

Township Planning Act

Outline of Amendments and Requirements

PA 263 of 2001

(HB 5038)

MTA Overview

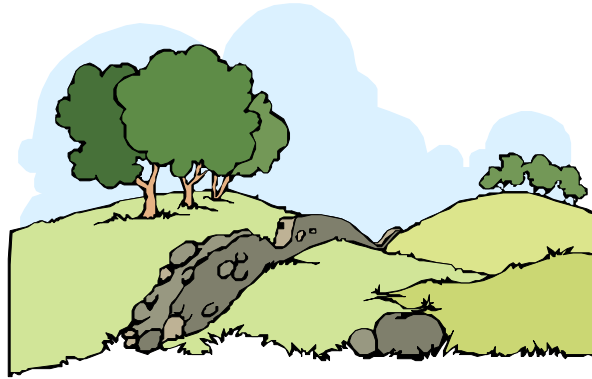
MTA Flow Chart for Compliance

Sample "Notice of Intent" Letter

Sample Cover Letter

Notice of Intent Register

Township Planning Act (PA 168 of 1959)



The purpose of this material is to provide the legal guidelines for the recent changes in the Township Planning Act. Certainly, no sample language should be used unless, after careful review, it is the professional judgment of your legal counsel that using the sample documents and guidelines attached will accomplish the particular objectives and intentions of your township. Although this material is the result of much thought and effort, neither the authors nor the Michigan Townships Association assume any responsibility for the results of using these guidelines word-for-word in individual cases.

Overview of Township Planning Act Amendments

By Robin Reed, Member Information Specialist,
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Date: July 1, 2002

After years of research and coordination, a compromise was finally reached which amends the planning laws in Michigan and how local units of government develop master and/or land use plans for their communities. The goal of these amendments was to accomplish a greater level of cooperation between local governments when developing or amending their plans. Three new bills were signed into law on January 9, 2002 by Governor John Engler, including House Bills 5083 (townships), 5252 (counties) and 5267 (municipalities). All three amendments revised the formal process for review and adoption of plans and create a formal procedure to share planning documents with neighboring communities. For purposes of this informational packet, MTA will take an in-depth look at House Bill 5082 which became Public Act 263 of 2001 and amended the Township Planning Act (PA 168 of 1959.)

Notice to Plan:

The new law specifies who must receive a notice.

A township wishing to adopt or amend its basic plan (referred to hereafter as the "plan") must send notice by first class mail that "the community intends to prepare (or amend) a plan" to the planning commission of any township, village or city located within or contiguous to the township and to the county planning commission before preparing the plan. If there is no local planning commission, then notice goes to the local legislative body (i.e., if there is no planning commission in the neighboring township, then the plan shall be submitted to that township's board). The notice of intent to plan should encourage and request the cooperation and comments from those other local units. Notice must also be sent to any railroad company or public utility that registers for such a notice with the township. If there is no county planning commission, then notice must go to the regional planning commission for its comments. Other governmental entities that can register to become a part of the planning process include Downtown Development Authorities (DDA), Tax Increment Finance Authorities (TIFA), school boards, road commissions and other local governmental units.

The required notice "may" also request permission to use electronic transmission of planning information for future communications. In other words, any unit involved with the township's notice of intent to plan may request all plan materials to be transmitted via email or through electronic files. If electronic transmissions are not requested by parties receiving the notice of intent to plan, then all materials will be sent through regular mail or personal delivery. If electronic transmission is requested, then a township should be prepared to have plan materials and comments returned to the township in the same manner. Electronic transmissions only occur under mutual agreement.

The new law provides no time limit for noticing the other local units of your township's intent to plan. MTA recommends developing your own township standards. The law just says that you shall mail by first-class mail, a notice, explaining the planning commission intends to prepare a plan and requests the recipient's cooperation and comments. See page 7 for a sample letter of intent to plan.

Distribution of the Proposed Plan

Once the planning commission develops a proposed draft plan, it must be submitted to the township board for review, comment and then approved for distribution before it can be sent out to the outside entities. This ensures that both the planning commission and the township board generally support the proposed changes in the plan. Once approved for distribution, the plan is sent to the "notice list,"

the same list that originally received the notice of intent to plan, with a statement signed by the secretary of the planning commission (see sample language on page 8). The statement must acknowledge that all requirements in the law have been met and must provide a list of names, with addresses and transmission date, of everyone receiving the plan. This statement must also be filed with the county. Only the registered entities are required to reimburse the township for copy and postage costs associated with transmitting the draft plan.

Comment Period

All entities (except the county) receiving the proposed plan will have up to 65 days to submit their comments on the plan. Comments on the proposed plan must be sent back to the township and to the county. The county has not less than 75 days or more than 95 days after the date the proposed plan was submitted to the county planning commission (or in case of no county planning commission, the county board of commissioners) to submit its comments of the proposed plan to the township planning commission. The longer time frame for county review takes into consideration that the county must also look over the comments from other local governments and entities. The county must include comments on whether the proposed plan is inconsistent with any other municipal or county plan. If the plan is an amendment to the original township plan, the review procedure is shortened a little with all entities receiving a copy to submit comments within 40 days and county review submitted no sooner than 55 days and no more than 75 days. The statements during the comment period are only advisory, including those of the county.

Public Hearing and Approval

Before approving the plan and after the allotted comment period for all entities and the county review, the planning commission shall hold a public hearing on the proposed plan. The township planning commission shall publish notice of the public hearing twice in a newspaper of general circulation in the township. The first notice shall be published not more than 30 days or less than 20 days before the hearing and the second publication shall be not more than 8 days before the date of public hearing. After the public hearing on the proposed plan (or for amendments to the plan) the township planning commission can approve the plan with a majority vote. Following the approval, the secretary must submit the proposed plan to the township board.

Approval by the township planning commission is the final step in the approval process, unless the township board by resolution has asserted the right to approve or reject the plan. In that case, after the planning commission approves the plan, the township board shall approve or reject the plan. If rejected, the township board shall submit to the planning commission a statement of its objections to the plan and the planning commission must revise the plan to address the objections. These steps are repeated until agreement is reached between the planning commission and the township board and all public notice requirements apply.

Plan Distribution

The plan is effective upon final adoption, and copies of the plan must be sent to the local jurisdictions and entities that received the proposed plan for comment, including the county. Cost recovery for copying and postage can also be requested for the final plan and MTA recommends following your

township policies for Freedom of Information Act requests to recover these costs.

Plan Amendments

Amending your township master plan follows the same procedures except the comment periods are shortened. Local jurisdictions and entities that registered to be included during the comment period have up to 40 days to comment on proposed amendments to the plan, and the county review must be submitted no sooner than 55 and no less than 75 days.

Plans must be reviewed by the township planning commission at least every five years. At that time, the planning commission shall determine whether formal amendment or adoption should be processed and the planning commission would follow the amendment procedures. **Townships that have not updated their Plan in the past five years** need to do their first formal review of their township plan to comply with the new Act. MTA recommends documenting in writing the review of the plan every five years. Meeting minutes would be a good way to document that the plan was reviewed.

Townships currently in the planning process are not required to use these new procedures if Plan changes are adopted by January 9, 2003. The Act did this to allow for transition of those plans in the process of being prepared and amended.

Quick Steps to Follow the Planning Act Requirements for Townships Developing a New Master or Land Use Plan

(Follow the Quick Steps on the next page if **amending** your current plan)

Step 1: Notice to Plan

The township must send a notice of the township's intent to adopt a plan.

Who must be mailed the “notice of intent” to plan?

The planning commission of any township, city or village located within or contiguous to the township (if there is not a local planning commission, the notice goes to the local legislative body) and the county (if there is no county planning commission the notice goes to the regional planning commission)

Who may be mailed the “notice of intent” to plan?

Any other local entity that may want to receive notice of the township's intent to plan may register with the township to be sent a notice and mailed a copy of the proposed plan. These entities may include: railroads, public utilities, and any other local government entity such as a local DDA or TIFA.

Step 2: Distribution of the “Proposed” Plan

After the plan is drafted:

1. Planning commission submits draft plan to the township board for review and comments

2. Township board authorizes the PC to distribute the proposed plan to those local entities identified in step one above.

3. Township PC secretary must provide a statement of compliance to the County PC (or board if no PC exists) that lists all the entities (name and address) receiving a copy of the proposed plan, including date of submittal. Sample page 9.

Step 3: Comment Period

Comments are advisory only.

1. Any entity registered to receive the notice of intent to plan must submit its comments on the proposed within **65** days of receiving the plan.

2. The county PC (or board or regional PC) submits its comments and statement on consistencies with other plans to the township no earlier than **75** or more than **95** days from when plan was submitted.

Step 4: Public Hearing

1. Notice of public hearing must be sent to all those entities and local governments which received a copy of the proposed plan.

2. Notice of public hearing must be published twice in local newspaper. The first notice between **20** and **30** days before the hearing and the second notice no more than eight days prior to the hearing.

Note: The hearings cannot be scheduled before the required time allotment for review procedures.

Step 5: Final Approval

1. At or after the public hearing, the PC can adopt the plan by resolution by simple majority of the PC, then PC secretary submits plan to the township board.

2. Unless the township board asserts its own right to approve or reject the plan, the PC approval is final. Otherwise, the township board can send the plan back to the PC until it is finally approved.

Step 6: Distribution of the Plan

Once approved, the plan must be submitted to the jurisdictions and local entities that received the proposed plan for comment, including the county.

Quick Steps to Follow the Planning Act Requirements for Townships Amending Current Land Use Plans

Step 1: Notice to Plan

The township must send a notice of the township's intent to amend its current plan. Follow the same guidelines as developing a new plan.

Who must be mailed the “notice of intent” to amend plan?

The planning commission of any township, city or village located within or contiguous to the township (if there is not a local planning commission, the notice goes to the local legislative body) and the county (if there is no county planning commission the notice goes to the regional planning commission)

Who may be mailed the “notice of intent” to amend plan?

Any other local entity that may want to receive notice of the township's intent to amend its plan may register with the township to be sent a notice and mailed a copy of the proposed plan. These entities may include: railroads, public utilities, and any other local government entity such as a local DDA or TIFA.

Step 2: Distribution of the Amended Plan

After the amendments to the plan are drafted:

1. PC submits draft amendments to the township board for review and comments

2. Township board authorizes the PC to distribute the amendments to those local entities identified in step one above.

3. Township PC secretary must provide a statement of compliance to the County PC (or board if no PC exists) that lists all the entities (name and address) receiving a copy of the proposed plan, including date of submittal. Sample page 9.

Step 3: Comment Period

Comments are advisory only.

1. Any entity registered to receive the notice of intent to plan must submit its comments on the proposed within **40 days** of receiving the plan. (15 days less than new plan)

2. The county PC (or board or regional PC) submits its comments and statement on consistencies with other plans to the township no earlier than **55 or more than 75 days** from when plan was submitted. (20 days less than when adopting a new plan)

Step 4: Public Hearing

1. Notice of public hearing must be sent to all those entities and local governments which received a copy of the proposed plan.

2. Notice of public hearing must be published twice in local newspaper. The first notice between **20 and 30 days** before the hearing and the second notice no more than **eight days** prior to the hearing.

Note: The hearings cannot be scheduled before the required time allotment for review procedures.

Step 5: Final Approval

1. At or after the public hearing, the PC can adopt the plan by resolution by simple majority of the PC, then PC secretary submits plan to the township board.

2. Unless the township board asserts its own right to approve or reject the plan, the PC approval is final. Otherwise, the township board can send the plan back to the PC until it is finally approved.

Step 6: Distribution of the Plan

Once approved, the plan must be submitted to the jurisdictions and local entities that received the proposed plan for comment, including the county.

Sample Letter Notice of Intent to Plan

To: _____ Township
[name and address]

From: _____ Township
[name and address]

Re: Notice of Intent to Plan

Date: _____

Dear _____ Township Board Members:

[This may also be addressed to a local village, county or regional planning agency as required]

This letter is to inform you that _____ Township is preparing a land use plan *[or updating its existing land use plan]*. In accordance with MCL 125.327a of the Township Planning Act (PA 168 of 1959 as amended), this letter is to notify our neighboring local governments, utilities and any other related entity that has requested this notification of our "Intent to Plan" and that _____ Township welcomes your cooperation and comments on the proposed plan. _____ Township will send you a copy of the proposed land use plan as soon as we have a finished draft.

[The following section is optional and does not have to be offered if noticing township does not want to provide electronic copies of the proposed plan. But please note that if the township does offer electronic transfer of the township plan, comments from the receiving entities can be returned electronically as well.]

If you would like to receive the draft copy of the land use plan in electronic format, please let the township know by providing your formal request and email address. This office prepares all its electronic data in _____ [MS Word, WordPerfect, PageMaker, etc.] format. Please note however, that once electronic communication is requested, all comments can also be send electronically as well.

Sincerely,

_____ Township

_____, Clerk *[or other township official/employee as directed by the board]*

Sample Cover Letter

To mail with the draft plan or plan amendments
from the Secretary of the Planning Commission

To: _____ Township
[name and address]

From: _____ Township
[name and address]

Re: _____ Township's Proposed [or amendments to] Land Use Plan

Date: _____

Dear _____ Township Board Members:

[This may also be addressed to a local village, county or regional planning agency as required]

Enclosed is a draft of the proposed land use plan for _____ Township. In accordance with MCL 125.327a of the Township Planning Act (PA 168 of 1959 as amended), the enclosed proposed land use plan was either required to be sent to your agency by statute, or your agency requested to receive this copy.

Below are time periods for submitting comments back to us on the plan. Thanks for your cooperation and comments, the _____ Township Planning Commission looks forward to your forthcoming correspondence.

Sincerely,

_____ Township Planning Commission

_____, Secretary

Special notes:

Per statute, a list of all entities receiving a proposed plan must accompany this cover letter when submitting the draft to county (only). MTA recommends sending a photo copy of the list of registered entities you compiled on the sample form from page 10.

The county has up to 95 days to review a proposed new plan and up to 75 days for reviewing plan amendments.

All local governments and other entities receiving a copy of a proposed new plan have up to 65 days for review and up to 40 days for plan amendments.

Notice of Intent to Plan Register

Local units that "Must" be notified

Use this easy form to keep track who you "must" notify when your township intends to adopt or amend its land use plan.

Name of Local Government: _____
(city, county, township, village or railroad)

Mailing address: _____
(street/P.O. Box)

(city, state and zip)

Email address: _____
(only if providing electronic file access)

- Send draft plan by first-class mail
 Send draft plan electronically

Date sent: _____
Date received: _____

Name of Local Government: _____
(city, county, township, village or railroad)

Mailing address: _____
(street/P.O. Box)

(city, state and zip)

Email address: _____
(only if providing electronic file access)

- Send draft plan by first-class mail
 Send draft plan electronically

Date sent: _____
Date received: _____

Name of Local Government: _____
(city, county, township, village or railroad)

Mailing address: _____
(street/P.O. Box)

(city, state and zip)

Email address: _____
(only if providing electronic file access)

- Send draft plan by first-class mail
 Send draft plan electronically

Date sent: _____
Date received: _____

Name of Local Government: _____
(city, county, township, village or railroad)

Mailing address: _____
(street/P.O. Box)

(city, state and zip)

Email address: _____
(only if providing electronic file access)

- Send draft plan by first-class mail
 Send draft plan electronically

Date sent: _____
Date received: _____

Name of Local Government: _____
(city, county, township, village or railroad)

Mailing address: _____
(street/P.O. Box)

(city, state and zip)

Email address: _____
(only if providing electronic file access)

- Send draft plan by first-class mail
 Send draft plan electronically

Date sent: _____
Date received: _____

Name of Local Government: _____
(city, county, township, village or railroad)

Mailing address: _____
(street/P.O. Box)

(city, state and zip)

Email address: _____
(only if providing electronic file access)

- Send draft plan by first-class mail
 Send draft plan electronically

Date sent: _____
Date received: _____

Notice of Intent to Plan Register

All other agencies requesting notice

Use this easy form to keep track who is requesting to be notified when your township intends to adopt or amend its land use plan.

Name of other Agencies: _____

(local utility, DDA, TIFA, Chamber, School, etc.)

Mailing address: _____

(street/P.O. Box)

(city, state and zip)

Email address: _____

(only if providing electronic file access)

Send draft plan by first-class mail

Send draft plan electronically

Date sent: _____

Date received: _____

Name of other Agencies: _____

(local utility, DDA, TIFA, Chamber, School, etc.)

Mailing address: _____

(street/P.O. Box)

(city, state and zip)

Email address: _____

(only if providing electronic file access)

Send draft plan by first-class mail

Send draft plan electronically

Date sent: _____

Date received: _____

Name of other Agencies: _____

(local utility, DDA, TIFA, Chamber, School, etc.)

Mailing address: _____

(street/P.O. Box)

(city, state and zip)

Email address: _____

(only if providing electronic file access)

Send draft plan by first-class mail

Send draft plan electronically

Date sent: _____

Date received: _____

Name of other Agencies: _____

(local utility, DDA, TIFA, Chamber, School, etc.)

Mailing address: _____

(street/P.O. Box)

(city, state and zip)

Email address: _____

(only if providing electronic file access)

Send draft plan by first-class mail

Send draft plan electronically

Date sent: _____

Date received: _____

Name of other Agencies: _____

(local utility, DDA, TIFA, Chamber, School, etc.)

Mailing address: _____

(street/P.O. Box)

(city, state and zip)

Email address: _____

(only if providing electronic file access)

Send draft plan by first-class mail

Send draft plan electronically

Date sent: _____

Date received: _____

Name of other Agencies: _____

(local utility, DDA, TIFA, Chamber, School, etc.)

Mailing address: _____

(street/P.O. Box)

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Email address: _____

(only if providing electronic file access)

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Send draft plan electronically

Date sent: _____

Date received: _____