

**ALPENA COUNTY PLANNING COMMISSION
ORDINANCE**
Date: October 26, 2010

An ordinance to repeal ordinance 1 of 1978 and to establish a new Alpena 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 No. 1 of 1978; to confer on said Planning Commission all powers and duties provided for in the MPEA.

The County of Alpena hereby ordains:

Section 1. Repeal of Ordinance No. 1 of 1978 and Establishment of New Planning Commission in Compliance with the Michigan Planning Enabling Act:

Ordinance No. 1 of 1978 which established the planning commission for the County of Alpena under 1945 PA 282, the County Planning Act, is hereby repealed, and the planning commission for the County of Alpena established thereby shall be superseded by the planning commission established by this ordinance pursuant to P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act (M.C.L. 125.3901 *et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 of the appointed pursuant to section 2 hereof, which appointments shall be made by the board of county commissioners at the first county board meeting that occurs more than ninety (90) 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. Membership:

A. *Number of Members:* The Planning Commission shall consist of 11 members appointed by the Alpena County Board of Commissioners. In the event of a reduction of the number of appointed members, incumbent planning commissioners shall serve out their terms of office. To be qualified to be a member and remain a member of the Planning Commission, the individual shall meet the qualification set out below.

B. *Conditions of Membership:*

1. Members of the Planning Commission shall be qualified electors of the county except that one member may be a non-qualified elector.
2. Appointed members of the Planning Commission may attend educational programs designed for training members of Michigan planning commissions if the adopted Alpena 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. A member who fails to attend any training made available may be found ineligible for reappointment at the conclusion of his or her term.
3. Training programs which qualify to meet this requirement should 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 may 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 will appoint 2 members to serve as an *ex officio* member of the Planning Commission with full voting rights; one ex officio member must be a County Commissioner.

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 a position 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. *Planning Commissioner Appointments to Other Boards and Commissions*:

1. As provided in Section 1 of the County and Regional Parks and Recreation Commissions Act, Public Act 261 of 1965 [MCL 46.351], the chairperson of the Planning Commission shall serve on the County Parks and

Recreation Commission. At the request of the chairperson, the Planning Commission may designate one of its members to serve on the Parks and Recreation Commission in place of the chairperson.

F. 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.

G. Removal: Pursuant to section 15, paragraph 9 of the MPEA, The Alpena 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. Failure to disclose a potential conflict of interest shall be considered malfeasance in office. Failure to repeatedly not attend Commission meetings shall be considered nonfeasance in office.

H. Membership; Compensation: All members of the Planning Commission shall serve as such with compensation equal to the per diem of the County Board per meeting plus mileage (if allowable by the County).

I. Appointment of Members: The Chairman of the Alpena County Board of Commissioners shall, with the approval of the Board, appoint Planning Commission members in the following manner:

1. *Representation:* Members shall be representative of important segments of the community and shall also, to the extent possible, be representative of the entire geography of the county and all of the townships, cities and villages in the County. In accordance with the major interests as they exist in Alpena County, the important segments include but are not limited to:

- (a) Tourism and recreation;
- (b) Business and industry;
- (c) Public health and human services;
- (d) Community and economic development;
- (e) Arts, culture and entertainment;
- (f) Agriculture, forestry, and land use;
- (g) Environment and natural resources;
- (h) Education;
- (i) Transportation, public works and safety;
- (j) An *ex officio* county board member;
- (k) An *ex officio* member or a citizen-at-large.

2. *Education Member:* The Alpena County Board of Commissioners will make every effort to appoint a member of a public school board, or an administrative employee of a school district included, in whole or in part within Alpena County. Such appointment will be made from nominations solicited from all applicable public school boards.

3. *Liaisons:* The Commission, in its Bylaws, may name "liaisons" to the Commission. The purpose of liaisons is to provide certain county and quasi-

county officials the ability to participate in discussion with the Commission in addition to speaking in public participation, and nothing else. Liaisons may include but are not limited to:

- (1) Community Development Department staff, and their agents and consultants
- (2) Alpena County Administrator
- (3) Alpena County Prosecutor
- (4) Drain Commissioner
- (5) Road Commissioner
- (6) Energy Consultant
- (7) Broadband Consortium Representative

4. *Appointment Process:* In making appointments for all except the *ex officio* member, the Alpena County Board of Commissioners shall make every attempt to invite and solicit names of candidates who meet the geographical and segment representation requirements set forth in 1, above. Before making any such appointments, the Board shall seek applicants and/or recommendations for such appointments in the following manner:

- a: At least 90 days before making such appointments, the County Board of Commissioners shall publish a notice in a newspaper of general circulation within the county and on the county's website seeking applications from persons interested in an appointment to the Planning Commission.
 - 1) The published notice shall advise such persons that they should submit a letter stating their interest, accompanied by materials describing their experience and interests which relate to the important representation segments listed in section 2.I.1, above, as well as the geographical area of the county of which they are representative, to the County Commissioner's office at least 30 days before the date on which the Board has announced it intends to make such appointments in order to provide the Board of Commissioners with sufficient time to review said applications.
 - 2) The published notice shall also advise potential applicants of the particular experience needed to fill any vacancies so as to meet the representation requirements of section 2.I.1, above.
- b: Except as may otherwise be provided in this ordinance, the interview and appointment process shall be in accord with the county's duly adopted policy for appointing applicants to boards and commissions.

J. *Membership Transition:*

- A. The transition from the previous Alpena County Planning Commission and the Commission established in this ordinance shall be gradual and shall take place over the next three years. The Board of Commissioners shall continue to make annual appointments, appointing approximately 1/3 of the membership of the Commission as specified in this Ordinance, so that three years from the effective date of this ordinance the membership,

membership representation, and number of members have completed the transition to fully comply with this Ordinance.

- B. All other aspects of this ordinance shall have immediate effect.

Section 3. 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.* The Planning Commission shall submit an annual written report, including a work program for the coming year, and a budget request for the commission to the county board of commissioners.
- 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 PA 442, and MCL 15.231 to 15.246.

Section 4. 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 of immediate family members or any that may affect the member's ability to be impartial. 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 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 5. 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.

Other duties as set forth in P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et seq.*; and P.A. 110 of the Public Acts of 2006, as amended, being the Michigan Zoning Enabling Act, (M.C.L. 125.3101 *et seq.*).

Section 6. Amendment 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 7. Severability:

If any part of this ordinance shall be determined to be unenforceable by a court of competent jurisdiction, that part shall be deemed to be severed and removed from the body of this ordinance, and the rest shall remain in full force and effect.

Section 8. Repeal of Inconsistent Ordinances or Resolutions:

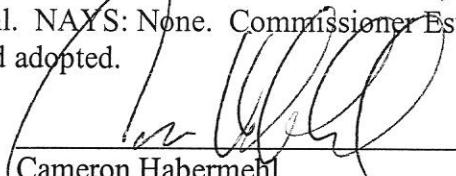
Any prior ordinances or resolutions addressing the same subject matter as this ordinance, particularly "Ordinance to Provide for the Creation, Organization, Powers, and Duties of a Planning Commission for Alpena County, Michigan, Ordinance Number 1 of 1978 and any amendments thereto are hereby repealed.

Section 9. 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.

The Committee recommends we repeal the 1978 Planning Commission Ordinance and adopt the new proposed Planning Commission Ordinance as presented.

Moved by Commissioner Hall and supported by Commissioner Bell to approve the adoption of the ordinance above. Roll call vote was taken: AYES: Commissioners Bell, Thomas, Mullaney, VanWormer, Fournier, Hall, and Habermehl. NAYS: None. Commissioner Estlack excused. Motion carried. The ordinance was declared adopted.



Cameron Habermehl
Chairman of the Board

Date of Publication of Notice of Adoption: October 30, 2010

Effective date: November 1, 2010

CERTIFICATION STATEMENT AND CLERK'S SIGNATURE

I, Bonnie Friedrichs, as Clerk to the Alpena County Board of Commissioners, do hereby certify that the foregoing Planning Commission Ordinance was duly adopted by the Alpena County Board of Commissioners at a regular meeting of said Board at which a quorum was present on the 26th day of October, 2010.

Date: 11-9-10



Bonnie Friedrichs, County Clerk
Alpena County Board of Commissioners