



Michigan State University Extension Land Use Series

Check List # 3: For Adoption of an Interim Zoning Ordinance in Michigan

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This is a step-by-step procedure for planning, land use and zoning. This particular checklist (# 3) is for adoption of an Interim Michigan. This checklist is designed to provide a list of steps – in order – which leads to a well-planned and zoned community. This outline is based on Public Act 110 of 2006, as amended, (being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et. seq.*), and recommendations of Kurt H. Schindler, ACIP, of MSU Extension, and intergovernmental coordination and plan content “best planning practices” derived from a proposed Coordinated Planning Act developed by the Michigan Chapter of the American Planning Association. In the check list, most of the items marked “optional” are derived from the proposed Coordinated Planning Act, not the current statute.

There are also separate procedural checklists for performing other zoning and planning functions. They are listed in Appendix B.

The Michigan Planning Enabling Act is a new statute, that changes how various planning procedures are done, and provides new duties and power to many planning commissions in the state. The purpose of this act was to create a single set of procedures to follow regardless of whether planning is being done by a city, village, township, or by a county. After September 1, 2008 (the effective date of the act) only the procedures in the Michigan Planning Enabling Act should be used as the act replaces the following statutes.

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

This is a checklist was 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.

Only for matters that took place before September 1, 2008 should these old statutes still be referenced:

- County Planning Act, being P.A. 282 of 1945, as amended, M.C.L. 125.101 *et seq.* See MSU Extension *Land Use Series*, “Checklist #C1; for Adoption of a County Plan in Michigan.”
- Township Planning Act, being P.A. 168 of 1959, as amended, M.C.L. 125.321 *et seq.* See MSU Extension *Land Use Series*, “Checklist #T1; for Adoption of a Township Plan in Michigan.”
- P.A. 207 of 1921, as amended, (being the City and Village Zoning Act, M.C.L. 125.581 *et seq.*) See MSU Extension *Land Use Series* “Checklist # M2; For Adoption of a City and Village Zoning Ordinance in Michigan”.

For any step of this process, the Michigan State University Extension members of the MSU Land Use Team can assist with sample materials; coordinating efforts between the township, county, and the state; and providing guidelines.

This outline is not designed as a substitute for reading and understanding the Michigan Zoning Enabling 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 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 in order 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 that has been done. Sometimes the middle column is further divided into two columns. The heading will indicate which one should be followed in your community’s case. It is always a matter of doing one or the other, never both.

This check list is intended to be linear, with each step being done in order, and most requiring the previous step to be done before starting the next.

Checklist # 3:

This is the step-by-step process for adoption of an interim zoning ordinance in Michigan.

Check when task is done	Step, or Task	Copy in the permanent file
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>Step 1. The legislative body for your government acts to form a planning commission as specified by the Michigan Planning Enabling Act (M.C.L. 125.3101 <i>et seq.</i> (including transferring all the powers and duties of a zoning commission to the planning commission):</p> <ol style="list-style-type: none"> 1. For cities and villages, townships, and counties wishing to have their own individual planning commission: P.A.33 of 2008, as amended, (being the Michigan Planning Enabling Act, M.C.L. __83(2) and __83(3).) 2. For any two, or more, city(ies), village(s), or township(s) wishing to plan and zone jointly: P.A. 226 of 2003, as amended, (being the Joint Municipal Planning Act, M.C.L. 125.131 <i>et seq.</i>) <p><u>OR</u> The legislative body acts to form a zoning commission as specified in §211, M.C.L. 125.3211 and §301, (M.C.L. 125.3301). It is also possible for citizens to petition for the creation of a zoning commission, see §211(3), M.C.L. 125.3211(3). Beginning July 1, 2011, a zoning commission’s powers and duties under the Michigan Zoning Enabling Act or an ordinance under that act shall only be exercised or performed by a planning commission. (Thus a zoning commission shall cease to exist.) (§301(2), M.C.L. 125.3301(2)) A zoning board already in existence on July 1, 2006 may continue as a zoning commission. However the powers and duties of the zoning board shall be transferred to a planning commission by July 1, 2001. (§301.(2), M.C.L. 125.3301(2)) A planning commission already in existence on July 1, 2006 may continue. (§301(1), M.C.L. 125.3301(1))</p> <p>Because adoption of an interim zoning ordinance starts with creation of a zoning commission, and because after July 1, 2011 a local government may no longer create a zoning commission there is a question if interim zoning ordinances can be adopted after July 1, 2011.</p>	<p>Check lists for Plan Adoption for the documentation and steps which should be followed.</p>

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Check when task is done	Step, or Task	Copy in the permanent file
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>Step 2. A plan, or at least the land use (or zoning plan) component of a plan has been adopted following each of the proper steps (see checklists # 1G, 1H, and 1I).</p> <p>PLANS. The planning acts gives importance to plans: First, “‘Master Plan’ means either of the following: . . . (ii) Any plan adopted or amended under this Act. This includes, but is not limited to, a plan prepared by a planning commission authorized by this act and used to satisfy the requirement of section 203(1) of the Michigan zoning enabling act, 206 PA 110, M.C.L. 125.3203, regardless of whether it is entitled a master plan, basic plan, county plan, development plan, guide plan, land use plan, municipal plan, township plan, plan, or any other term.” (emphasis added). (§3(g), M.C.L. 125.3203(g))</p> <p>Section 203(1) of the Michigan Zoning Enabling Act reads “The zoning ordinance shall be based upon a plan . . .” (§203(1), M.C.L. 125.3203(1)). (See additional references to Airport Plans (§203(2-4), M.C.L. 125.3203(2-4)). Zoning ordinances adopted after March 28, 2001 shall be consistent with any airport zoning regulations. Any zoning amendment adopted after March 28, 2001 shall not increase any inconsistency with any airport zoning regulations.)</p>	Copy of legislative body minutes where creation of zoning board (or combining it with planning) took place.
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>Step 3. The legislative body may direct the planning commission to submit, within a specified period of time, recommendations for an interim zoning ordinance. (Can only be in effect for one year, with possible maximum of two one year extensions; three years total.)</p>	Copy of directive. Copy of legislative body minutes with the motion adopting the directive.
<input type="checkbox"/> Task is done	<p>Step 4. The planning commission should author (1) the text of an interim zoning ordinance and (2) prepare the interim zoning map (establish zoning districts). In doing so the planning commission may use information, experts and assistance as is available. The materials prepared should include:</p> <ol style="list-style-type: none"> 1. A zoning plan for the areas subject to zoning of the local unit of government. 2. The establishment of zoning districts, including the boundaries of those districts. 3. The text of an interim zoning ordinance, with the necessary maps and zoning regulations to be adopted for a zoning district or the zoning jurisdiction as a whole. 	

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Check when task is done	Step, or Task	Copy in the permanent file
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>Step 5. The planning commission should determine and author a procedure for the administration and enforcement of the interim zoning ordinance. This should be contained in a zoning administrator’s manual including:</p> <ul style="list-style-type: none"> ▪ 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 local unit of government; and ▪ permit fees, appeals fees, special meeting fees. <p>Also the planning commission’s bylaws (or rules of procedure) need to cover details on the process for considering amendments, and administration of the ordinance, ethics, conflict of interest, zoning administrator supervision, and so on.</p>	Copy of office manual, application forms, etc.
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>Step 6. (Optional) Submit the proposed interim zoning ordinance for an informal review to a third party, such as a County Planning Office (if they provide such service), MSU Extension Land Use Area of Expertise team member (if they provide such service), or a professional planner; and review by an attorney is strongly recommended.</p>	Copy of the review (letters, minutes, other) by county planning, MSUE, or professional planner; and attorney.
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>Step 7. For cities, villages, and counties: Go to step 8.</p> <p>Step 7. For Townships: Before presenting its recommendations to the legislative body the planning commission shall submit the proposed interim zoning ordinance to the County Planning Commission (§307, M.C.L. 125.3307). (One should check with the County Planning Department to find out the deadline prior to the County Planning Commission meeting for submittal.) The planning commission has 15 days for this review. The review is waived if not received by the township within the 15 days.</p> <p>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>For townships:</p> <p>Letter of transmittal to the County Planning Commission</p> <p>Copy of attorney's letter to County Planning Commission.</p>

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Check when task is done	Step, or Task	Copy in the permanent file
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>Step 8. The planning commission should adopt a resolution recommending to the legislative body to adopt the interim zoning ordinance, or to not adopt the interim zoning ordinance, and file with the legislative body (§305, M.C.L. 125.3305):</p> <ul style="list-style-type: none"> ▪ A zoning plan for the areas subject to zoning of the local unit of government. ▪ The establishment of zoning districts, including the boundaries of those districts. ▪ The text of an interim zoning ordinance, with the necessary maps and zoning regulations to be adopted for a zoning district or the zoning jurisdiction as a whole. ▪ The manner of administering and enforcing the proposed interim zoning ordinance. ▪ In a township, a copy of County Planning Commission’s recommendations on the proposed interim zoning. 	<p>Copy of interim zoning ordinance, interim zoning map, zoning manual and forms.</p> <p>Copy of County Planning Commission recommendation on interim zoning ordinance.</p>
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>Step 9. The legislative body shall review the proposed interim zoning ordinance.</p>	<p>Minutes of the legislative body meeting.</p>

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Check when task is done	Step, or Task	Copy in the permanent file
<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, which may or may not happen) The legislative body may hold a hearing on the proposed ordinance/amendment if it considers it necessary (or as may be required by city or village charter) (§401(1), M.C.L. 125.3401(1)). Notices for the public hearing are required (§401(2), M.C.L. 125.3401(2)). The notice shall include the following information:</p> <ul style="list-style-type: none"> ▪ Describe the nature of the request (§103(4)(a), M.C.L. 125.3103(4)(a)). ▪ Indicate the property(ies) which is(are) subject of the hearing (§103(4)(b), M.C.L. 125.3103(4)(b)). ▪ A statement of when and where the issue will be considered (§103(4)(c), M.C.L. 125.3103(4)(c)). ▪ An indication of when and where written comments will be received concerning the issue (§103(4)(d), M.C.L. 125.3103(4)(d)). <p>If a hearing is held, the notices shall be given not less than 15 days before the date of consideration for approval (§103(3), M.C.L. 125.3103(3)). Notices shall be:</p> <ul style="list-style-type: none"> ▪ Published in a newspaper of general circulation in the local unit of government (§103(1), M.C.L. 125.3103(1)). (Note: “General circulation” means a newspaper which has a paid subscription, and does not mean a free-distribution advertiser or similar type publication.) ▪ Send the notice by mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected. (§306(2), M.C.L. 125.3306(2)) <p>See also §202(2) and 202(3), M.C.L. 125.3202(2) and 125.3202(3). The legislative body shall hold a hearing on a zoning ordinance if a interested property owner requests a hearing by certified mail, addressed to the clerk of the legislative body. A hearing under this subsection is not subject to the above requirements. The notice for this requested hearing shall include the following information:</p> <ul style="list-style-type: none"> ▪ Description the nature of the request. ▪ Indicate the property(ies) which is(are) subject of the request. ▪ A statement of when and where the request will be considered. ▪ An indication of when and where written comments will be received concerning the request <p>If a requested hearing is held, the notices shall be given not less than 15 days before the date of the requested hearing (§401(4)), M.C.L. 125.3401(4)). Notices shall be:</p> <ul style="list-style-type: none"> ▪ Sent to the interested property owner. 	<p>Copy of notices of hearing, affidavit notices were delivered, affidavit of publication, list of who notices were sent to, Copy of landowner’s request, Minutes of public hearing.</p>
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>Step 11. If the legislative body considers changes, additions or amendments to the proposed interim zoning ordinance; the changes, etc., may be referred back to the planning commission for consideration and comment within the legislative body’s specified period of time. (§401(3), M.C.L. 125.3401(3))</p>	<p>Copy of legislative body’s request.</p>

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Check when task is done	Step, or Task	Copy in the permanent file
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>Step 12a. The legislative body shall vote on the adoption of the proposed interim zoning ordinance, with or without amendments. The vote to adopt is done with a majority vote of the members of the legislative body (§401(5), M.C.L. 125.3401(5)).</p>	<p>Copy of minutes (including motion and vote) to adopt the interim zoning ordinance.</p> <p>Most recent copy of the appeals board appointments.</p>
	<p>Step 12b. For a city or village: The ordinance shall take effect (§401(6), M.C.L. 125.3401(6)):</p> <ul style="list-style-type: none"> ▪ seven days after a "notice of adoption" has been published, step 14, or ▪ a later date specified by the legislative body, or ▪ given immediate effect specified by the legislative body (§404(3), M.C.L. 404(3)). <p>Step 12b. For a township or county: The ordinance shall take effect:</p> <ul style="list-style-type: none"> ▪ seven days after a "notice of adoption" has been published, step 14, (§401(6), M.C.L. 125.3401(6)), or ▪ If a petition was not filed: expiration of the 30 days after a "notice of adoption" was published, step 16. (§402(3)(a), M.C.L. 125.3402(3)(a)), or ▪ If a petition was filed: when the legislative body's clerk has determined the petition is inadequate (e.g. not enough qualified signatures, drafted improperly) (§402(3)(b), M.C.L. 125.3402(3)(b)), or ▪ If an adequate petition was filed: after the results of an election (step 15c) have been certified to have adopted the zoning ordinance/amendment (§402(3)(c), M.C.L. 125.3402(3)(c)), or ▪ a later date specified by the legislative body (§401(6), M.C.L. 125.3401(6)), or ▪ given immediate effect specified by the legislative body (§404(3), M.C.L. 404(3)). 	
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>Step 13. A copy of the interim ordinance, amendments, supplements, and maps shall be filed with the local unit of government's clerk (§401(7), M.C.L. 125.3401(7)) and if a township, also the county clerk.</p> <p>A copy of the notice of adoption, step 14, shall be mailed to an airport(s) manager (see §306, M.C.L. 125.3306).</p> <p>If the county planning commission so requested, a copy of the zoning ordinance shall be provided to the county planning commission. The copy may be sent electronically (M.C.L. 125.3869).</p>	<p>Copy of the adopted ordinance</p> <p>Copy of mailing to airport(s) manager.</p> <p>If a township, a copy of filing with the county clerk</p> <p>Copy of mailing to county planning commission.</p>

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Check when task is done	Step, or Task	Copy in the permanent file
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>Step 14. One notice of “ordinance adoption”, within 15 days of adoption (step 12), shall be published in a local newspaper (§401(7), M.C.L. 125.3401(7)).</p> <p>(Note: “General circulation” means a newspaper which has a paid subscription, and does not mean a free-distribution advertiser or similar type publication.)</p> <p>The notice shall include (§401(9), M.C.L. 125.3401(9)):</p> <ul style="list-style-type: none"> ▪ The following statement: ▪ “A zoning ordinance regulating the development and use of land has been adopted by the legislative body of the (county, township, city, or village) of ____.” ▪ The effective date of the ordinance. ▪ The place where and the time when a copy of the ordinance may be purchased or inspected. 	<p>Copy of the “notice of ordinance adoption” and affidavit of publication.</p> <p>Statement of effective date of the ordinance</p>
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>Step 15. (Optional) A copy of the interim zoning ordinance can be placed on file with the ____.</p>	<p>The interim zoning ordinance.</p>
<input type="checkbox"/> Task is done <input type="checkbox"/> In the file	<p>Step 16. Once the interim zoning ordinance has taken effect, the legislative body should act to do the following things:</p> <ul style="list-style-type: none"> ▪ Adopt a policy or procedure for administration and enforcement of the interim ordinance (step 8). ▪ Appoint a zoning board of appeals as specified in the interim zoning ordinance. (The board of appeals should meet as soon as possible to elect their officers, adopt their rules of procedure and bylaws.) ▪ Act to appoint or hire a zoning administrator (the administrator should be instructed to follow the procedure and policy set by the planning commission and/or adopted by the legislative body). Once hired the zoning administrator should create an inventory of existing buildings which are nonconforming 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>Copy of the minutes for the meeting where action was taken.</p> <p>Copy of the policy or procedure.</p> <p>Copy of the appointments to the ZBA</p> <p>Contract/employment for zoning administrator.</p>
<input type="checkbox"/> Task is done	<p>Step 17. The planning commission should start work on preparing a [permanent] zoning ordinance (see <i>Land Use Series</i> “Checklist #2; for Adoption of a New Zoning Ordinance in Michigan.”)</p> <p>After one year from the effective date of the interim ordinance the legislative body may adopt a resolution to extend the interim zoning ordinance for a second year, or the ordinance expires.</p> <p>After two years from the effective date of the interim ordinance the legislative body may adopt a resolution to extend the interim zoning ordinance for a third year, or the ordinance expires.</p> <p>At the end of the third year the interim ordinance expires and no longer has any force or effect.</p>	<p>Respective certified resolution(s) to extend the interim zoning ordinance.</p>

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Appendix A - Glossary

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

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

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

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

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

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

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

Municipality means a city, village or township.

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

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

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

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

Appendix B – Related Publications

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

- *Land Use Series*: “Check List #1A; To Create a Planning Commission or Amend an Existing Planning Commission Ordinance.”
- *Land Use Series*: “#1B; Sample Ordinance to create a planning commission”
- *Land Use Series*: “#1C; Summary of changes between new Michigan Planning Enabling Act and the three old planning acts: Municipal Planning Act, County Planning Act, and Township Planning Act.”
- *Land Use Series*: “Checklist #1D; Steps to Transition an Existing Planning Commission to Comply with the Michigan Planning Enabling Act”
- *Land Use Series*: “#1E; Sample Bylaws for a planning commission.”
- *Land Use Series*: “Checklist #1F; What Should be in a Master Plan”
- *Land Use Series*: “Checklist #1G; For Adoption of a Plan in Michigan”
- *Land Use Series*: “Checklist #1H; The Five Year Plan Review.”
- *Land Use Series*: “Checklist #1I; For Adoption of an Amendment to a Plan”
- *Land Use Series*: “Checklist #1J; Adopting and Updating a Capital Improvement Program”
- *Land Use Series*: “Checklist #1K; Review of Infrastructure and Public Capital Expenditure”
- *Land Use Series*: “Checklist #1L; Adoption or Amendment of Subdivision Rules”
- *Land Use Series*: “#1M; How Governments Make Submissions on a Neighbor’s or County’s Proposed Plan”
- *Land Use Series*: “#1N; How a Planning Commission Should Respond to Submissions”
- *Land Use Series*: #1O; Sample joint Planning Commission Ordinance and Agreement”
- *Land Use Series*, “Checklist #2; for Adoption of a Zoning Ordinance in Michigan.”
- *Land Use Series*, “Checklist #3; for Adoption of an Interim Zoning Ordinance in Michigan.”
- *Land Use Series*, “Checklist #4; for Adoption of a Zoning Ordinance Amendment (Including PUD) in Michigan”
- *Land Use Series*, “Checklist #5: for Processing a Special Use Permit (Including PUD) Application in Michigan.”
- *Land Use Series*, “Checklist #6: for Processing a Zoning Appeal and Variance in Michigan.”
- *Land Use Series*, “#7: Sample Zoning Board of Appeals Rules of Procedure”
- *Land Use Series*, “#8: Sample Planning Commission and Zoning Board of Appeals Code of Conduct”

All of these are available at www.msue.msu.edu/lu/.