

# Ordinance to Confirm the Establishment of a Planning Commission with Zoning Authority

## Preamble

An ordinance to confirm the establishment of the Onota Township Planning Commission under the Michigan Planning Enabling Act (*PA 33 of 2008, MCL 125.3801, et seq.*); provide for the composition of that planning commission; provide for the powers, duties and limitations of that planning commission; and repeal any ordinance or parts of ordinances or resolutions in conflict with this ordinance.

THE TOWNSHIP OF ONOTA, ALGER COUNTY, MICHIGAN, ORDAINS:

## Section 1: Scope, Purpose and Intent

This ordinance is adopted pursuant to the authority granted the township board under the Michigan Planning Enabling Act (*PA 33 of 2008, MCL 125.3801, et seq.*), and the Michigan Zoning Enabling Act (*PA 110 of 2006, MCL 125.3101, et seq.*), to establish a planning commission with the powers, duties and limitations provided by those Acts and subject to the terms and conditions of this ordinance and any future amendments to this ordinance. (*MCLs 125.3811; MCL 125.3883*)

The purpose of this ordinance is to provide that the Onota Township Board shall hereby confirm the establishment under the Michigan Planning Enabling Act (*PA 33 of 2008, MCL 125.3801, et seq.*) of the Onota Township Planning Commission; formerly established under the Township Planning Act (*PA 168 of 1959, MCL 125.321, et seq.*), to establish the appointments, terms, and membership of the planning commission; to identify the officers and the minimum number of meetings per year of the planning commission; and to prescribe the authority, powers and duties of the planning commission. (*MCL 125.3811; MCL 125.3883*)

## Section 2: Establishment

The township board hereby confirms the establishment of the Onota Township Planning Commission under the Michigan Planning Enabling Act (*PA 33 of 2008, MCL 125.3801, et seq.*); formerly established under the Township Planning Act (*PA 168 of 1959, MCL 125.321, et seq.*)

**Membership.** The Onota Township Planning Commission shall have seven (7) members. Members of the Onota Township Planning Commission as of the effective date of this Ordinance shall continue to serve for the remainder of their existing terms so long as they continue to meet all of the eligibility requirements for planning commission membership set forth within the Michigan Planning Enabling Act (*MCL 125.3801, et seq.*). The sole exception shall be for the ex officio member, whose remaining term on the planning commission shall be limited to his or her term on the township board. (*MCLs 125.3811, 125.3815 & 125.3881*)

## Section 3: Appointments and Terms

**Appointment.** The township supervisor, with the approval of the township board by a majority vote of the members elected and serving, shall recommend appointment of all planning commission members, including the ex officio member. (*MCL 125.3815*)

**Term Length.** The planning commission members (other than the ex officio member) shall serve

for terms of 3 years each. (MCL 125.3815)

**Vacancies.** A planning commission member shall hold office until his or her successor is appointed. Vacancies shall be filled for the unexpired term in the same manner as the original appointment. (MCL 125.3815)

**Eligibility.** Planning commission members shall be qualified electors of the township, except that one planning commission member may be an individual who is not a qualified elector of the township. The membership of the planning commission shall be representative of important segments of the community, such as the economic, governmental, educational, and social development of the township, in accordance with the major interests as they exist in the township, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the entire geography of the township to the extent practicable. (MCL 125.3815)

**Ex Officio.** One member of the township board shall be appointed to the planning commission as an ex officio member. An ex officio member has full voting rights. An ex officio member's term on the planning commission shall expire with his or her term on the township board. (MCLs 125.3803 and 125.3815)

**Restriction.** No other elected officer or employee of the township is eligible to be a member of the planning commission. (MCL 125.3815)

#### **Section 4: Removal**

The township board may remove a member of the planning commission for misfeasance, malfeasance, or nonfeasance in office, upon written charges and after a public hearing. (MCL 125.3815)

#### **Section 5: Conflict of Interest**

**Disclosure.** Before casting a vote on a matter on which a planning commission member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the planning commission. Failure of a member to disclose a potential conflict of interest as required by this ordinance constitutes malfeasance in office. (MCL 125.3815)

For the purposes of this section, conflict of interest is defined by, but not limited to, the following four circumstances. A planning commission member shall declare a conflict of interest and abstain from participating in commission deliberations and voting on a request, when:

(1) **Family involvement** – An immediate family member is involved in any request for which the planning commission member is being asked to make a decision.

Immediate family member is defined as:

- the commission member's spouse
- their and their spouse's children (including adopted) and the spouses of the children, stepchildren and their spouses;
- grandchildren and their spouses;
- parents, step-parents, and grandparents;
- siblings and their spouses;
- parents-in-law and grandparents-in-law
- any person residing in the member's household

- (2) **Business or Financial Interest** – The planning commission member has a business or financial interest in the property involved in the request, or has a business or financial interest in the applicant’s company, agency or association;
- (3) **Neighboring Property** – The planning commission member owns or has a financial interest in neighboring property;  
*For purposes of this section, a neighboring property shall include any property falling within the notification radius for the application or proposed development, as required by the zoning ordinance or other applicable ordinance.*
- (4) **As decided by commission** – There is a reasonable appearance of a conflict of interest, as determined by a majority vote of the remaining members of the planning commission.

### **Section 6: Compensation**

The planning commission members may be compensated for their services as provided by township board resolution. The planning commission may adopt bylaws relative to compensation and expenses of its members for travel when engaged in the performance of activities authorized by the township board, including, but not limited to, attendance at conferences, workshops, educational & training programs, and meetings. (MCL 125.3823)

### **Section 7: Officers and Committees**

The planning commission shall elect a chairperson and a secretary from its members and may create and fill other offices as it considers advisable. An ex officio member of the planning commission is not eligible to serve as chairperson. The term of each office shall be 1 year, with opportunity for re-election as specified in the planning commission bylaws.

The planning commission may also appoint advisory committees whose members are not members of the planning commission. (MCL 125.3817)

### **Section 8: Bylaws, Meetings and Records**

The planning commission shall adopt bylaws for the transaction of business. (MCL 125.3819)

**Regular Meetings.** The planning commission shall hold at least 4 regular meetings each year and shall by resolution determine the time and place of the meetings.

**Special Meetings.** Unless otherwise provided in the planning commission’s bylaws, 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 otherwise provide, the secretary shall send written notice of a special meeting to planning commission members at least 48 hours before the meeting. (MCL 125.3821)

**Open Meetings Act.** The business that the planning commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, PA 267 of 1976, MCL 15.261, et seq.

**Records; Requests.** The planning commission shall keep a public record of its resolutions, transactions, findings, and determinations. A writing prepared, owned, used, in the possession of,

or retained by a planning commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act (*PA 442 of 1976, MCL 15.231, et seq.*)

### **Section 9: Annual Report**

The planning commission shall make an annual written report to the township board concerning its operations and the status of the planning activities, including recommendations regarding actions by the township board related to planning and development. (*MCL 125.3819*)

### **Section 10: Authority to Make Master Plan**

Under the authority of the Michigan Planning Enabling Act (*PA 33 of 2008, MCL 125.3801-31, et seq.*), and other applicable planning statutes, the planning commission shall make a master plan as a guide for development within the township's planning jurisdiction. (*MCL 125.3807*)

Final authority to approve a master plan or any amendments thereto shall rest with the planning commission; unless the township board passes a resolution asserting the right to approve or reject the master plan. (*MCL 125.3843*)

Unless rescinded by the township, any plan is adopted or amended under the Township Planning Act (*PA 168 of 1959, MCL 125.321, et seq.*)

### **Section 11: Zoning Powers**

The township board hereby confirms the transfer of all powers, duties, and responsibilities provided for zoning boards or zoning commissions by the former Township Zoning Act (*PA 184 of 1943, MCL 125.271, et seq.*); the Michigan Zoning Enabling Act, (*PA 110 of 2006, MCL 125.3101, et seq.*); or other applicable zoning statutes to the Onota Township Planning Commission formerly established under the Township Planning Act (*PA 168 of 1959, MCL 125.321, et seq.*)

Any existing zoning ordinance shall remain in full force and effect; except as otherwise amended or repealed by the township board.

### **Section 12: Capital Improvements Program**

**Exempted.** To further the desirable future development of the Township under the master plan, the Township Board, after the master plan is adopted, shall prepare or cause to be prepared by the Township Supervisor or by a designated nonelected administrative official, a capital improvements program of public structures and improvements, showing those structures and improvements in general order of their priority, for the following 6-year period. The prepared capital improvements program, if prepared by someone other than the Township Board, shall be subject to final approval by the Township Board. The planning commission is hereby exempted from preparing a capital improvements plan.

### **Section 13: Subdivision and Land Division Recommendations**

**Subdivisions; Public Hearings.** The planning commission may recommend to the township board provisions of an ordinance or rules governing the subdivision of land. Before recommending such an ordinance or rule, the planning commission shall hold a public hearing on the proposed ordinance or rule. The planning commission shall give notice of the time and place of the public hearing not less than 15 days before the hearing by publication in a newspaper of general

circulation within the township.

**Land Divisions; Public Hearings.** The planning commission shall review and make recommendation on a proposed plat before action thereon by the township board under the Land Division Act (*PA 288 of 1967, MCL 560.101, et seq.*). Before making its recommendation, the planning commission shall hold a public hearing on the proposed plat. A plat submitted to the planning commission shall contain the name and address of the proprietor or other person to whom notice of a hearing shall be sent. Not less than 15 days before the date of the hearing, notice of the date, time and place of the hearing shall be sent to that person at that address by mail and shall be published in a newspaper of general circulation in the township. Similar notice shall be mailed to the owners of land immediately adjoining the proposed platted land (*MCL 125.3871*).

#### **Section 14: Severability**

The provisions of this ordinance are hereby declared to be severable, and if any part is declared invalid for any reason by a court of competent jurisdiction, it shall not affect the remainder of the ordinance, which shall continue in full force and effect.

#### **Section 15: Repeal**

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. The resolution or ordinance establishing the Onota Township Planning Commission under the Township Planning Act (*PA 168 of 1959, MCL 125.321, et seq.*) is hereby repealed.

#### **Section 16: Effective Date**

This ordinance shall take effect on the date of its publication (*MCLs 41.184, 42.22, 125.3811 and 125.3881*).

#### **CERTIFICATE**

The undersigned, as the duly elected and acting clerk of the township, hereby certifies that this ordinance was duly adopted by the township board at a regular meeting of said board, at which a quorum was present, held on October 6, 2008, and that copies of the ordinance were transmitted and published as directed.

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Township Clerk

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Township Supervisor

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#### **AMENDMENT HISTORY:**

- (1) August 6, 2012 - amended to reduce the number of members on the Planning Commission from seven to five (*Ordinance to Amend Planning Commission Ordinance*).
- (2) June 2, 2014 - amended to reinstate the original number of members as seven (*Ordinance to Repeal Ordinance to Amend Planning Commission Ordinance*).