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Guideline Number

MPEA, 285 of 1931, Sec. 8a(1)
TPEA, 168 of 1959, Sec. 9(1)
COPEA, 282 of 1945, Sec. 4c(6)

DRAFT

WHAT DOES "REVISION", "EXTENSION", "ADDITION" OR "OTHER AMENDMENT" MEAN IN THE PLANNING ENABLING ACTS

Background Information

The Problem: Planning Commissions (MPEA, TPEA, COPEA) are required to follow the same procedures as adopting a plan or parts of a plan when considering an extension, addition, revision, or other amendment to a plan. What distinguishes an amendment from a revision, addition, or extension? These terms are not defined in any of the Planning Enabling Acts. However, the acts do distinguish an amendment from a revision. "Revisions" require going through the full review process while all the other terms only require an abbreviated review process. The question is "*when is it appropriate under the planning acts for counties, cities and villages and townships to shorten the review period?*"

Webster's New Universal Unabridged Dictionary defines "Revision" as: "a) an act of revising: reexamination or careful reading over for correction or improvement, b) something made by revising: a revised form or version."

"extension" as: "a) the action of extending or state of being extended: a stretching out or stretching forth: a carrying forward: lengthening, furthering, developing b: the action of spreading out (as in area) or state of being spread out: expansion, enlargement, augmentation, increase c: something extended."

"Addition" as: "a) the result of adding: anything added: increase, augmentation, b) something added that improves or increases value."

"Amend" as: "a) to put right: correct, rectify; specifically: to make recommendations in (as a text) c(1): to change or modify in any way for the better: improve, better (2): to change or alter in any way especially in phraseology (amend a remark); specifically: to alter (as a motion, bill, or law) formally by modification, deletion, or addition."

The definitions of the terms provide limited guidance to the question. However, there are few amendments that may be interpreted to follow the shorter review process. An "amendment", such as a change in wording or formatting, may not be characterized as a "revision" and thus could go through a shorter process, but they are still amendments and can not avoid any outside review as defined in the planning acts. Minor



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amendments that could be interpreted to permit a shortened review include the following:

1. Changes in text formatting, numbering, pictures, and other items that do not change data, policies, etc.
2. Changes in incorrect citations, word use, grammar, some definitions etc.

Amendments that would be interpreted as revisions and require the full review period include:

1. substantial changes to goals, objectives, policies or strategies, including any new ones, any that address a subject in a very different way
2. any that create a new land use category or classification, new density or intensity
3. any that result in major changes in the area of land uses on the future land use map or in the desired character of an area (such as rezoning land uses)
4. any that add a discussion of issues of greater than local concern
5. any that address border issues or land uses between communities
6. any discussion of new implementation tools (such as subdivision regulations or wetland regulations)
7. any major new plan element, like a capital improvements, or transportation, or historic preservation element, or any new subarea or corridor plan
8. any major change to an infrastructure element, like extending a major sewer line or adding a new school in an area not previously planned for one
9. and any new database section like replacing all the demographic data as a result of the Census or new special study.

Statutory Citation: See Sections 8a(1) in the City, Village and Municipal Planning Act, Sections 9(1) in the Township Planning Act, and Section 4c(6) in the County Planning Act.

For an amendment other than a revision of a plan in the MPEA and TPEA, the 65 day period for comment by entities identified in the notification process is reduced to 40 days, and the 75 to 95 day period for comment by the county planning commission or board of commissioners is reduced from 75 to 95 days to 55 to 75 days.

For an amendment other than a revision of plan in the COPEA, the 65-day period for review by the county board of commissioners is reduced to 40 days.

History of the Requirement: The Michigan Association of Planning proposed coordinated planning legislation that was introduced by Rep. Patricia Birkholz as HB 4571 in 2001. It included a proposed requirement for the 5-year review and adoption of amendments to a plan. Additionally, “*any successive part or other amendment to a plan shall be adopted pursuant to same procedures that govern the adoption of the plan...*”



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In PA's 263, 264 and 265 of 2001 the Legislature agreed that plans should be revised and/or amended under the same procedures as the development of the plan. Although, it is unclear what distinguishes an amendment as a minor revision, it is left to each municipality or county to decide what it means. Furthermore, the acts do not address regional, county and multi-jurisdictional coordination of plans, as specified in the coordinated planning act. The planning enabling acts only require notification of the intention to prepare a plan and a request for comment and review under the guidelines specified.

Recommended Best Practice

This MAP Guideline encourages counties and local units of government to adopt community planning principles that are concerned with the long-term sustainability of our communities, environment and economy. As stated in the general comments of the MAP community planning principles, *"The community planning process should involve a broad-based citizenry, including public and private sector leaders, community interest groups and multi-disciplinary professionals. A positive relationship between development and the making of community should be established through a citizen-based participatory planning and design process."*

MAP recommends that counties, cities, villages, townships and local governments within a county or region establish a common policy on how to deal with amendments as well as on what to address in reviews of draft plans. For example, if a common county or regional policy were created, it could for example, indicate that fixing a previously identified inconsistent policy in a local plan (as a result of a previous plan review), in the manner previously identified did not qualify as a "revision" and thus could go through the shorter review process. However, when in doubt, always go through the longer review process to allow the maximum opportunity for comment and review.

Additionally, as a result of the 75-95 day comment and review period required in the planning enabling acts, counties, cities, villages, townships and local governments should consider consolidating the number of times per year that amendments are processed by the planning commission to 2-3 times a year. Rezoning requests and other land use changes may also require a comprehensive plan revision before approval can occur. Rezonings will be easier to coordinate with plan reviews this way.

The APA ***Growing Smart Legislative Guidebook*** recommends procedures for local plan review, adoption, and amendment. Proposed plan amendments *must comply with all legal requirements, be consistent and sound and feasible*. A review process should include following criteria (7.402.2, pages 7-209 to 7-210):

- ensure the compliance of the amendment to plan, state acts, other local plans;
- opportunity and sufficient time to comment on plan amendments;
- ensure the proposed amendment does not conflict with existing plans;
- ensure facts and findings are correct;



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- ensure the amendment is the proper response to the purpose of the amendment.

A plan that ignores the review process can be rejected or become void.

Legal Considerations

Not yet aware of any specific case law on the amendment process.

Case Example

None yet available.

References

- ***Growing Smart Legislative Guidebook***, APA
- MAP Community Planning Principles

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