



**Michigan Association of Planning
A Chapter of the American Planning Association**

Planning and Zoning Officials Academy Vol. 12, No. 2

The Planning and Zoning Officials Academy provides local elected and appointed officials with both basic and advanced topics addressing issues that are unique to the role as a local government representative. To suggest a topic, please contact Kelly McIntyre at (734)913-2000.

Updating the Zoning Ordinance

Zoning is a constantly changing process. Key indicators of the need to update the ordinance may include court cases (particularly those at the court if appeals level and higher) legislative changes, new uses, and others.

Litigation

Frequent sources of new or revised zoning ordinance provisions are court actions that may take place either within the community or in other communities. On the other hand, decisions by higher state courts, such as the state Court of Appeals and the Michigan Supreme Court affect not only the communities that are the subject of the actions, but any other community similarly situated.

Decisions from higher courts have created a number of changes in zoning ordinances throughout the state. Examples of this include the rules applicable to manufactured homes outside of manufactured home parks, statutory definitions of "family," regulations applying to sand and gravel mining and a host of others. Other decisions by the United States Supreme Court regarding such issues such as land use takings and other important topics also demand attention.

It is essential the community be aware of court decisions which may effect its zoning ordinance. This requires close communications between the municipal attorney and the administration.

Legislation

Although fairly infrequent, the Michigan legislature on occasion amends the various zoning and related acts (like the Zoning Enabling Acts of 2006, Public Act 110).

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Examples of other amendments include those related to daycare facilities, home occupations, and land divisions.

The Board of Appeals

Another indicator of the possible need to amend the zoning ordinance is the board of appeals. If the board of appeals is consistently hearing the same types of variance requests, a review of these requests may reveal the need to consider an amendment. One of the review standards of the board of appeals requires that they deny variance requests that may occur frequently, or may have the effect of changing a provision of the ordinance. If the board is acting properly in these cases, the planning commission representative should indicate to the rest of the commission that the specific ordinance provision should be reviewed.

One way to ensure this review occurs is to simply list all of the variance requests heard throughout the year to see if any are being repeated frequently. The planning commission may then review these provisions and indicate to the board of appeals that an amendment is appropriate, or let the board know that the provision is still applicable and should be enforced. The board of appeals should respect the decision and only grant variances in those instances where the review standards are clearly met.

Administration

Another contact the planning commission should make is with the zoning administrator and building inspector/official. These officials deal with zoning issues on a daily basis and can be a valuable resource in identifying which parts of the ordinance are not working well.

New Uses/Techniques

The drive-through restaurant, when first introduced, was a startling new concept. Many communities found themselves scrambling to develop appropriate zoning regulations to take into account the special nature of these uses. Similarly, new planning and zoning concepts are constantly being developed and refined. Information on either new uses or techniques can be obtained from many sources, including educational conferences, planning related periodicals and Web sites, or requesting information from staff, attorneys, or consultants.