (city, village, township, or county); a government that has territory within the boundaries of your government (city, village, township); your county; the local unit of government unit in which you as a public utility or railroad operate; or the local unit of government in which your agency owns over 10 acres of land. Thus, there will likely be issues and infrastructure which you have in common with the local unit of government creating the plan, such as boundary line roads, trail systems, a lake or river, the same watershed, same economic labor market area, school district, parks, special or unique environments, and more.

Review of and submissions on plans should focus on consistencies or inconsistencies with your government's plan(s). Avoid temptation to advocate for other editorial comments at this time. Save those for the 15 day public comment period and public hearing that comes later in the adoption process. The submissions made at this point are only advisory.

Part of the purpose of the review is to identify inconsistency between plans. This leads to the question of what inconsistency is. The Michigan Association of Planning's "Guideline Number _; Draft Determining Whether a Proposed Plan Is 'Inconsistent'"⁴ reads:

- "the following standard ... would have required 'consistency' ... with adopted plans ..."
- '(d) The proposed plan shall be consistent. A proposed plan is consistent if both of the following apply:
- (i) The goals, policies, and program of implementation for each element of the plan would further, or at least not interfere with, the goals, policy, and program of implementation of other elements of the same plan.
 - (ii) The goals, policy, and program of implementation of the plan and each element thereof would further, or at least not interfere with, the goals, policy, and program of

⁴ Planning Law Committee of the Michigan Association of Planning Board of Directors; "Guideline Number _; Draft Determining Whether a Proposed Plan Is 'Inconsistent'". Available at the Association's web site at <http://planningmi.org/resources4571531.asp>.

implementation of a plan of the reviewing entity adopted under this act or under an enabling act in effect at the time of adoption of the reviewing entity's plan. Circumstances that violate the requirements of this subparagraph include, but are not limited to, all of the following:

(A) If the jurisdictional area of the reviewing planning commission and the jurisdictional area of the proposing planning commission are contiguous, land use intensity, land use density, or capital facilities in the jurisdictional area of the proposing planning commission and near the common border are incompatible with or would conflict with land use intensity, land use density, or capital facilities in the jurisdictional area of the reviewing planning commission and near the common border.

(B) If the reviewing entity is the planning commission of a local unit or a regional planning commission, the proposed plan would create 1 or more specific, verifiable threats to the health or safety of individuals within the local unit or region.

(C) If the reviewing entity is the planning commission of a local unit or a regional planning commission, cumulative effects of the proposed plan or element are likely to reduce the existing or planned quality of life in the proposed local unit or region in reasonably identifiable and verifiable ways.’

By analogy, a plan is ‘inconsistent’ if it is not ‘consistent’ as described above.”

The Michigan Association of Planning’s “Guideline Number _; Draft What Should Local Comments on a Proposed Plan Consist of? and What Should a Local Government Do With Comments it Receives on a Proposed Plan?”⁵ presents more detail on what things your review of another community’s plan should cover. These topics of review are put forward on page 3 of the MAP document as the recommended best practice and read:

“These categories are:

- Border issues
- Issues of greater than local concern
- Comparison with local plan contents
- Comparison with county/regional plan contents
- Comparison to other relevant adopted plans (such as an historic preservation plan, local wetland protection plan, TIF or brownfield redevelopment plan, etc.).
- Comparison to various implementation strategies.”

These categories are covered in even more detail with the “Checklist for Review of Proposed Plans or Plan Amendments”⁶ that can be obtained from the Michigan Association of Planning web site. Once the review is done a submission must be sent to the community creating the plan, a copy of which should be sent to the county in which that community is located.

⁵ Planning Law Committee of the Michigan Association of Planning Board of Directors; “Guideline Number _; Draft What Should Local Comments on a Proposed Plan Consist of and What Should a Local Government Do With Comments it Receives on a Proposed Plan?”. Available at the Association’s web site at <http://planningmi.org/resources4571531.asp>.

⁶ Planning Law Committee of the Michigan Association of Planning Board of Directors; “Checklist for Review of Proposed Plans or Plan Amendments”. Available at the Association’s web site at <http://planningmi.org/resources4571531.asp>.

The recommended best practice guideline⁷ suggests the letter include a thank you for the opportunity to review the plan, the title of the draft plan being reviewed, and the title of the plans used to determine consistency or inconsistency (also indicate the status of those plans, e.g., the date of the plans and if the plan(s) are up-to-date or about to be amended or updated), and other comparisons such as whether a particular issue warrants a personal contact or joint meeting. The identity of the submission's preparer should also be included. See page 4 of the MAP checklist for more detail. A "Response Form for Review of Proposed Plans or Plan Amendments"⁸ can also be used to prepare submissions. This form can also be obtained from the Michigan Association of Planning web site. Another approach is to write a letter that contains the submissions on the above points.

Examples of Submissions

The following are several examples of submissions on a draft plan.

Urban Issue Example; advocating a change:

Submission: "In general, an Urban Growth Area may be a good concept, but we have not liked the idea of an Urban Growth Boundary. Our planning commission feels such a Boundary is too constrictive and could stunt the progress and growth of our community."

Urban Issue Example; advocating a change:

Submission: "We would like to see the industrial sites in our township zoned as commercial. The current operations could then be grandfathered in as a nonconforming use for this area."

Groundwater Issue Example; endorsing a part of the plan:

Submission: "Groundwater protection has been an important part of planning and zoning in _ Township (See pages 156-157 of our Plan). Our township is "downstream" from your community in terms of direction of much of the groundwater flow along our boundary. The groundwater protection provisions in your Plan are consistent with our Plan and those provisions in your plan are supported."

Rural Issue Example; asking a question:

Submission: "Does the small area labeled 'Agricultural-Forest Production' on the map in section 31 and 32 of your community really merit agricultural preservation? Our township has similar soil regimes as that part of your community. Soil survey data found only a small area of our township with better farm soils. However, the area was not large enough to create a critical mass of agricultural activity within a definable service area to support various agriculture-dependant businesses and services to warrant the additional regulation and property owner burden of having agricultural preservation regulations. By

⁷ Planning Law Committee of the Michigan Association of Planning Board of Directors; "Guideline Number _; Draft What Should Local Comments on a Proposed Plan Consist of? and What Should a Local Government Do With Comments it Receives on a Proposed Plan?"; page 4. Available at the Association's web site at <http://planningmi.org/resources4571531.asp>.

⁸ Planning Law Committee of the Michigan Association of Planning Board of Directors; "Response Form for Review of Proposed Plans or Plan Amendments". Available at the Association's web site at <http://planningmi.org/resources4571531.aspf>.

allowing, without restriction, agriculture and farming in rural areas such farms can continue. This stance is consistent with our Plan (p. 148).”

Have the Evidence

The important point, as seen with these examples, is to have submissions based on your plan(s) and to present reasons for the issues raised (to have a preponderance of evidence/facts to substantiate the concerns). Even if there are no concerns, as with the groundwater example, it is important to support and endorse parts of the plan seen as beneficial.

It is advised that these submissions and your planning commission’s responses be included in an appendix of the final version of the other community’s plan.

What a County Planning Commission Reviews For

The county planning commission is performing two functions with its review. It is reviewing the draft plan (or amendment) just like everyone else, and it may wish to perform a coordination and communication role with its review of other’s submissions.

The county planning commission’s review shall include, but need not be limited to, both of the following:

- A statement indicating if the county planning commission considers the proposed plan to be inconsistent with the plan of any city, village, township, or region that received a copy of the draft plan (or amendment).
- A statement indicating whether the county planning commission considers the draft plan (or amendment) to be inconsistent with a county plan(s), if any.

The county’s submissions are advisory.

Be Polite

Through all this, it is important to be polite, courteous, and professional. To be effective, submissions and reviews of submissions regarding plans of another government should be done professionally. The Michigan Association of Planning Guideline also presents, on page 5, suggestions on tone and focus of the review of submissions. Their suggestions focus on four major points:

- **Efficiency:** Respect the fact that the submission and review stage are near the end of a plan adoption process. A community may be ready to adopt, and others may be waiting for the task to be done. Do not extend the adoption more than necessary.
- **Substantive review:** Focus only on significant issues, in a clear and well documented way. Suggest solutions rather than only pointing out what is wrong.
- **Productive:** Be clear and document statements. The idea is to improve the quality of planning for the entire area. This process is intended to improve coordinated planning, not to undermine relationships or exacerbate tensions between governments.
- **Professional:** Submissions and review of submissions should be done with mutual respect of others. They should be factual, objective, and based on sound planning principles. Submissions and reviews of submissions should be polite, constructive, and politically sensitive. Do not be defensive. Prepare materials for others in a way that you would appreciate receiving them.

What Next?

The community that receives your submissions should review each of them carefully. The result should be to make changes to their plan, or to prepare a list of reasons why your submission should not result in a change to their plan.

Next, the community will begin to prepare the second draft of the proposed plan. The second draft of the plan is the version for which a 15 day public comment period and public hearing are held. That public process – for citizens rather than adjacent governments – will also result in more comments on the plan. Those comments should also be reviewed carefully. The result should be to make changes to the plan, or to prepare a list of reasons why a comment should not result in a change to the plan.

It is advisable for all submissions, public comments, and a planning commission's responses be included in an appendix of the final version of the plan.

The adopted, final version of the plan is then also sent to the same list the starting to plan notice and draft plan were sent. As a result, everyone will have a copy of other's plans to consult, use, and hopefully continue a process of coordinated planning.

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To find contact information for authors or other MSU Extension experts use this web page: <http://msue.anr.msu.edu/experts>.

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Appendix A – 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/.