



## Michigan Planning Enabling Act Senate Bill 206 of 2007

Administrative & Municipal Practice Group

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### **PRACTICE AREAS**

Administrative Law

Zoning & Land Use

Not long after legislators consolidated local zoning acts into the Michigan Zoning Enabling Act, 2006 PA 110, they turned their attention to municipal planning. On March 13, 2008, Governor Granholm signed into law Senate Bill 206, creating the Michigan Planning Enabling Act ("PEA"), which takes effect on September 1, 2008.

Local units of government are currently governed by the Township Planning Act, 1959 PA 168; the Municipal Planning Act, 1931 PA 285; or the County Planning Act, 1945 PA 282. Similar to the consolidation of zoning under the Michigan Zoning Enabling Act, the PEA combines all municipal planning authority into one statute. Whether a township, village, city, or county, each local unit of government can look to the same statute for its land-use planning. Although the PEA combines the relevant statutory law, it also carves out exceptions and requirements for different local governments.

The PEA has voluminous requirements for local governments, spanning 85 sections and almost 40 pages. The following is a summary of the most notable provisions of the PEA and how they apply to townships. For specific application of any provision, please contact any member of our Municipal Practice Group.

### **CREATING A PLANNING COMMISSION**

Existing master plans, charter provisions, and ordinances creating a planning commission would continue in effect under the PEA unless rescinded or repealed, except that the duties of the planning commission are subject to the requirements of the PEA. If a planning commission does not currently exist, a township may create a planning commission consisting of five, seven, or nine members by adopting an ordinance and notifying the county planning commission. If a county planning commission does not exist, the clerk must provide notice to the regional planning commission. If a township does not adopt an ordinance to create a planning commission on its own initiative, a petition may be filed with the clerk requesting the issue to be decided by the voters. The petition must be signed qualified and registered



electors in the unincorporated areas of the township equal to not less than 8% of the total votes cast for all candidates for governor in the last preceding general election at which a governor was elected. If such a qualifying petition is filed, the township board, at its first meeting following the submission of the petition, must submit the question to the electors of the township.

## **MEMBERSHIP**

The procedure for appointing members to the planning commission under the PEA has not substantially changed. The supervisor appoints the members and the township board must approve the members by a majority vote. Under the Township Planning Act, members of the planning commission were required to be qualified electors and property owners of the township. The PEA eliminates the property ownership requirement and requires only that members be qualified electors. Further, the PEA allows the appointment of one member that is not a qualified elector. Another marked change from the Township Planning Act is an express provision that members of the planning commission will hold office until his or her successor is appointed. Currently, the Township Planning Act does not expressly address a vacancy in office created when a member is appointed by the supervisor, but not confirmed by the township board. That issue is now resolved; the member who held the office continues to serve until a successor is appointed.

A planning commission must consist of 5, 7, or 9 members and, other than *ex officio* members, must serve a term of three years. In townships that previously created a planning commission under the Municipal Planning Act, one member of the township board or the supervisor, or both, may be appointed to the planning commission as *ex officio* members. In all other townships, one member of the township board must be appointed to the planning commission as an *ex officio* member. An *ex officio* member of the planning commission has full voting rights, but the member's term on the planning commission will correspond to and expire with the term of office for which the member was elected.

The Township Planning Act provides for the removal of members of the planning commission by the supervisor, after a hearing, and with the approval of the township board. The process for removal of a member under the PEA is not altogether different, except that the township board may remove a member for misfeasance, malfeasance or nonfeasance upon written charges and after a public hearing. The PEA further defines malfeasance to include situations where a member failed to disclose a potential conflict of interest.

## **CREATING AND APPROVING A MASTER PLAN**

A planning commission must continue to carefully consider criteria and include certain items prior to preparing and approving a master plan. However, some of the following items need not be included until the master plan is amended pursuant to the PEA. Consideration must be given to the following:

- surveys and studies of present conditions and future growth within the township with due regard to its relation to neighboring jurisdictions
- planning of adjacent local units of government so that conflicts in master plans and zoning may be avoided



- programs for economic, social, and physical development within the township and maximum coordination of the township's programs with Federal, State and local agencies
- land use and infrastructure issues
- recommendations for physical development in the township
- a land use plan that consists in part of a classification and allocation of land for agriculture, residences, commerce, industry, recreation, ways and grounds, public buildings, schools, soil conservation, forests, woodlots, open space, wildlife refuges, and other uses and purposes
- the general location, character, and extent of streets, railroads, airports, bicycle paths, pedestrian ways, bridges, waterways, and waterfront developments; sanitary sewers and water supply systems; facilities for flood prevention, drainage, pollution prevention, and maintenance of water levels; and public utilities and structures
- the general character, extent, and layout of redevelopment or rehabilitation of blighted areas; and the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of streets, grounds, open spaces, buildings, utilities, or other facilities
- for a township that has adopted a zoning ordinance, a zoning plan for various zoning districts controlling the height, area, bulk, location, and use of buildings and premises. The zoning plan must include an explanation of how the land use categories on the future land use map relate to the districts on the zoning map
- recommendations for implementing any of the master plan's proposals

Following the preparation of the master plan, the township board must first approve the distribution of the proposed plan before the process may continue. Before adopting the proposed master plan, the planning commission must hold at least one public hearing and provide at least 15 days advance notice of the time and place of the hearing by publication in a newspaper of general circulation. Thereafter, the master plan must be approved by resolution of the planning commission carried by a simple majority of the members of a township planning commission.

If the township board has asserted a right by resolution to approve or reject the master plan, the master plan must be submitted to the township board for final approval. In the event the township board rejects the proposed master plan submitted by the planning commission, the township board must state its objections to the planning commission and the planning commission must revise the proposed plan to address the objections. The procedure must be repeated until the township board approves the proposed master plan.

### **CAPITAL IMPROVEMENTS PROGRAM**

Under the PEA, capital improvement programs of public structures and improvements are required in townships that, alone or jointly with one or more other local units of government, own or operate a water supply or sewage disposal system. The capital improvement program must be prepared annually either by the planning commission or the township board and must show, in general order of priority, those public structures and improvements that will be needed or desirable within the ensuing six year period.



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**CONCLUSION**

The PEA is lengthy, and in many ways more complicated than the Township Planning Act. The above summary only begins to scratch the surface of the new implications of the PEA. To fully appreciate the breadth of the requirements under the PEA, you should contact your township attorney. Our team of township lawyers welcomes any questions you may have about PEA, or any questions regarding other municipal matters.

