



CITY of NOVI CITY COUNCIL

Agenda Item 1
June 6, 2011

SUBJECT: Approve adoption of Ordinance No. 11-177, to amend Chapter 27, "Planning," of the City of Novi Code of Ordinances, Article II, "Planning Commission," in order to conform to P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, MCL 125.3801 *et. seq.* for the purpose of having planning and zoning in the City of Novi; to confirm membership of said commission in accordance with the statute; to enumerate its powers and duties; to provide for the regulation of land and the coordinated and harmonious development of the City of Novi; and to function in cooperation with other constituted authorities. **SECOND READING**

SUBMITTING DEPARTMENT:

CITY MANAGER APPROVAL:

BACKGROUND INFORMATION:

Attached is the ordinance to replace the existing Chapter 27 of the City Code, which establishes the Planning Commission. Adoption of the new ordinance is recommended as a result of the passage of the comprehensive Planning Enabling Act, PA 33 of 2008. The Planning Enabling Act repealed the previous Municipal Planning Act, under which the existing Chapter 27 was enacted. It also repealed the County Planning Act and the Township Planning Act, replacing them with one comprehensive set of planning laws for all political subdivisions of the state.

The statute took effect September 1, 2008, but any master land use plans or other plans adopted before that date were essentially ratified until a new plan or update is prepared. The statute also included transitional provisions requiring the "transfer" of power to Planning Commissions by July 1, 2011. The relevant section of the act relating to that transition, MCL 125.3883, provides in Section (1) as follows:

If, on the effective date of this act, a planning commission had the powers and duties of a zoning board or commission under the former city and village zoning act, 1921 PA 207, the former county zoning act, 1943 PA 183, or the former township zoning act, 1943 PA 184, and under the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702, the planning commission may continue to exercise those powers and duties without amendment of the ordinance, resolution, or charter provision that created the planning commission.

Under this language, because it has a Planning Commission established with the right name and in a manner consistent with the Municipal Planning Act, Novi arguably would not have to amend its planning ordinance to conform to the new act.

However, adoption of the ordinance is recommended for two reasons. First, it is appropriate to have an ordinance that refers to the right planning enabling authority (i.e.,

the new act) and that uses that updated language with regard to planning authority and Planning Commission obligations. And second, adopting the new ordinance before the July, 2011 date will hopefully insulate the City from any claim in the future that the Planning Commission is not properly constituted.

As noted in previous correspondence, the prior Municipal Planning Act required 9 Commission members, which is what the current ordinance contemplates. As a result of combining all of the planning acts into this one act, the City is now given a choice between 5, 7, and 9 members. On the basis of the Council discussion at first reading, the number of Commission members has been set in the attached ordinance at seven (7) members.

RECOMMENDED ACTION: Approve adoption of Ordinance No. 11-177, to amend Chapter 27, "Planning," of the City of Novi Code of Ordinances, Article II, "Planning Commission," in order to conform to P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, MCL 125.3801 *et. seq.* for the purpose of having planning and zoning in the City of Novi; to confirm membership of said commission in accordance with the statute; to enumerate its powers and duties; to provide for the regulation of land and the coordinated and harmonious development of the City of Novi; and to function in cooperation with other constituted authorities. **SECOND READING**

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Fischer				
Council Member Margolis				

	1	2	Y	N
Council Member Mutch				
Council Member Staudt				
Council Member Wrobel				

**CITY OF NOVI
COUNTY OF OAKLAND
STATE OF MICHIGAN**

ORDINANCE NO. 11-177

AN ORDINANCE TO AMEND CHAPTER 27, "PLANNING," OF THE CITY OF NOVI CODE OF ORDINANCES, ARTICLE II, "PLANNING COMMISSION," IN ORDER TO CONFORM TO P.A. 33 OF 2008, AS AMENDED, BEING THE MICHIGAN PLANNING ENABLING ACT, M.C.L. 125.3801 *ET. SEQ.* FOR THE PURPOSE OF HAVING PLANNING AND ZONING IN THE CITY OF NOVI; TO CONFIRM MEMBERSHIP OF SAID COMMISSION IN ACCORDANCE WITH THE STATUTE; TO ENUMERATE ITS POWERS AND DUTIES; TO PROVIDE FOR THE REGULATION OF LAND AND THE COORDINATED AND HARMONIOUS DEVELOPMENT OF THE CITY OF NOVI; AND TO FUNCTION IN COOPERATION WITH OTHER CONSTITUTED AUTHORITIES.

THE CITY OF NOVI ORDAINS:

Section 1 of Ordinance

That Chapter 27, "Planning," Article II, "Planning Commission," is hereby amended to read in its entirety:

Section 27-16 Authority

This ordinance is adopted pursuant to the authority granted the City Council under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, *et seq.*, and the Michigan Zoning Enabling Act, Public Act 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.

Section 27-17 Purpose

The purpose of this ordinance is to provide that the Novi City Council hereby confirms the establishment, under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, *et seq.*, of the Novi Planning Commission, formerly established under the Municipal Planning Act, Public Act 285 of 1931, MCL 125.31, *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.

Section 27-18.

Establishment

There shall be a City of Novi Planning Commission pursuant to P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et. seq.*, hereinafter referred to as the Commission, with the powers and duties as therein set forth and as hereinafter provided. This ordinance shall be officially known and described as the "City of Novi Planning Commission Ordinance."

Section 27-19

Membership

- A. The Commission shall consist of 7 members appointed by the Mayor with the approval of a majority of the City Council elected and serving. To be qualified to be a member and remain a member of the Commission, the individual shall be a qualified elector of City of Novi.
- B. The membership of the Commission shall be representative of important segments of the community, such as the economic, governmental, educational, and social development of the City, in accordance with the major interests as they exist in the City, such as natural resources, recreation, education, public health, government, transportation, residential uses, industry, and commerce. The membership shall also be representative of the entire geography of the City to the extent practicable.
- C. Members shall be appointed for three-year terms, provided, however, that the initial appointments effective on or after June 30, 2011 shall occur in a manner that creates three sets of one-year, two-year, or three-year terms such that, as nearly as possible, the terms of one-third (1/3) of all commission members' terms will expire each year.
- D. There shall be no *ex officio* members on the Commission.

Section 27-20

Officers

- A. The Commission shall elect a chairperson, a vice-chairperson, and a secretary from its members, and may create and fill other offices as it considers advisable. The term of each office shall be one year, with opportunity for reelection as specified in the Commission bylaws
- B. The Commission may also appoint advisory committees whose members are not members of the Commission.

Section 27-21

Removal from Office

The City Council may remove a member of the Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing, in accordance with P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et. seq.*

Section 27-22 Membership; Vacancies

The City Council shall fill any vacancy in the membership of the Commission for the unexpired terms in the same manner as the initial appointment.

Section 27-23 Membership; Compensation

The Commission members may be compensated for their services as provided by City Council resolution.

Section 27-24 Meetings

- A. The Commission shall hold at least four regular meetings each year, and shall by resolution determine the time and place of the meetings.
- B. Unless otherwise provided in the Commission's bylaws, a special meeting of the 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 Commission members at least 48 hours before the meeting.
- C. The business that the Commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, Public Act 267 of 1976, MCL 15.261, *et seq.*
- D. The Commission shall keep a public record of its resolutions, transactions, findings, and determinations.

Section 27-25 Powers and Duties

The Commission shall have the powers and duties as set forth in P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et seq.*; and P.A. 110 of the Public Acts of 2006, as amended, being the Michigan Zoning Enabling Act, (M.C.L. 125.3101 *et seq.*).

Section 27-26 Bylaws

The Commission shall adopt Bylaws for the transaction of business.

Section 27-27 Annual Report

The Planning Commission shall make an annual written report to the City Council concerning its operations and the status of the planning activities, including

recommendations regarding actions by the City Council related to planning and development.

Section 27-28 Master Plan

- A. Under the authority of the Michigan Planning Enabling Act, Public Act 3 of 2008, MCL 125.3801, *et seq.*, and other applicable planning statutes, the Commission shall make a master plan as a guide for development within the City's planning jurisdiction.
- B. Final authority to approve a master plan or any amendments thereto shall rest with the Commission unless the City Council passes a resolution asserting the right to approve or reject the master plan.
- C. Unless rescinded by the City, any plan adopted or amended under the Municipal Planning Act, Public Act 285 of 1931, need not be readopted under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, *et seq.*

Section 27-29 Capital Improvements Program

The Commission shall annually prepare 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, in accordance with the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, *et seq.*

Section 27-30 Subdivision and Land Division Recommendations

- A. The Commission may recommend to the City Council provisions of an ordinance or rules governing the subdivision of land. Before recommending such an ordinance or rule, the Commission shall hold a public hearing on the proposed ordinance or rule. The 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 City.
- B. The Commission shall review and make recommendation on a proposed plat before action thereon by the City Council under the Land Division Act, Public Act 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 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 City. Similar notice shall be mailed to the owners of land immediately adjoining the proposed platted land.

Section 27-31 Approval, Ratification, and Reconfirmation

All official actions taken by all City of Novi Planning Commissions preceding the Commission established by this ordinance are hereby approved, ratified and reconfirmed. Any project, review, or process taking place at the effective date of this Ordinance shall continue with the Commission created by this ordinance, subject to the requirements of this Ordinance, and shall be deemed a continuation of any previous City of Novi Planning Commission. This Ordinance shall be in full force and effect from and after its adoption and publication.

Section 2 of Ordinance. Repealer.

All ordinances or parts of ordinances in conflict with this ordinance are repealed only to the extent necessary to give this ordinance full force and effect.

Section 3 of Ordinance. Severability.

Should any section, subdivision, clause, or phrase of this ordinance be declared by the courts to be invalid, the validity of the ordinance as a whole, or in part, shall not be affected other than the part invalidated.

Section 4 of Ordinance. Savings.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they were commenced.

Section 5 of Ordinance. Effective Date: Publication.

The provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

CERTIFICATION

It is hereby certified that the foregoing Ordinance was adopted by the Novi City Council, Oakland County, Michigan, at a meeting of the Council duly called and held on the ____ day of _____, 2011.

CITY OF NOVI

By: _____
Maryanne Cornelius, City Clerk

ADOPTED:

EFFECTIVE:

PUBLISHED: