



PLANNING LAW SEMINAR

MICHIGAN PLANNING ENABLING ACT – PART ONE



MICHIGAN CHAPTER OF THE AMERICAN PLANNING ASSOCIATION





Planning Law Seminar

Provide CM credits before the May 28 Grace period ends

Michigan Chapter Upcoming Events

Planning Law Seminar (in four parts) *6 AICP CM Law Credits*

Book Group, *MAP Reads*, on May 27, June 24, July 22, August 26 *1.5 CM Credits each*



TODAY'S PRESENTER

Sarah Traxler, AICP
McKenna

Providing commentary. . . .

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TODAY'S PANELISTS

MAP'S Law Committee

Gerald Rowe, Chair

Keith Baker

Wayne Beyea, JD, AICP

Kevin Christiansen, AICP, PCP

Rebecca Harvey, AICP

Emily Palacios, JD

Richard Norton, JD, PhD

Doug Piggott, AICP

Justin Sprague

Mark Wyckoff, FAICP

MAP's primary Risk Management instructor

Catherine Kaufman, JD, AICP

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Michigan Planning Enabling Act

May 12, 2020
Michigan Association of Planning
Planning Law Seminar

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Agenda

- 1. MAP Introduction**
- 2. MPEA Overview by Article**
- 3. Survey – “Deeper Dive” Topics**
- 4. Debrief / Additional Q&A**
- 5. Next Session Introduction**

Purpose of Session

To review and begin discussing the Michigan Planning Enabling Act

In-depth examination.

Reinforce our familiarity with the statute to provide professional advice and work products that are aligned with statutory requirements.

Practical application.

Translate the Act's requirements to our real-world application of its inclusions.



Public Act 33 of 2008, as amended,
“Michigan Planning Enabling Act”

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Purpose

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



Article 1, General Provisions

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Article 1 Sections

125.3801, Short title

125.3803, Definitions

125.3805, Assignment of power or duty to county officer or body

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

125.3801 Short title

Allows for referring to act as “Michigan Planning Enabling Act”

Sidebar

- Frequently abbreviated as “MPEA”
- When referencing in more formal correspondence or plan / report:
*Michigan Public Act 33 of 2008, as amended,
“Michigan Planning Enabling Act”*

125.3803 Definitions

14 definitions, from “chief administrative officer” to “streets”

Sidebar

- Definition of “streets” added or amended as part of 2010 “complete streets” amendment

125.3805 Assignment of power or duty to county officer or body

Refers to two statutes to which the assignment of a power or duty under MPEA is subject:

1. Public Act 293 of 1966, as amended, “Charter Counties:
2. Public Act 139 of 1973, as amended, “Optional Unified Form of County Government”

125.3807 Master plan; adoption; amendment, and implementation by local gov't; purpose

1. Provides for adoption, amendment, and implementation of a master plan
2. Sets forth the general purpose of a master plan to “guide and accomplish development that satisfies...”
 - a. Coordinated and harmonious planning
 - b. Consideration of the character of the jurisdiction and suitability for particular uses (factoring in pop. and land development trends)
 - c. Best promote public health, safety, morals, order, convenience, prosperity, and general welfare

Sidebar

- When preparing or updating your master plan, don't forget this purpose section; use as checklist to ensure compliance with this act

125.3807, con'd.

- d. Promotion of or adequate provision for one or more of the following:
 - i. System of transportation to lessen congestion and provide for safe and efficient movement of people and goods
 - ii. Safety from fire and other dangers
 - iii. Light and air
 - iv. Healthful and convenient distribution of population
 - v. Good civic design / arrangement, wise and efficient use of public funds
 - vi. Public utilities and other public improvements
 - vii. Recreation
 - viii. Use of resources in accordance with their character and adaptability

Sidebar

- i. specifically references motor vehicles, bicycles, pedestrians, and other legal users of streets – 2010 “complete streets” amendment
- v. specifically references sewer and water
- Ensure that your community considers these purposes when preparing / updating its Master Plan



Article 2, Planning Commission Creation and Administration

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Section 125.3811

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

125.3811

1. Local unit of gov't. may adopt ordinance creating a PC with powers and duties under this act; also requires the board to be officially referred to as “planning commission”, even if a charter, ordinance, or resolution uses a different name
2. Sets forth requirements for local unit’s clerk to transmit notice of adoption to county PC; if no county PC, transmit to regional PC; provides for noticing requirement if PC created under certain earlier acts

Sidebar

- Some communities’ PCs still referred to as Planning Boards; if created under earlier statute, are they permitted to continue with other official name?

125.3811, con'd.

3. If city or home rule village adopts charter provision providing for PC after date of act, shall be implemented by ordinance conforming to the act
4. Refers to later section that provides for continuation of PC created under an earlier planning act
5. Refers to later section that provides for continued exercise or transfer to a PC the powers and duties of a zoning board or zoning commission (under an earlier act)

Section 125.3813

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

125.3813

1. Effective date of township ordinance creating a PC under this date 63 days after publication of ordinance in newspaper having general circulation
2. Petition may be filed with Township Clerk requesting submission of ordinance to electors residing in unincorporated portion of the township for their approval or rejection; sets forth petition requirements and ordinance shall not take effect until approved by majority of subject electors at next available special election (as approved by Township Board)

Sidebar

- Township Planning Commissions newly created under this Act are subject to vote of electors residing in the unincorporated portion of the township

125.3813, con'd.

3. If Township ordinance creates a PC that's a successor to an existing zoning commission or zoning board provided for in Michigan Zoning Enabling Act, #2 is not applicable
4. Electors may petition for a vote to establish a PC under this Act
5. Petitions under this provision subject to specific section of the Michigan Election Law

Section 125.3815

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

125.3815

1. Members of municipal PC appointed by chief elected official with approval by majority vote of members of legislative body; members of county PC appointed as determined by resolution of a majority of the full membership of county board of commissioners
2. Local unit of gov't PCs = 5, 7, or 9 members; county PCs = 5, 7, 9, or 11 members; all subject to three-year terms (except ex officio members) with staggered terms upon first appointment (1/3 should expire each year); vacancies filled for unexpired term in same manner as original appointment; members in office until successors appointed

Sidebar

- An ex officio member is a member who is part of the PC by virtue of holding another office (defined)
- This is the important section for appointments and reappointments; perform regular audit of membership compliance in partnership with municipal clerk

125.3815, con'd.

3. PC membership shall be representative of important segments of community
4. PC membership shall be qualified electors of the local unit of gov't, except for smaller communities - special provisions for:
 - City between 2,700 and 2,800 residents on 9/1/08 may have 3 non-resident members
 - City or village with less than 5,000 residents on 9/1/08 may have 2 non-resident members
 - All other local units of gov't may have 1 non-resident member

Sidebar

- Document process of soliciting PC applications per representative requirement; difficult to get cross-section in communities with lower participation
- Which community of between 2,700 and 2,800 advocated for three non-members?!

125.3815, con'd.

5. Concerning legislative body / chief elected and administrative officials serving on PCs:

COMMUNITY	# / TYPE OF OFFICIAL(S)	MISC.
Township with PC created under prior act	1 member of legislative body or chief elected official (or both) may be appt'd	
Any other township	1 member of legislative body shall be appt'd.	Include this requirement in ordinance creating PC
City, village, or county	Chief admin. official or their designee; chief elected official; 1 or more members of legislative body; or any combo, unless prohibited by charter, may be appt'd.	Not more than 1/3 of PC may be ex officio members

Sidebar

- These sections regulate elected and administrative officials' appointment to PC; frequently questioned on this
- Include in routine membership audit
- Terms of ex officio members correspond to elected terms, other than chief administrative official; their term expires with term of chief elected official who appointed the administrator

125.3815, con'd.

6. Counties shall make reasonable effort to appoint a member of public school board or administrator within county; requires attempt to satisfy this effort each time there's an appointment (except for incumbent or ex officio reappointment)
7. EDC, DDA, or TIFA may serve as PC in city or village with pop. less than 5,000 if PC not created by charter; DDA and TIFA only allowed if boundaries same as municipal boundary
8. Sub-sections 1-5 re. membership not applicable if PC est'd. under sub-section #7

Sidebar

- Include in routine audit

125.3815, con'd.

9. PC member may be removed for misfeasance, malfeasance, or nonfeasance by legislative body upon written charges and public hearing; PC members shall disclose potential conflicts of interest to the PC before voting on matters on which they may reasonably be considered to have a conflict; member disqualified from voting if provided for in bylaws or majority vote of remaining members of PC; failure to disclose constitutes malfeasance; PC bylaws required to define conflicts of interest unless done so by ordinance

Sidebar

- Important section – removal of members and conflicts of interest requirements
- Discuss recommended practices re. defining conflicts of interest

125.3815, con'd.

10. Ordinances creating PCs may impose additional (consistent) requirements relevant to the subject matter of this section (membership, representation, removal, conflicts, etc.)

Section 125.3817

Title: Chairperson, secretary, and other offices; election; terms; appointment of advisory committees

1. PCs required to elect a chairperson and secretary; may create and fill other offices as considered advisable; ex officio members ineligible for chairperson; terms are one year, provides for reelection as specified in bylaws
2. PCs may appoint “advisory committees” whose members are not members of the PC

Sidebar

- Consider defining advisory committees in bylaws or create by resolution pursuant to this section; if “steering committee” preferred term, note its equivalence to advisory committee under this section

Section 125.3819

Title: Bylaws; adoption; public record requirements; annual report by planning commission

1. PC shall adopt bylaws for transaction of business and shall keep record of its resolutions, transactions, findings, and determinations
2. PC shall make annual written report to legislative body concerning its operations and status of planning activities, including recommendations regarding actions by legislative body related to planning and development

Sidebar

- Annual report section – good discussion topic

Section 125.3821

Title: Meetings; frequency; time; place; special meeting; notice; compliance with open meetings act; availability of writings to public

1. PC required to hold at least four regular meetings annually and shall determine time and place by resolution; unless bylaws provide otherwise, special meetings may be called by chair or by two other members upon written request to the secretary, who then sends written notice of special meeting to PC not less than 48 hours before meeting

Sidebar

- Annual resolution? Or only upon change of meeting time and place?
- Special meetings subject to Open Meetings Act, coordinate with municipal clerk
- Consider bylaws that designate municipal clerk as secretary's designee re. written notice requirement

125.3821, con'd.

2. PC meetings subject to open meetings act
3. “A writing prepared, owned, used, in the possession of, or retained by a PC in the performance of an official function shall be made available to the public in compliance with the freedom of information act”

Sidebar

- Open meetings act and FOIA references

Section 125.3823

Title: Compensation; expenses; preparation of budget; acceptance of gifts

1. Members may be compensated as provided by legislative body; bylaws may address compensation and expenses of members and employees for travel for conferences, workshops, education, etc.
2. After preparing annual report, PC may prepare and submit detailed budget to legislative body for approval or disapproval, which may appropriate funds for purposes of this act, including matching funds

Sidebar

- Bylaws should address compensation and expenses for clarity
- Discuss whether PCs submitting budgets

125.3823, con'd.

3. PC may accept gifts for exercise of its functions, except for in a township with PC created under this act (in which case, township board may accept gifts on behalf of PC); gift of money shall be deposited with treasurer of local unit in nonreverting PC fund for expenditure by the PC for purpose designated by donor; chair or secretary must submit to treasurer signed voucher to draw against fund, upon order drawn by the clerk; PC expenditures (not incl. grants or gifts) shall be within amount appropriated by legislative body

Section 125.3825

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

1. Planning director and other personnel may be employed as local unit of government considers necessary; may contract for services within budget; contracting powers exercised by legislative body unless charter or ordinance delegates to PC or another body or official ; employees' appointment subject to same provisions as other civil employees of local unit.

Sidebar

- Are there many (or any?) communities in Michigan that give PC purchasing power?

125.3825, con'd.

2. PC may make use of maps, data, other info provided by appropriate federal, state, regional, county, and municipal officials, departments, and agencies; all of those entities shall make available public information for use of PC and furnish such other technical assistance and advice as they may have for planning purposes.



Article 3, Preparation and Adoption of Master Plan

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Section 125.3831

Title: Master plan; preparation by planning commission; meetings with other governmental planning commissions or agency staff; powers

125.3831

1. PC shall make and approve a master plan for development within planning jurisdiction and the following:
 - For a county, the plan may include planning in cooperation with constituted authorities for incorporated areas to extent which they relate to planning of the unincorporated area or the county as a whole;
 - For a city, village, or a township with PC created under prior act, plan may include any areas outside municipal boundaries that are related to planning of municipality

Sidebar

- Are participants aware of any communities that plan for areas outside their boundaries?

125.3831, con'd.

2. In preparation of master plan, a PC shall do all of the following, as applicable:
 - Make careful / comprehensive surveys and studies of present conditions and future growth within the jurisdiction with due regard to its relation to neighboring jurisdictions
 - Consult with reps of adjacent local units in respect to their planning so that planning / zoning conflicts may be avoided
 - Cooperate with all department of state and federal gov'ts, public trans. agencies, and other agencies concerned with programs for economic, social, and physical development within jurisdiction and seek maximum coordination of programs with these agencies

Sidebar

- Coordinate / collaborate on master plan preparation

125.3831, con'd.

3. In preparation of master plan, PC may meet with other gov't PCs or agency staff to deliberate
4. PC has such lawful powers as may be necessary to enable promotion of local planning and otherwise carry out purposes of this act

Section 125.3833

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

125.3833

1. Master plan shall address land use and infrastructure issues; may project 20+ years; shall include maps, plats, charts, and descriptive, explanatory, other related matter and show PC's recommendations for physical development

Sidebar

- Beginning of master plan content requirements

125.3833, con'd.

2. Shall also include those of the following that can be reasonably considered as pertinent within jurisdiction:
 - a) Land use plan for classification / allocation of land for agriculture, residences, commerce, industry, recreation, ways and grounds, public transportation facilities, public buildings, schools, soil conservation, forests, woodlots, open space, wildlife refuges, and other uses and purposes; if county doesn't have zoning, the land use plan may be a general plan with a generalized future land use map
 - b) Location, character, and extent of all of following:
 - All components of a transportation system and their interconnectivity to provide for safe and efficient movement of people and goods and considers all legal users of public ROW
 - Waterways and waterfront developments
 - Sanitary sewers and water supply systems
 - Facilities for flood prevention, drainage, pollution prevention, and maintenance of water levels
 - Public utilities and structures

125.3833, con'd.

2. Shall also include those of the following that can be reasonably considered as pertinent within jurisdiction (con'd):
 - c) Recommendations as to the general character, extent, and layout of redev. or rehab. of blighted areas; removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of streets, grounds, open spaces, buildings, utilities, or other facilities
 - d) For local unit with zoning, a zoning plan relating to districts controlling height, area, bulk, location, and use of buildings and premises; shall include an explanation of how the categories on future land use map relate to zoning districts
 - e) Recommendations for implementing master plan proposals

125.3833, con'd.

3. If include a master street plan per subsection #2, must address means of implementing such plan in cooperation with county road commission and state transportation department in manner consistent with respective duties of and written agreements between these entities and municipality
4. Refers to plans prepared under prior acts, addresses compliance with this section
5. Similar to #4, related to public transportation facilities

Sidebar

- Has your community effectively cooperated with county and state agencies pursuant to this requirement?

Section 125.3835

Title: Subplan; adoption

1. A PC may adopt, by majority vote of the members, a subplan for a geographic area less than the entire planning jurisdiction if, because of unique characteristics of area, more intensive planning is necessary to meet purposes of Section 125.3807

Section 125.3837

Title: Metropolitan county planning commission; designation; powers

1. A county board of commissioners may designate the county PC as metropolitan county PC, allowing for performance of metropolitan and regional planning; may engage in comprehensive planning, including:
 - Preparation of general physical plans for land use and provision of public facilities, together with long-range fiscal plans
 - Programming of capital improvements based on relative urgency + financing plans
 - Coordination of all related plans within metro area or region
 - Intergov'tal coordination among state and local agencies within metro area or region

125.3837, con'd.

2. In addition to powers conferred under MPEA, a metropolitan county PC may apply for, receive, accept, agree to, and comply with grants from any governmental agency; may do any and all things necessary or desirable to secure financial aid or cooperation of another agency in carrying out its functions when approved by a 2/3 vote of county board of commissioners

Sidebar

- Allows for a metro county PC to be grant recipient when approved by county board of commissioners

Section 125.3839

Title: Master plan; adoption; procedures; notice; submittals; use of electronic mail

1. Master plans shall be adopted to this subsection and #s 41 and 43 (following); may be adopted as a whole or by successive parts corresponding with major geographical areas of jurisdiction or with functional subject matter areas of the master plan

Sidebar

- Examples of master plans adopted in parts?

125.3839, con'd.

2. Before preparing master plan, PC shall send – by first class mail or personal delivery – notice of intent to prepare a master plan, requesting cooperation and comment, to:
 - a) PCs within or contiguous to (or legislative body if no PC) local unit of government
 - b) For a county undertaking plan, the regional PC, if any;
 - c) For a county undertaking plan, county PCs contiguous to (or county board of commissioners if no PC)
 - d) For a municipality undertaking plan, the regional PC if no county PC; if there is county PC, may coordinate with regional PC
 - e) For a municipality undertaking plan, the county PC (or county board of commissioners if no PC)
 - f) For all, each public utility company, railroad company, and public trans. agency owning or operating a public utility, railroad, or public trans. system + any gov't. entity that registers with the PC its name and mailing address requesting notification
 - g) If plan includes master street plan, the county road commission and state transportation department

125.3839, con'd.

3. The same entities described in subsection #2 may receive communications pursuant to 125.3841 and 125.3843 (following) by personal or first-class mail delivery of a hard copy or by electronic mail; notice of intent under subsection #2 must state intention to make submittals by electronic mail unless noticed entities object; electronic mail may contain a link to a publicly accessible website free of charge on which the submittal is posted

Sidebar

- In practice, this allowance for electronic mail and website link is very helpful when distributing master plan

Section 125.3841

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

1. After preparing plan, PC shall submit the proposed plan to legislative body for review and comment; process for adoption shall not proceed unless legislative body approves plan for distribution

Sidebar

- Best to include legislative body before this point in the process!

125.3841, con'd.

2. If legislative body approves distribution, it shall notify the PC secretary, who shall submit as provided for in 125.3839(3) a copy of the proposed plan for review and comment to:
 - a) PCs within or contiguous to (or legislative body if no PC) local unit of government
 - b) For a county proposing plan, the regional PC, if any;
 - c) For a county proposing plan, county PCs contiguous to (or county board of commissioners if no PC)
 - d) For a municipality proposing plan, the regional PC if no county PC; if there is county PC, may submit to regional PC, but not required
 - e) For a municipality proposing plan, the county PC (or county board of commissioners if no PC) + a statement that (a) and (d) have been completed, signed by secretary and including names, addresses, and transmittal dates
 - f) For all, each public utility company, railroad company, and public trans. agency owning or operating a public utility, railroad, or public trans. system + any gov't. entity that registers with the PC its name and mailing address requesting notification; reimbursement for costs incurred provided for
 - g) If plan includes master street plan, the county road commission and state transportation department

125.3841, con'd.

3. The same entities described in subsection #2 may submit comments on the proposed master plan to the PC in the manner provided in 125.3839(3) within 63 days after submittal; if county PC or county board of commissioners submits comments in return, the comments shall include (but not be limited to), as applicable:
 - a) A statement whether consider master plan inconsistent with master plan of any municipality or region within county
 - b) If County has master plan, a statement whether consider master plan inconsistent with the county master plan
4. Statements under subsection #3 (a) and (b) are advisory only

Sidebar

- Discuss / verify whether 63 days commences on date of transmittal letter or electronic communication

Section 125.3843

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

125.3843

1. Before approving a master plan, a PC shall hold not less than one public hearing (PH) on proposed plan after 63-day comment period expires; PC shall give notice of time and place of PH not less than 15 days before in newspaper of general circulation; shall submit notice of PH in same manner as 125.3839(3) to each entity in 125.3839(2); the notice may accompany the proposed plan submitted under 125.3841

Sidebar

- Create notification checklist to document compliance with statute and maintain as part of master plan file

125.3843, con'd.

2. In approving the master plan, the PC shall:
 - Approve by resolution voted affirmatively on by not less than 2/3 of majority of city or village PC or not less than a majority of township or county PC
 - Resolution shall refer expressly to maps and descriptive and other matter intended to form the plan
 - Include on the inside of front or back cover of plan a statement recording the PC's approval, signed by chairperson and secretary of PC
 - If future land use map is separate document from the text, include a statement recording the PC's approval, signed by chairperson and secretary of PC, on the future land use map
 - Following approval, the secretary shall submit a copy to the legislative body

125.3843, con'd.

3. Approval of the plan by PC is the final step unless the legislative body, by resolution, has asserted the right to approve or reject the plan; if so, after approval of the plan by the PC, the legislative body shall approve or reject the proposed plan; a statement recording legislative body's approval of plan shall be included in same fashion in plan document and future land use map as that provided for under subsection #2, signed by municipal clerk.

125.3843, con'd.

4. If legislative body rejects the plan, it shall submit a statement of objections to the PC, which shall then be considered and used to revise the proposed plan; the procedures provided in subsections #1 – 3 shall be repeated until legislative body approves the plan.
5. Upon adoption of plan, the PC secretary shall submit, in manner provided for in 125.3839(3), copies of plan to entities listed in 125.3841(2).

Sidebar

- Could the rejection and revision process be improved by amending the statute?

Section 125.3845

Title: Extension, addition, revision, or other amendment to the master plan; adoption; procedures; review and findings.

1. An extension, addition, revision, or other amendment to a plan shall be adopted by following same procedures under sections 125.3839, 41, and 43, subject to the following:
 - a) Grammatical, typographical, or similar editorial changes; a title change; or a change to conform to an adopted plat are not subject to following the required procedure;
 - b) Subject to (a), the review period shall be 42 days instead of 63 days;
 - c) When a PC notices its intent to prepare a subplan, the notice may indicate that the local unit intends not to provide that entity with further notices or copies of proposed or final subplans otherwise required, unless the entity responds that it chooses to receive such notices and copies

125.3845, con'd.

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

Section 125.3847

Title: Part of county master plan covering incorporated area; adoption by appropriate city or village required; exception

1. County master plans covering incorporated areas shall not be recognized as the official plan or part of the official plan for that area unless adopted by the appropriate city or village in manner prescribed by this act;
2. Subsection #1 does not apply if the incorporated area is subject to county zoning pursuant to Michigan zoning enabling act and a contract under the urban cooperation act

Section 125.3849

Title: City or village planning department; authority to submit proposed master plan, or proposed extension, addition, revision, or other amendment

1. The MPEA does not alter the authority of a planning department of a city or village created by charter to submit a proposed master plan, or extension, addition, revision, or other amendment, to the PC, whether directly or indirectly as provided by charter
2. A PC described in subsection #1 shall comply with the requirements of this act

Section 125.3851

Title: Public interest and understanding; promotion

1. A PC may publish and distribute copies of the master plan or of any report, and employ other means of publicity and education, to promote public interest in and understanding of the master plan
2. A PC shall consult with and advise public officials and agencies, public utilities, civic, educational, professional, and other organizations, and citizens concerning the promotion of implementation of the master plan

Sidebar

- How does your community promote the implementation of its master plan?



Article 4, Special Provisions, Including Capital Improvements and Subdivision Review

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Section 125.3861

Title: Construction of certain projects in area covered by municipal master plan; approval; initiation of work on project; requirements; report and advice

125.3861

1. The following public improvements shall not be constructed or authorized for construction in an area covered by a municipal master plan unless the location, character, and extent of the improvement have been submitted to and approved by the PC by the legislative body or other body having jurisdiction over the authorization or financing of the project:
 - Street
 - Square, park, playground, public way, ground, or other open space
 - Public building or other structure

Sidebar

- How many communities are following this requirement?

125.3861, con'd.

1. (con'd): The PC shall submit reasons for approval or disapproval to the body having jurisdiction; if PC disapproves, the body with jurisdiction may overrule the PC by a vote of not less than 2/3 of membership for a city, village, or township with PC created under prior act or by a vote of not less than a majority of its membership for any other township; if PC fails to act within 35 days after proposal is filed, the project shall be considered approved.

125.3861, con'd.

2. County PCs shall provide advice and report on proposed expenditures of money for the acquisition of land, erection of structures, or extension, construction, or improvement of any physical facility by a county board, department, or agency; a full description of the project, including its proposed location and extent by the county board of commissioners, department, or agency authorizing the work; work may proceed if the PC fails to provide in writing its report and advice within 35 days after proposal is filed.

Sidebar

- How many counties are following this requirement?

Section 125.3863

Title: Approval of construction project before effective date of act; rescission of authorization; failure of planning commission to act within certain period of time

125.3863

1. If a public improvement described in 125.3861 is proposed to be rescinded by a legislative body, it shall not do so unless the matter has been resubmitted to and approved by the PC; the PC shall hold a PH on the matter; the PC shall submit its reasons for approval or disapproval of rescission to the legislative body; if the PC disapproves, the legislative body may overrule the PC by a vote of not less than 2/3 of its membership; if the PC fails to act within 63 days of the submission of the proposed rescission, it shall be considered to be approved by the PC

Sidebar

- Public hearing requirements not specified; is there a recommended practice? Follow requirements of MZEA for consistency if not specified in a local ordinance, policy, or bylaw?

Section 125.3865

Title: Capital improvements program of public structures and improvements; preparation; basis

To further the desirable future development of the local unit under the master plan, a PC, after adoption of a master plan, shall annually prepare a capital improvements program (CIP) of public structures and improvements:

- PC may be exempted from this requirement by charter or otherwise
- If PC exempted, the legislative body shall prepare and adopt (or delegate the preparation of) a CIP, separate from or as a part of the annual budget, subject to final approval by legislative body
- The CIP shall show public structures and improvements in general order of their priority, that will be needed or desirable and can be undertaken within the ensuing 6-year period
- CIP shall be based on local requirements for public structures and improvements
- Agencies and departments within local unit shall furnish the PC with lists, plans, and estimates of time and cost

Section 125.3867

Title: Programs for public structures and improvements; recommendations

A PC may recommend to the appropriate public officials programs for public structures and improvements and for the financing thereof, regardless of whether the PC is exempted from CIP requirements

Sidebar

- Even if complying with these requirements, have PC's input and advice ebbed and flowed over the years? If so, what do you attribute this to?

Section 125.3869

Title: Copy of zoning ordinance and amendments; request by county planning commission for submission by municipal planning commission

If a municipal PC has zoning duties and the municipality has adopted a zoning ordinance, the county PC may, by first-class mail or personal delivery, request a copy of the ordinance and any amendments; the municipal PC shall submit the requested documents within 63 after the request is received; and shall submit any future amendments within 63 days after adoption; submittals may be electronic

Section 125.3871

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

125.3871

1. A PC may recommend to legislative body provisions of an ordinance or rules governing the subdivision of land authorized under section 105 of the land division act; if a township is subject to county zoning or a city or village is subject to county zoning and a contract under the urban cooperation act, the county PC may recommend to the legislative body of the municipality provisions of an ordinance or rules governing the subdivision of land authorized under section 105 of the land division act; a PC may proceed under this subsection on its own initiative or upon request of the appropriate legislative body

125.3871, con'd.

2. Recommendations for a subdivision ordinance or rule may address:
 - Plat design, including the proper arrangement of streets in relation to other streets and master plan
 - Adequate and convenient open spaces for traffic, utilities, access of firefighting apparatus, recreation, light, and air
 - The avoidance of congestion of population, including minimum width and area of lots

And may address whether the approval of a plat shall be conditioned on the following:

- The extent to which streets shall be graded and improved
- The extent to which water and sewer and other utility mains, piping, or other facilities shall be installed

125.3871, con'd.

3. Before recommending an ordinance or rule under subsection #1, the PC shall hold a public hearing, notice of which shall be given not less than 15 days before the PH by publication in a newspaper of general circulation
4. If a municipality has adopted a master plan or master street plan, the PC shall review and make recommendations on plats before action thereon by the legislative body under section 112 of the land division act; if the municipality is subject to county zoning and the municipality has adopted a master plan or master street plan, the county PC shall also review and make recommendation on plats before action by the legislative body under section 112 of the land division act

125.3871, con'd.

5. A PC shall not take action on a proposed plat without affording an opportunity for a public hearing thereon; a plat submitted to the PC shall contain the name and address of the proprietor or other person to whom notice of a hearing shall be sent; not less than 15 days before public hearing, notice shall be sent to that person by mail and published in newspaper of general circulation; similar notice shall be mailed to owners of land immediately adjoining the proposed platted land

125.3871, con'd.

6. A PC shall recommend approval, approval with conditions, or disapproval of a plat within 63 days after the plat is submitted to the PC; if applicable standards under the land division act and a local ordinance or published rules are met, the PC shall recommend approval of the plan; if the PC fails to act within the required period, the plat shall be considered to have been recommended for approval, and a certificate to that effect issued by the PC upon request of the proprietor; however, the proprietor may waive this requirement and consent to an extension of the 63-day period; the grounds for any recommendation of disapproval of a plat shall be stated upon the PC records

125.3871, con'd.

7. A plat approved by a municipality and recorded under section 172 of the land division act shall be considered an amendment to the master plan and a part thereof; approval of a plat does not constitute or effect an acceptance by the public of any street or other open space shown upon the plat



Article 5, Transitional Provisions and Repealer

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Section 125.3881

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

125.3881

1. Unless rescinded by a local unit, any plan adopted or amended under an earlier planning act need not be readopted but continues in effect, regardless of its title; the master plan is subject to the requirements of this act, including for periodic review and the amendment procedures; however, the master plan is not subject to the requirements of section 33 until it is first amended under this act

Sidebar

- What was section 33?! All of the content requirements of a master plan prepared under this act

125.3881, con'd.

2. Requires PC ordinance in city or home rule village to be amended to fully conform to requirements of this act by July 1, 2011 or before, if ordinance needs amending for any purpose
3. Requires PC ordinances created under the following repealed statutes to be amended to fully conform to requirements of this act by July 1, 2011 or before, if ordinance needs amending for any purpose:
 - PA 285 of 1931, “Municipal Planning”
 - PA 282 of 1945, “County Planning”
 - PA 168 of 1959, “Township Planning”
4. Unless repealed or rescinded by legislative body, an ordinance or published rules governing the subdivision of land authorized under section 105 of the land division act not required to be readopted or amended; however, if amended, the ordinance or published rules shall be amended under the procedures of this act

Section 125.3883

Title: Transfer of powers, duties, and records

1. Transfers powers of PC with powers and duties of a zoning board or zoning commission under former zoning acts without amendment of the ordinance, resolution, or charter provision that created the PC
2. If a local unit had a PC without zoning authority, the legislative body may amend PC ordinance or resolution to transfer to the PC all the powers and duties provided to a zoning board or zoning commission under the Michigan Zoning Enabling Act; provides for scenario where zoning commission was in process of preparing zoning ordinance

125.3883, con'd.

3. If a PC is created pursuant to this act in a local unit with a zoning board or zoning commission created before this act, the legislative body shall transfer all powers, duties, and records to the PC before July 1, 2011; provides for scenario where zoning commission was in process of preparing zoning ordinance



Poll Re. “Deeper Dive Topics”

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Debrief / Additional Q&A

Introduce Next Session

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Thank you to our presenters

This presentation and other resources will be placed on MAP's website,
www.planningmi.org

Look for the
Planning Tools During COVID-19 button

