

BRANCH COUNTY PLANNING COMMISSION ORDINANCE

June 28, 2011

AN ORDINANCE TO REPEAL ORDINANCE OF 1966 AND TO ESTABLISH A NEW BRANCH COUNTY PLANNING COMMISSION IN COMPLIANCE WITH THE MICHIGAN PLANNING ENABLING ACT, PUBLIC ACT 33 OF 2008 (MPEA) TO SUPERSEDE THE EXISTING PLANNING COMMISSION ESTABLISHED BY ORDINANCE OF 1966; TO CONFER ON SAID PLANNING COMMISSION ALL POWERS AND DUTIES PROVIDED FOR IN THE MPEA.

The County of Branch hereby ordains:

Section 1. Repeal of Ordinance No. 2 of 1966 and Establishment of New Planning Commission in Compliance with the Michigan Planning Enabling Act.

Ordinance of 1966 which established the planning commission for the County of Branch under 1945 PA 282, the County Planning Act, is hereby repealed, and the planning commission for the County of Branch established thereby shall be superseded by the planning commission established by this ordinance pursuant to P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act (M.C.L. 125.3801 *et seq.*) (MPEA), and shall be constituted in accordance with and shall have all of the powers and duties set forth in that act and this ordinance. The members of the existing planning commission shall, however, continue to serve as the members of the planning commission established by this ordinance until such time as new members are appointed pursuant to section 4(I) hereof, which appointments shall be made by the board of county commissioners at the first county board meeting that occurs more than sixty (60) days after the date this ordinance is adopted by the Board of County Commissioners.

No matter pending before the planning commission as of the effective date of this ordinance shall be affected in any way by the fact that a new planning commission is being established by this Ordinance. All such pending matters, including, without limitation, all plan reviews, permit reviews, public hearings, etc., shall be carried forward under the new planning commission at the same status as existed prior to the effective date of this Ordinance.

Section 2. Purpose and Authority. The Branch County Planning Commission shall exist to advise the cities, villages, and townships on land planning related items. It shall review and advise the Board of Commissioners on legislative items with respect to land planning and work to promote optimal land use, coordinate relevant training, and integrate economic growth and agricultural preservation.

Section 3. Definitions.

The following terms are used in this ordinance, and have the following specific meanings. § means the section number of Public Act 33 of 2008, as amended, (being the Michigan Planning Enabling Act, M.C.L. 125.3801 *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 for the term of that 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 elected governing body of a county, township, city, or village.

Local Unit of Government means a county or municipality.

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.

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

- For a city or village, the legal boundaries of a city or village, respectively, and any area outside of the city or village boundary that the planning commission deems related to the planning of the city or village;
- For a township, the legal boundaries of a township outside the limits of a city(ies) and village(s);
- For a township whose planning commission was formed under P.A. 285 of 1931, as amended, (M.C.L. 125.31 *et seq.*), the legal boundaries of a township outside the limits of a city(ies) and village(s), and any area outside of the township boundary that the planning commission deems related to the planning of the township.
- For a county, the 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.

Section 4. Membership.

A. *Number of Members:* The Branch County Planning Commission shall have 9 members.

B. *Conditions of Membership:*

1. Members of the Planning Commission shall be qualified electors of the County
2. Appointed members of the Planning Commission shall attend educational programs designed for training members of Michigan planning commissions if the adopted Branch County budget for that fiscal year includes funds to pay for tuition, registration, and travel expenses for the training. Nothing in this paragraph shall prevent a member who has not had training from finishing his or

her term of office unless the member resigns or is otherwise removed by action of the County Board of Commissioners as provided by law. Unless the County Board of Commissioners finds that such member has special skills desired for service on the Planning Commission, a member who fails to attend any training made available shall be ineligible for reappointment at the conclusion of his or her term.

3. Training programs which qualify to meet this requirement shall be designed to maintain or increase the skill level of Planning Commission members in the area of planning, zoning and/or the law relative thereto and shall include:

- a. Educational programs presented by established educational institutions such as universities, colleges or community colleges;
- b. Educational programs presented by an established association of governmental units or governmental officials, such as the Michigan Association of Counties, the Michigan Townships Association, the Michigan Municipal League or the Michigan Association of Municipal Attorneys;
- c. Educational programs presented by experienced planning and/or legal consultants, or associations thereof, such as the Michigan Association of Planners or the Michigan Bar Association.

C. *Ex Officio Member*: The County Board of Commissioners may appoint up to but no more than two of its members to serve as an ex officio member of the Planning Commission with full voting rights.

D. *Terms of Members*: Members of the Planning Commission, other than the ex officio member, shall be appointed to 3-year terms as specified in section 15 of the MPEA. However, of the members of the Planning Commission, other than ex officio members, first appointed, a number shall be appointed to 1-year or 2-year terms such that, as nearly as possible, the terms of 1/3 of all members shall expire each year. Each member, including ex officio members, shall hold office until his or her successor is appointed. Ex officio members qualify as members as long as they hold membership in the organization that authorizes their ex officio membership on the Planning Commission. Qualified members may hold successive terms.

The term of an ex officio member of a planning commission shall be as specified in the Michigan Planning Enabling Act which currently provides as follows:

- (1) The term of a chief elected official shall correspond to his or her term as chief elected official.
- (2) The term of a member of the legislative body shall expire with his or her term on the legislative body.

E. *Vacancy*: If a vacancy occurs on the Planning Commission, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment.

F. *Removal*: Pursuant to section 15, paragraph 9 of the MPEA, The Branch County Board of Commissioners may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges prepared by or directed to be prepared by the board of commissioners and after a public hearing.

G. *Compensation*: All members of the Planning Commission may be compensated at such rate as may be determined from time to time by resolution of the county board of commissioners. Members of the Planning Commission may be reimbursed for actual, reasonable and necessary expenses incurred in the discharge of their duties to the extent provided for by actual appropriation of money for said purposes.

H. *Appointment of Members*:

The Chairman of the Branch County Board of Commissioners shall, with the approval of the Board, appoint Planning Commission members in the following manner:

1. Agriculture
2. Citizen at Large
3. Education
4. Local Municipality
5. Industrial
6. Public Health
7. Township
8. Transportation
9. Retail/Services

1. One agriculture member representing the agricultural interests of the county shall be appointed for a three year term of office, or remainder of an unexpired term of office, who meets the following conditions:

- a. shall be appointed by the County Board from names nominated in response to advertisements in a publication of local circulation in Branch County; and
- b. shall not hold any elected office or employment position in County Government other than by virtue of membership on the Planning Commission; and
- c. may, when possible, be a resident of a township (not a village or city).

2. One citizen at-large member representing the interests of the county shall be appointed for a three year term of office, or remainder of an unexpired term of office, who meets the following conditions:

- a. shall be appointed by the County Board from names nominated in response to advertisements in a publication of local circulation in Branch County; and
- b. shall not hold any elected office or employment position in County Government other than by virtue of membership on the Planning Commission; and

- c. may, when possible, be a resident of a township (not a village or city).
3. One citizen member representing the educational interests of the County shall be appointed for a three year term of office, or remainder of an unexpired term of office, or an initial two year term of office, who meets the following conditions:
 - a. shall be appointed by the County Board from names nominated by school district board(s) of education included, in whole or in part, within the county's boundaries or in response to advertisements in a publication of local circulation in Branch County; and
 - b. shall be a current or former member of a public school board or an administrative employee of a school district included, in whole or in part, within the county's boundaries; and
 - c. shall not hold any elected office or employment position in County Government other than by virtue of membership on the Planning Commission.
 4. One citizen member representing the local governmental municipal interests of the county shall be appointed for a three year term of office, or remainder of an unexpired term of office, who meets the following conditions:
 - a. shall be appointed by the County Board from names nominated by the Branch County Branch County Township Supervisors Association or from names nominated in response to advertisements in a publication of local circulation in Branch County; and
 - b. shall not hold any elected office or employment position in County Government other than by virtue of membership on the Planning Commission; and
 - c. may, when possible, be a resident of a township (not a village or city).
 5. One citizen member representing the industrial and economic interests of the county shall be appointed for a three year term of office, or remainder of an unexpired term of office, who meets the following conditions:
 - a. shall be a member in good standing of one of the county-wide non-profit corporations with its corporate office in the county, or a County funded agency, whose bonafide purpose is to promote business, commerce, and industry in the county, or be a current or former business owner or industrial employee; and
 - b. shall be appointed from names nominated by county-wide non-profit corporations with their corporate office in the County whose bonafide purpose is to promote business, commerce and industry in the county, or from names nominated in response to advertisements in a publication of local circulation in Branch County; and
 - c. shall not hold any elected office or employment position in County Government other than by virtue of membership on the Planning Commission; and
 6. One member representing public health interests of the county shall be appointed for a three year term of office, or remainder of an unexpired term of office, who meets the following conditions:
 - a. shall be an employee of the environmental health division of the public health department, or district, which has jurisdiction in the County, or

b. who shall be appointed from names nominated by the environmental health division of the public health department, or district, which has jurisdiction in the County.

7. One citizen member representing the township interests of the county shall be appointed for a three year term of office, or remainder of an unexpired term of office, who meets the following conditions:

a. shall be appointed by the County Board from names nominated by the Branch County Branch County Township Supervisors Association or from names nominated in response to advertisements in a publication of local circulation in Branch County; and

b. shall not hold any elected office or employment position in County Government other than by virtue of membership on the Planning Commission; and

c. may, when possible, be a resident of a township (not a village or city).

8. One member representing the transportation and communication interests of the county shall be appointed for a three year term of office, or remainder of an unexpired term of office, who meets the following conditions:

a. shall be a member of the County Board of Road Commissioners or the Manager of the County Road Commission; and

b. who shall be appointed from names nominated by the County Board of Road Commissioners.

9. One member representing retail/services interests of the County shall be appointed for a three year term of office, or remainder of an unexpired term of office, who meets the following conditions:

a. shall be shall be appointed by the County Board from names nominated in response to advertisements in a publication of local circulation in Branch County; and

b. shall not hold any elected office or employment position in County Government other than by virtue of membership on the Planning Commission; and

c. may, when possible, be a resident of a township (not a village or city).

I. *Transition from Previous Ordinance:* Membership on the existing planning commission shall continue until 9:00 a.m. of the day of the first meeting of the Board of Commissioners on September 13, 2011, and the existing planning commission shall be reconstituted at the first meeting of the board of commissioners in September 13, 2011. When appointments are made to the reconstituted planning commission, preference shall be given to existing members of the Planning Commission prior to such reconstitution. In addition, each member of the reconstituted planning commission shall be assigned an "important segment" he or she shall be representative of. The Planning Commission's bylaws shall provide duties for each member to attend, be familiar with, and represent organizations representing those interests.

Section 5. Organization and Procedures.

- A. The Planning Commission shall elect a chairperson, vice chairperson, and secretary from its members and fill other offices, as it considers advisable. Ex officio members are not eligible to serve as officers. The term of each officer shall be 1 year, with opportunity for reelection as specified in the Planning Commission's bylaws.
- B. *Bylaws.* The Planning Commission shall adopt bylaws for the transaction of its business, and shall keep a public record of its resolutions, transactions, findings, and determinations.
- C. *Advisory Committees.* The Planning Commission may appoint advisory committees whose members may not necessarily be members of the Planning Commission.
- D. *Annual Report.* No later than the 1st day of June of each year, the Planning Commission shall submit an annual written report, including a work program for the coming year, and a budget request for the commission and planning department to the county board of commissioners concerning its operations and the status of planning and zoning activities. The report may also make recommendations to the legislative body regarding planning, zoning, and development. Once the annual report is done, or concurrently, the planning commission may prepare a detailed budget of its operations for the coming year. This should be accompanied by a work program describing each proposed activity and the budget to go with it. The legislative body may approve or disapprove the budget, but in any event the planning commission must operate within the funds appropriated by the legislative body to cover its operations.
- E. *Meetings.* The Planning Commission shall hold not less than 4 regular meetings each year. The time and place of the meetings shall be established by resolution. Unless the bylaws provide otherwise, a special meeting of the Planning Commission may be called by the chairperson or by 2 other members, upon written request to the secretary. Unless the bylaws provide otherwise, the secretary shall send written notice of a special meeting to Planning Commission members not less than 48 hours before the meeting.
- F. *Open Meetings Act.* The business that the Planning Commission may perform shall be conducted at public meetings held in compliance with the Open Meetings Act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of a regular or special meeting shall be given in the manner required by that act.
- G. *Freedom of Information Act.* A document prepared, owned, used, in the possession of, or retained by the Planning Commission and staff members in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, 1976 PA442, and MCL 15.231 to 15.246.

Section 6. Conflict of Interest.

- A. Conflict of interest shall be defined as a situation in which a planning commissioner has competing professional or personal interests in the outcome of a vote. Such competing interests include but are not limited to financial reward or the involvement of employers or immediate family members. Such competing interests can make it difficult to fulfill his or her impartiality. A conflict of interest exists even if no unethical or improper act results from it. A conflict of interest can create an appearance of impropriety that can undermine confidence in the conduct of Planning Commission business. "Immediate family" shall include a member's spouse, children, other dependents, parents, siblings and a spouse's parents and a spouse's siblings.
- B. In accordance with MPEA Section 15. (9), failure of a Planning Commission member to disclose a potential conflict of interest constitutes malfeasance in office.
- C. Before joining in deliberation, fact finding, or casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Planning Commission.

Following such disclosure, unless a majority of the remaining members of the Planning Commission excluding the member with the potential conflict, finds that no conflict exists, the member with the conflict is disqualified from fact finding, deliberation, and voting on the matter.

Section 7. Duties and powers.

- A. *Master Plan.* The Planning Commission shall make and approve a master plan as a guide for development within the county and shall adopt same in accordance with the requirements of Sections 31 through 51 of the MPEA.
- B. *Education; Consultation.* To promote public interest in and understanding of the master plan, the Planning Commission may publish and distribute copies of the master plan or of any report, and employ other means of publicity and education. The Planning Commission shall consult with and advise public officials and agencies, public utility companies, civic, educational, professional, and other organizations, and citizens concerning the promotion or implementation of the master plan pursuant to the MPEA, section 51.
- C. *Consultants:* Upon request by the planning commission or upon its own initiative, the board of commissioners may retain the services of a professional planner or other professional consultant to assist the planning commission in any matter within the planning commission's jurisdiction. Before retaining such consultant, however, the board of commissioners shall consider any consultants recommended by the planning commission.

Section 8. Amendments to the MPEA.

Any amendments made to the MPEA shall hereby be declared to automatically control the activities and function of the Planning Commission.

Section 9. Repeal of Inconsistent Ordinances or Resolutions.

Any prior ordinances or resolutions addressing the same subject matter as this ordinance, particularly "Ordinance to Provide for the Creation, Organization, Powers, and Duties of a Planning Commission for Branch County, Michigan, Ordinance October 10, 1966, and any amendments thereto are hereby repealed.

Section 10. Effective Date.

This ordinance shall be effective on the day following the day when notice of its adoption is published in a newspaper of general circulation in the county.

Acceptance of the foregoing ordinance was moved by _____ and supported by _____.

Voting for:

Voting against:

The ordinance was declared adopted.

Dale Swift, Chairman of the Board of Commissioners

Date of publication of Notice of Adoption: _____

Effective date: _____

CERTIFICATION STATEMENT AND CLERK'S SIGNATURE

I, Teresa Kubasiak, as Clerk to the Branch County Board of Commissioners, do hereby certify that the foregoing Planning Commission Ordinance was duly adopted by the Branch County Board of Commissioners at a regular meeting of said Board at which a quorum was present on the 28th day of June 2011.

Date: June 28, 2011

Teresa Kubasiak, Clerk
Branch County Board of Commissioners