

The Planning Commissioner's Guide to Zoning Ordinance Amendments

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A zoning ordinance is the key legal document that regulates the use of land, the form and design of development, and the spatial relationships of a community. Planning commissioners use a zoning ordinance to determine whether to permit a particular use in a particular place or to approve a site plan. A zoning ordinance should reflect a community's most recently adopted Master Plan, and it is the primary implementation tool for most plans.

Zoning ordinances are not meant to be static documents. Just as conditions change on the ground, an ordinance should be continually adjusted and adapted to reflect changing circumstances. In most communities, the planning commission studies potential amendments to the ordinance in concert with community planners, who may work directly for the community, another agency or for a planning consultancy. When satisfactory language has been crafted, the commission recommends to the community legislative body that it adopt the proposed amendments. Once adopted and enacted, the amendment becomes law within the community.

The community enforces zoning primarily through its code officials and building department. A key planning commission role is in the development review process. When a site plan is presented to the commission, the commission's primary task is to determine whether the plan is compliant with the ordinance, and whether approval, if granted, should be subject to any conditions.

For special land uses and planned unit developments, the primary action of the planning commission is to review the proposed use in light of ordinance standards, the required site plan or concept plan, and the unique circumstances of the proposed use, its location, the surrounding neighborhood, and the overall community. The planning commission may be the approving body or it may be designated as a reviewing body only.

The circumstances of a zoning ordinance amendment can vary greatly. This article first addresses the types of issues within an ordinance that can be addressed with an amendment, and then it discusses the various ways in which the need for an amendment may be brought to light.

What Issues Can Zoning Ordinance Amendments Address?

Amendments to a zoning ordinance can range from simple corrections of errors and small insertions for clarity to wholesale reorganization or the addition of major new provisions. Because they are living documents, changing over time, zoning ordinances often accumulate small conflicts between sections or become structurally unwieldy with time.

If, for instance, the sign standards of an ordinance state that the maximum size of a wall sign in the B-2 District is 60 square feet, while the B-2 district standards permit a 70-square-foot wall sign for the same use, it is up to the Planning Commission to determine which size is more appropriate and make the corresponding amendment. In this example, the inconsistency was created in part by redundancy; an ordinance should be amended to eliminate this type of redundancy.

B-2 General Business
3.1.9

D. DEVELOPMENT STANDARDS

Lot Size
Minimum lot area: Not specified
Minimum lot width: Not specified

Lot Coverage
Maximum lot coverage: Governed by setbacks

Setbacks
Minimum front yard setback: 25 ft
Minimum rear yard setback: 20 ft
Minimum side yard setback: 0 ft

Building Height
Maximum building height: 30 feet or 2 stories, whichever is less

Parking Setbacks
Minimum front yard setback: 25 ft
Minimum rear yard setback: 0 ft
Minimum side yard setback: 0 ft

NOTES

- For additions to the above requirements, refer to Section 3.4.2 Notes to District Standards: B, C, F, G, H, I
- See Selected References below for applicability
- A maximum lot width/depth ratio of 1:4 is required

The above drawings are not to scale.

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Use Standards

5 Site Standards

6 Development Procedures

7 Admin and Enforcement

SELECTED REFERENCES

<p>3. Zoning Districts</p> <ul style="list-style-type: none"> ■ General Exceptions <p>4. Use Standards</p> <ul style="list-style-type: none"> ■ Wireless Communication Facilities 	<p>5. Site Standards</p> <ul style="list-style-type: none"> ■ Accessory Buildings ■ Parking ■ Loading/Unloading ■ Plant Materials ■ Performance Standards ■ Signs ■ Screen Walls and Fences ■ Frontage 	<p>6. Development Procedures</p> <ul style="list-style-type: none"> ■ Site Plan Review ■ Special Land Uses ■ Condominium Subdivision Approval <p>Other Ordinances</p> <ul style="list-style-type: none"> ■ Private Road Ordinance ■ Property Division Ordinance ■ Building Grades Ordinance
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Attica Township Zoning Ordinance
@clearzoning

3-21

An example of a dimensional standards page from a Clearzoning ordinance. Typically, when Clearzoning revamps a community's ordinance, the entire ordinance is re-adopted. The Clearzoning process usually reveals needed amendments.

In general, it is good practice to streamline an ordinance where all items are easily and intuitively found, and site and use standards are located in chapters that are referenced by the district standards, rather than repeated in the district standards wherever they are permitted. Many ordinances—many developers would say the vast majority—do not adhere to this best practice.

Legal discrepancies are another important issue that can be addressed through ordinance amendments. Evolving case law may render certain provisions unenforceable as written, changes elsewhere in the community's code can bring other laws into conflict with the zoning ordinance, and changes in state law often necessitate changes to zoning ordinances. Many zoning ordinances reference state statutes within their provisions, and municipalities should periodically check these references to ensure that the laws they refer to are still in force and that amendments to state statutes do not compel municipalities to update local codes.

A zoning ordinance should also change to reflect shifting needs. For example, if a mass transit line or service route commences operation in a commercial area, it is typically sensible to review the parking requirements for that area to see where the amount of land devoted to parking could be reduced, or to consider if a higher density, mixed use district should be created to capitalize on the new infrastructure.

Changes in norms and technology will also need to be reflected in a zoning ordinance. The introduction of electric vehicle charging stations, wind turbines, and solar arrays have all led many communities to amend their ordinances to permit and regulate these uses. In most communities, the need to address any of these items was unanticipated when the ordinance was originally written; the amendment is the only way to properly regulate them.

How Can a Planning Commission Identify the Need for an Amendment?

The need for a zoning ordinance amendment can be brought to light in many ways. Often, a planning commission finds itself reacting to unanticipated circumstances. For instance, an applicant proposing a use not addressed in the ordinance may petition a planning commission to permit the use, whereupon the commission may find itself in the position of attempting to craft standards and determine where such a use should be located in a short timeframe, and perhaps in the face of fear or anger from residents. In other instances, approved projects may yield unanticipated results when developed, prompting a move toward an amendment. An annual review of recently constructed development can be an excellent way to see what's working and what needs work.

While it is not possible to plan for every scenario, it is best to be as proactive as possible in determining when to amend an ordinance. A community might poll developers working in the area to determine whether elements of the development process could be streamlined or improved. City staff, including staff planners, and planning consultants can also provide valuable insight into how an ordinance is working in the context of the community's development environment. Planning professionals, whether they are on staff or consultants, are versed in planning trends, common practice, and the type of language that is most likely to achieve desired results.

A zoning ordinance health checkup takes a comprehensive look at an ordinance, seeking areas of conflict (internal to the document, or with changes in state, federal, and local laws as well as case law), reviewing the structure of the ordinance for ease of use, and assessing how well the provisions of the ordinance respond to the community's development environment and goals.

Methodically looking at the decisions of local boards such as the planning commission and the zoning board of appeals (ZBA) can also reveal areas in need of change. If the ZBA constantly receives requests for the same variance, it may be time to review that section of the ordinance and determine whether the standard being varied is still the right standard. An annual ZBA audit can reveal such trends. Likewise, a planning commission may audit its own decisions. Was there a site plan the commission had no choice but to approve, even though the commissioners generally felt it was a poor fit for the area? That could be an indication that standards need to be improved in order to achieve results that are more in line with the community's vision.

The community's vision is, of course, set by the master plan. Under state law, Michigan communities must review their master plans every five years and decide whether to make a new plan, amend the previous plan, or re-affirm the current plan. Should the community opt to make a new plan or amend the previous plan, new goals and objectives will be developed as part of that process, and these will be informed by public opinion. A key implementation step that every community must take after completion of a new plan or plan amendment is to amend the zoning ordinance in a way that will reflect the community's stated vision.

