The New Zoning and Land Use Laws in Michigan

Today’s presentation

- A little history about the zoning enabling acts and planning enabling acts
- Top 10 (or so) things elected municipal officials and managers should know about:
  - Michigan Zoning Enabling Act (PA 110 of 2006)
  - Michigan Planning Enabling Act (PA 33 of 2008)
- Where to find more information
- Q and A

History of the Zoning Enabling Acts

- Zoning enabling acts are old (1921 and 1943)
- Major changes
  - 1978 changes (most significant so far)
  - PDR (1996)
  - Conditional rezoning (2005)
  - Codification (2006)
- Minor changes
  - Airport zoning
  - Other specific land uses (adult foster care, day care, art lessons, etc.)
  - Corrective amendments in 2008 (PA 12)
History of the Planning Enabling Acts

- Planning enabling acts are old (1931, 1945, 1959)
- All based on the Standard State Planning Enabling Act (1928)
- Major changes:
  - No major changes prior to 2008
  - Codification in 2008
- Minor changes:
  - Coordinated notice and review provisions with neighbors (2001)

Zoning and Planning Acts History

Michigan Zoning Act History
Ten things to know #1

- The new acts did not change the world as we know it
- We now have one uniform (mostly) structure for planning and zoning – all jurisdiction types
- Act’s organization is different
- Few new provisions
- Many questions about “new” provisions – most of those about visions that are not new at all
  - For example - ZBA reviews of special land use decisions (MZEA)

Ten things to know #2

- Coordination is required (MPEA)
  - Planning commissions must cooperate with adjoining units of local government in planning
  - Planning commission must seek the maximum coordination with various state and federal agencies
  - Those agencies must make public information available and furnish technical information and advice.
Ten things to know #3

- Now enhanced governing body role in guiding planning and zoning structure and content (MPEA)
  - Planning commission membership
  - Plan adoption
  - Conflict of interest procedures
  - Removal of planning commission or ZBA members
  - Receipt of annual planning commission report and budget

Planning Commission Membership

- 5, 7, or 9 members
- Ex-officio
  - Any combination, up to one-third of membership
    - Chief administrative official or designee
    - Chief elected official
    - One or more members of legislative body
- Non-qualified electors
  - Members who have an official residence somewhere outside of the jurisdiction or can’t vote there
  - Up to three, depending on community size

Planning Commission Membership

- Representative of
  - Economic, and social development of the community and other important segments
  - Geographic area to the extent practicable
Conflict of Interest

- Conflict of interest provisions must be included in ordinance or bylaws
- A planning commission or ZBA member must declare a potential conflict of interest or can be removed from office
- Member disqualified from voting on the matter if:
  - Bylaws mandate
  - Vote of the remaining members

Removal from office

- Misfeasance - illegal
- Malfeasance - evil
- Nonfeasance – not showing up
- Improperly handing conflicts of interest

Ten things to know #4

- Public hearing notice requirements are now uniform
  - Same for zoning hearings, master plan hearings, subdivision ordinance hearings
  - Public notice not less than 15 days before hearing date
- Intergovernmental plan review periods now consistent (MPEA)
  - Master plan – 63 days
  - Amendment to plan – 42 days
### Ten things to know #5

- **Variance**
  - Clarity on which jurisdictions can or can’t utilize use variances
  - Cities and villages always could, and can still
  - Very few townships and counties can
  - Authority to create procedures for variance review and approval

### Ten things to know #6

- There is now much greater emphasis on planning commission bylaws to guide their actions
  - Conflict of interest procedures
  - Selection criteria for new members
  - Officer selection
  - Attendance requirements and procedures
  - Training requirements
  - Ex Parte contact
  - Site inspections

### Ten things to know #7

- All zoning boards and zoning commissions are gone by July 1, 2011
  - Very few of these are left, but if you have one, action is needed now
Ten things to know #8

- The MPEA clarifies that zoning must be based on a plan.
- A zoning plan is required as part of the master plan.
- All plans are called “master plans.”

Master Plan and Zoning Ordinance connection

The plan must provide clear, well-supported vision and policies.
The ordinance must reflect the plan vision and policies.

Vision According to the Master Plan

“We envision a community that balances and coordinates development to make a more livable whole. Mixed-use development combines residential and commercial uses with open space and natural areas in a manner that enhances our quality of life. Pedestrian and bicycle paths link neighborhoods.”
Vision according to what the zoning ordinance says

“We envision a community that strictly separates land uses. You can try mixed-use and open space development (we heard it’s the “in thing”) but we will make it as difficult for you as possible. If you own a bicycle, use it at your own risk. Don’t even think about sidewalks.”

Zoning Plan

- Description of each zoning district
- Proposed schedule of regulations
  - Building height, lot area, bulk, and setbacks
- Proposed zoning map
  - or reference to zoning ordinance
- Standards for considering rezoning
- Explanation of relationship between future land use map and zoning map
  - This is required

Ten things to know #9

- The new acts include extensive hold harmless provisions
  - Plans
  - Zoning ordinances
  - Planning commissions
  - Administrative proceedings
  - Permits
  - Previous decisions
Ten things to know #10

- Nearly all communities will have to update the ordinance creating their planning commission
  - Deadline – July 1, 2011
- Even before revised, communities must follow MPEA procedural rules
  - Cities and villages with charters still follow their charter for planning commission membership, appointment and organization.
- Take time and think about it
  - Especially planning commission membership

Responsibilities of the legislative body

- Create planning commission and appoint qualified people
- Adopt master plan, zoning ordinance and subdivision regulations
- Remind planning commission to prepare
  - Annual report
  - Proposed work program
  - Before annual budget decisions
- Approve funding for planning commission operations and education

Responsibilities of the legislative body

- Regularly take actions to support the planning commission
- Consider planning commission recommendations on public works
- Adopt an annual capital improvements program
Where to get help

- From the Planning and Zoning Center at MSU
  - Michigan Planning Guidebook
  - Michigan Zoning Guidebook
- On the web
  - Planning and Zoning Center at MSU
    www.pzcenter.msu.edu
  - Kurt Schindler’s land use page
    www.msue.msu.edu/lu

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Questions?