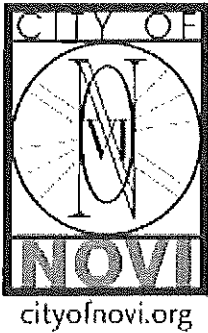


# MEMORANDUM



**TO:** MEMBERS OF THE PLANNING COMMISSION  
**FROM:** KRISTEN KAPELANSKI, PLANNER *Kush*  
**THRU:** BARBARA MCBETH, COMMUNITY DEVELOPMENT *Bu*  
**SUBJECT:** CHANGES TO PLANNING COMMISSION BYLAWS  
**DATE:** JUNE 22, 2011

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The City Council recently approved an ordinance to replace the existing Chapter 27 of the City Code, which establishes the Planning Commission. (City Council amendment packet attached.) Adoption of the new ordinance was 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 The Planning Enabling Act repealed the previous Municipal Planning Act, under which the existing Chapter 27 was enacted. It also repealed the County Planning Act and the Township Planning Act, replacing them with one comprehensive set of planning laws for all political subdivisions of the state.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 was prepared. The statute also included transitional provisions requiring the "transfer" of power to Planning Commissions by July 1, 2011.

The prior Municipal Planning Act required 9 Commission members, which is what the previously existing ordinance required. As a result of combining all of the planning acts into this one act, the City Council had the option of reducing the Planning Commission to 7 members, which they elected to do.

There are several 'clean-up' type changes that are proposed for the attached Planning Commission bylaws to ensure they reference the correct state provisions and provide adequate standards for Commission members regarding conflicts of interest. In addition, the requirement that no public hearings can be held within five business days of a City holiday is recommended to be eliminated. This was previously included to allow the public time to access packet materials at the library. Packets are now available on the City's website so staff believes this is no longer needed.

The Communications & Community Liaison Committee and the Planning Commission Capital Improvements Program Committee have been eliminated. The number of members on some committees has been reduced in accordance with the reduction in the total number of Planning Commissioners. Each Planning Commissioner would be expected to serve on an average of 3 committees under the proposed provisions.

The Rules Committee is scheduled to consider these provisions prior to the regularly scheduled Planning Commission meeting on June 29, 2011. Any additional changes recommended by the Committee will be noted at the Planning Commission meeting.

The Planning Commission is asked to consider the attached bylaws for approval at the June 29, 2011 Planning Commission meeting. If any Commissioner has any questions related to this request, do not hesitate to contact Kristen Kapelanski in the Community Development Department at (248) 347-0586 or [kkapelanski@cityofnovi.org](mailto:kkapelanski@cityofnovi.org). ✖

PROPOSED BYLAWS

# **NOVI PLANNING COMMISSION**

## **BY-LAWS AND RULES OF PROCEDURE**

### **1. AUTHORITY**

~~These By-Laws and Rules of Procedure are adopted by the City of Novi, Oakland County, Planning Commission (hereinafter called the Planning Commission) pursuant to Public Act 285 of 1931, as amended, the Municipal Planning Act, MCL 125.31, et seq., the Open Meetings Act, MCL 15.261 and Section 27-25 of the Novi Code of Ordinances.~~

These By-Laws and Rules of Procedure are adopted by the City of Novi, Oakland County, Planning Commission [hereinafter called the Planning Commission] pursuant to the Michigan Planning Enabling Act, Public Act 33 of 2008, as amended, the Open Meetings Act, MCL 15.261, and Section 27-25 of the Novi Code of Ordinances.

### **2. OFFICERS/MEMBERS**

#### **2.1 Selection of Officers**

- (a) The offices of the Planning Commission shall consist of Chairperson, Vice Chairperson, and Secretary elected by the general membership of the Planning Commission.
- (b) The election of officers shall generally occur at the Planning Commission's first meeting in July or as otherwise determined necessary by the Planning Commission. A minimum of two-thirds of the current membership must be present for the election to take place.
- (c) Any member nominated for an office on the Planning Commission shall have served on the Planning Commission for at least eleven (11) months at the time of nomination. In the event that at least three members do not meet this requirement, the most senior member(s) with less than eleven (11) months service shall be eligible for nomination. Previous, non-consecutive service on the Planning Commission shall be considered when determining length of service.
- (d) Nominations of members for an office shall be from the floor by a current member of the Planning Commission during the meeting when elections are held.

- (e) All nominations shall be seconded by another member of the Planning Commission to be considered a valid nomination.
- (f) Nominees must accept or decline the nomination before each vote is taken. If a Planning Commission member is unable to attend the meeting to elect officers and would accept an officer position(s), a written letter of intent of acceptance for an office must be submitted to the Planning Commission prior to the meeting.
- (g) Each election shall be conducted by a roll call vote. If there is only one nominee for an office, that nominee shall be assumed to be unanimously elected.
- (h) To be elected to an office, a nominee must receive a majority of the votes of those present.
- (i) All terms of office shall be for one year or until the time of the next election of officers.
- (j) A member assuming an office prior to January 1<sup>st</sup> of any given year shall be considered to have served a full term at the time of the next election of officers.
- (k) A member of the Planning Commission may serve in the same office of the Planning Commission for any number of terms, but not more than two consecutive full terms.

## 2.2 Resignation of Officer

- (a) An officer may resign his/her office by submitting a letter to the Planning Commission addressed to the Chairperson or Vice Chairperson, as appropriate.
- (b) The resignation from office will not become effective until accepted by the Planning Commission at its next regularly scheduled meeting. A majority vote of the Commissioners present shall be required to accept a resignation. Resignation of office for the purposes of this Section 2.2 is not intended to mean resignation from the Planning Commission.

## 2.3 Duties of the Officers

- (a) The Chairperson shall:

- 1) Preside at all meetings and conduct all meetings in accordance with the rules provided herein. In the absence of the Chairperson, the Vice Chairperson or Secretary shall perform the duties of the Chairperson.
- 2) Clearly state the issues before the Planning Commission.
- 3) As appropriate, act as a liaison between the Planning Commission and the Community Development Department Staff, Consultants and other pertinent agencies or agents of the City of Novi, utilizing proper administrative/management chains of authority.
- 4) Reserve his/her opinions on an issue until the other members of the Planning Commission, who so wish, have spoken on the issue.
- 5) Upon request by City Council or Zoning Board of Appeals, attend those meetings that include a Planning Commission issue. The Chairperson may delegate another Planning Commission member to attend.
- 6) Set a reasonable agenda in consultation with the Community Development Department Deputy Director or his/her designee. A reasonable agenda, for purposes of this provision, is one designed to be completed prior to 11:30 PM. The Chairperson shall have the final approval on the agenda.
- 7) Designate an acting secretary from the general membership as required.

(b) The Vice Chairperson shall:

- 1) Act in the capacity of the Chairperson when the elected Chairperson is absent or otherwise unavailable.
- 2) Assist the Chairperson in recognizing those who may wish to speak.
- 3) Succeed to the office of Chairperson in the event of a vacancy in that office, in which case the Planning Commission shall elect a successor to the office of Vice Chairperson at the earliest practicable time.

(c) The Secretary shall:

- 1) Act in the capacity of the Chairperson when the elected Chairperson and Vice Chairperson are absent or otherwise unavailable.
- 2) Designate an acting Secretary from the general membership while acting as Chairperson during Planning Commission Meetings.
- 3) Summarize pertinent correspondence received by the Planning Commission concerning issues before the Planning Commission.
- 4) Assist the Chairperson on time limitations as established in these By-laws.
- 5) Coordinate Public Notices published by the Planning Commission with the Planning Department.
- 6) Be replaced, should a vacancy occur, by the election of a successor at the earliest practical time.

2.4 The Planning Commission Members:

- (a) Members shall not speak until recognized by the Chairperson.
- (b) Generally, members shall serve on at least two of the Planning Commission committees (or other committees requiring Planning Commission representation as they may be established) for a term of one year or until the next committee appointments are made. Appointment shall be by nomination and vote by Planning Commission members present. Appointment to committee membership shall occur at the next regularly scheduled meeting after the annual election of officers.
- (c) Members shall submit to the Planning Commission a statement of interest in serving on particular committees, on a form prepared by the Community Development Department. Members shall be eligible for reappointment to any committee provided the minimum requirements are met. Previous, non-consecutive service on the Planning Commission shall be considered when determining length of service.

**Planning Commission Committees:**

- 1) Administrative Liaison (Membership shall be the Chairperson, Vice Chairperson, and Secretary of the Planning Commission)
- 2) Implementation (~~3~~4 members)
- 3) Master Plan and Zoning (~~3~~4 members, a minimum of ~~2~~3 members shall have served on the Planning Commission for at least eleven (11) months before appointment, when possible)
- 4) Planning Studies & Budget (~~2~~4 members and 1 alternate)
- 5) Rules (3 members, members must be on the Planning Commission for at least eleven (11) months before appointment, when possible)
- ~~6) Communications & Community Liaison (3 members)~~
- ~~7) Environmental and Walkable Novi (3 members)~~
- ~~8) Planning Commission Capital Improvements Program (3 members)~~

**City Committees:**

- 1) Main Street (2 members)
  - 2) City Capital Improvements Program (2 members and 1 alternate)
- (d) Member(s) may be appointed to City or other committees, or act as liaisons to organizations, on an as needed basis.
- (e) Any committee member may designate (with approval of the designee) an alternate Planning Commissioner as his/her replacement at any committee meeting.
- (f) In the event of a Planning Commission vacancy that results in a committee vacancy, the appointment process shall follow 2.4.b. and 2.4.c.

**3. MEETINGS**

3.1 Notices

- (a) Notices shall be posted at the Novi Civic Center according to the Open Meetings Act.
- (b) Notices shall include the date, time, and location of the meeting.
- (c) Changes in the date, time, or location of the meeting shall be posted and noticed as required.

### 3.2 Regular Meetings

- (a) Regular Meetings of the Planning Commission shall be held at least once a month, generally on Wednesday evening in the Council Chambers.
- (b) When a Regular Meeting date falls on or near a legal holiday, the Planning Commission may select an alternate meeting date in the same month, to be noticed in accordance with the Open Meetings Act.

### 3.3 Quorum

- (a) The presence of a majority of the Planning Commission shall constitute a quorum of the Planning Commission.
- (b) If a quorum is not present, the members of the Planning Commission shall take no action until the next Regular or Special Meeting, except recessing the meeting or adjourning the meeting.
- (c) All Public Hearings without a quorum shall be scheduled for the next Regular or Special Meeting.

### 3.4 Public Hearings

- (a) Public Hearings shall be scheduled and due notice given in accordance with the provisions of the acts and ordinances cited in Section 1 of these By-laws and Rules of Procedure.

~~(b) Except in extraordinary circumstances found to exist by the Planning Commission, no Public Hearings shall be held within five (5) business days after a City-recognized holiday.~~

~~(c)~~(b) The order of presentation shall be as follows:

Community Development Department Staff and/or  
City Consultants  
Petitioner  
Public Comment and Correspondence  
Petitioner Response  
Close Public Hearing  
Commission Discussion/Decision



| ~~(d)~~(c) The petitioner shall limit his/her remarks to ten (10) minutes, unless additional time is requested and granted by the Chairperson. If the petitioner has additional presenters, the sum total of all presenters shall not exceed the time limit of this rule without permission from the Chairperson.

| ~~(e)~~(d) In order to ensure accuracy in the minutes, any member of the public wishing to address the Planning Commission during a Public Hearing shall be asked to fill out an Audience Participation card giving his/her name, address and the item(s) he/she wishes to discuss.

- 1) The general public shall limit their remarks to three (3) minutes each. Speakers shall not exceed the time limit of this rule without permission from the Chairperson.
- 2) Any person speaking on behalf of a group shall limit his/her remarks to five (5) minutes, provided that those in the audience being represented identify themselves.
- 3) Speakers shall address their remarks only to the Chairperson.
- 4) No member of the audience shall be allowed to address an issue for Public Hearing following the closing of that Public Hearing by the Chairperson (except during "Audience Participation" pursuant to 3.8.a).

| ~~(f)~~(e) The Chairperson shall instruct all those who wish to speak during the Public Hearing to sum up their remarks when the Chairperson or Planning Commission members feel that they have exceeded their time limit, strayed from the pertinent facts, or have become repetitive or disrespectful.

| ~~(g)~~(f) Once a Public Hearing has been scheduled, noticed, and published on an Agenda, the Public Hearing shall be heard at the designated Planning Commission meeting. However, the Planning Commission may, in its discretion, continue the Public Hearing to a specific date.

### 3.5 Motions

- (a) If requested, motions shall be restated before a vote is taken.
- (b) The names of the maker and seconder of the motion shall be recorded.

### 3.6 Voting

- (a) An affirmative vote of the majority of those Planning Commission members present for the conduct of business shall be required for the approval of any requested action or motion placed before the Planning Commission (except Master Plan for Land Use decisions).
- (b) Amendments to the Master Plan for Land Use in the City of Novi require the affirmative vote of ~~six~~four members of the Planning Commission.
- (c) Roll call votes shall be required for all Public Hearing items and Matters for Consideration, except approval of minutes, which may be by a voice vote. Consent Agenda items shall ordinarily be recorded by voice vote. A roll call vote shall be taken if requested by any Planning Commission member for any other matter(s).
- (d) Roll call votes shall be conducted in alphabetical order. The first such vote during the meeting shall begin with the first surname alphabetically; the second shall begin with the second surname alphabetically; and so forth.
- (e) A member shall vote unless excused by the unanimous consent of the remaining members present and voting. However, a member shall be recused where the member has a financial interest other than the common public interest, or where the member clearly cannot render an impartial decision. The vote of the remaining Commission members shall be with regard to whether such financial interest or other basis for not voting has been sufficiently established by the member seeking recusal from voting.

### 3.7 Order of Business

- (a) A written agenda for all meetings shall be prepared and followed. No additions to the agenda by Planning Commission members within seven (7) days of the meeting date will be permitted except by vote of the Planning Commission. The order of business shall be the following:

CALL TO ORDER  
ROLL CALL  
PLEDGE OF ALLEGIANCE  
APPROVAL OF AGENDA  
AUDIENCE PARTICIPATION  
CORRESPONDENCE  
COMMITTEE REPORTS  
COMMUNITY DEVELOPMENT DEPUTY DIRECTOR  
REPORT  
CONSENT AGENDA – REMOVALS AND APPROVALS  
PUBLIC HEARINGS  
MATTERS FOR CONSIDERATION  
CONSENT AGENDA REMOVALS FOR COMMISSION  
ACTION  
MATTERS FOR DISCUSSION  
SUPPLEMENTAL ISSUES  
AUDIENCE PARTICIPATION  
ADJOURNMENT

- (b) A written agenda for Special and/or Committee Meetings shall be prepared and followed; however, the order of business as listed above shall not be necessary. A minimum of one audience participation is required at all meetings.

### 3.8 Audience Participation

- (a) During an Audience Participation portion of the agenda, a member of the audience may address the Planning Commission on any issue that is not scheduled for a Public Hearing on that agenda, unless the audience member will not be available to speak during the Public Hearing.
- (b) In order to ensure accuracy in the minutes, any member of the public wishing to address the Planning Commission shall be asked to fill out an Audience Participation card giving his/her name, address and the item(s) he/she wishes to discuss.

- 1) The general public shall limit their remarks to three (3) minutes each. Speakers shall not exceed the time limit of this rule without permission from the Chairperson.
- 2) Any person speaking on behalf of a group shall limit his/her remarks to five (5) minutes, provided that those in the audience being represented identify themselves.
- 3) Speakers shall address their remarks only to the Chairperson.

(c) The Chairperson shall instruct all those who wish to speak during Audience Participation to sum up their remarks when the Chairperson or Planning Commission members feel that they have exceeded the time limit, strayed from the pertinent facts, or have become repetitive or disrespectful.

### 3.9 Correspondence

- (a) No correspondence pertinent to the published agenda items from the consultants, staff, or petitioners shall be presented to the Planning Commission members after 6:00 P.M. of the night preceding the meeting on which the issue appears on the agenda, unless a majority of the Planning Commission chooses to accept the correspondence.
- (b) No Matters For Consideration shall be accepted after the packets have been delivered, unless legal counsel recommends and the Planning Commission agrees that it is of an emergency nature and must be acted upon at that meeting.

### 3.10 Rules of Order

- (a) To the extent reasonably possible, all meetings of the Planning Commission shall be conducted in accordance with generally accepted parliamentary procedure.
- (b) All pagers and cell phone ringers are requested to be turned off while meetings are in session.

### 3.11 Beginning and Ending Times

- (a) All Regular Planning Commission meetings are typically scheduled to begin at 7:00 PM
- (b) The Planning Commission may vote to adjourn a Regular Meeting prior to completion of the Agenda only in case of a weather emergency or when all of the following have been satisfied:
  - 1) There are no petitioners remaining on the agenda.
  - 2) Community Development Department staff receives direction on all matters that cannot wait until the next meeting.
  - 3) Both Audience Participations have been held.
- (c) The Planning Commission shall take breaks as determined by the Chairperson (ninety (90) minute meeting segments recommended).

### 3.12 Site Plans

- (a) Except in extraordinary circumstances found to exist by the Planning Commission Chairperson, no Site Plan shall be considered by the Planning Commission unless the following conditions have been met:
  - 1) The Site Plan meets all of the required Site Plan submission conditions of Section 2516 of the City of Novi Zoning Ordinance.
  - 2) Consultant and City Staff review letters are completed by the Monday of the week prior to the meeting during which the Site Plan would normally be considered.
  - 3) The petitioner has responded in written form to all variances, waivers, and other issues of concern expressed in the Consultant and City Staff reviews. Such correspondence shall be included in Planning Commission packets.
- (b) The Planning Commission reserves the right to limit its agenda so that meetings can end at a reasonable adjournment time, as stipulated in Section 2.3(a)6. Therefore, a Public Hearing or Matter For

Consideration by the Planning Commission might not make the first agenda for which it would be eligible.

- (c) No Public Hearing or Matter For Consideration that otherwise meets the requirements of these By-laws and Rules of Procedure should be delayed from the agenda for more than two consecutive meetings (excluding Special Meetings established for planning and/or training purposes only). That is, it should appear no later than the third meeting for which it is eligible.

### 3.13 Special Planning Meetings

- (a) The Planning Commission may hold Special Meetings for planning and/or training purposes, on an as-needed basis.
- (b) The Planning Commission may hold a Special Meeting for a project determined to be complex in nature.
- (c) Notification of such Special Meetings shall be in accordance with Sections 3 and 6 of these By-Laws and Rules of Procedure.
- (d) Special Meetings may be held with another agency (ies) of the City.

### 3.14 Goals and Objectives

- (a) Prior to the end of the calendar year, the Planning Commission shall prepare a specific set of goals and objectives for the coming fiscal year. This discussion is essential to the preparation of the budget for the next fiscal year.
- (b) The Planning Commission shall review and/or revise, as necessary, its goals and objectives after the budget is approved.
- (c) Committee Chairpersons will be responsible to present their Committee priorities to the Planning Commission.

### 3.15 Committee Meetings

- (a) At the first Committee meeting after Committee appointments, a Chairperson shall be selected. The most senior member has first right of position.
- (b) An annual calendar of Committee meeting dates and times shall be established by Committee Chairs within sixty (60) days of Chair selection.
- (c) During the first meeting after appointments, each Committee shall establish goals and objectives. These goals and objectives shall be reviewed and revised as necessary throughout the year.
- (d) All requests for zoning ordinance review and/or revision(s) shall be addressed to the Planning Commission for possible consideration by the Implementation Committee.

#### **4. MINUTES**

- 4.1 The Planning Commission minutes shall be prepared by the Planning Department—Division and approved by the Planning Commission.
- 4.2 The Planning Commission minutes shall contain the following:
  - (a) a record of attendance,
  - (b) a complete record of the considerations or recommendations made on all actions,
  - (c) a complete restatement of all motions specifying the maker and seconder of the motions, and
  - (d) a record of the outcome of Planning Commission votes.
- 4.3 The minutes of Committee Meetings, need not be verbatim, but shall contain the following:
  - (a) a record of attendance,
  - (b) a synopsis of the meeting,
  - (c) a restatement of all motions specifying the maker and seconder of the motions, and

(d) a record of the outcome of the votes and the basis for such votes.

4.4 The approved minutes of the Planning Commission, including all communications, exhibits, actions and resolutions, relevant to that meeting shall be provided to the City Clerk.

## 5. PLANNING COMMISSIONER TRAINING (As the city budget allows)

5.1 Providing training of the Planning Commissioners should be a priority of the Planning ~~Department~~Division.

5.2 In-House Training

(a) New Planning Commissioners should receive orientation material and/or training prior to their first meeting, but in no case later than one month after his/her appointment.

(b) The Planning Commission as a whole should schedule at least one annual training session. Training topics shall be determined by the Planning Commission.

5.3 Certification

(a) Planning Commissioners are encouraged to pursue completion of the State of Michigan Citizen Planner Certification during their first term of appointment, subject to course availability.

5.4 Planning Conventions/Conferences

(a) For National conventions, a maximum of three (3) Planning Commissioners shall be eligible to attend if the budget allows. One (1) Planning Commissioner from each group of appointees, based on expiration date, shall have first right of attendance. Based on this criterion, all Planning Commissioners will have the opportunity to attend at least one National conference during their three-year term.

(b) For State of Michigan conventions, all Planning Commissioners not attending that year's National Convention shall have first right of attendance, if the budget allows.

## 6. OPEN MEETINGS AND FREEDOM OF INFORMATION PROVISIONS



- 6.1 Subject to the provisions of the Open Meetings Act, all meetings of the Planning Commission shall be open to the public and held in a place available to the general public.
- 6.2 Subject to the provisions of the Open Meetings Act, all deliberations and decisions of the Planning Commission shall be made at a meeting open to the public.
- 6.3 A person shall be permitted to address a Public Hearing of the Planning Commission under the rules established in subsection 3.4 and to address the Planning Commission concerning non-Public Hearing matters under the rules established in subsection 3.8, to the extent that they are applicable.
- 6.4 A person shall not be excluded from a meeting of the Planning Commission except for breach of the peace committed at the meeting.
- 6.5 All non-exempt records, files, publications, correspondences and other materials are available to the public for reading, copying, and other purposes as governed by the Freedom of Information Act.

## **7. STANDARDS OF CONDUCT**

- 7.1 The most current City of Novi Standards of Conduct for Officers, Employees, and Consultants shall apply to all Planning Commissioners.
- 7.2 Discussion by Planning Commissioners of matters pending or that may come before the Commission is not encouraged.
- 7.3 Any Planning Commission who speaks to the media may not speak on behalf of the entire Planning Commission.
- 7.4 Before casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Planning Commission. The member is disqualified from voting on the matter if so provided by a majority vote of the remaining members of the Planning Commission. Failure of a member to disclose a potential conflict of interest as required by this subsection constitutes malfeasance in office. For purposes of these By-laws, a "conflict of interest" exists when a member of the Planning Commission or a member of his or her family has a proprietary or financial interest in an

issue or matter that is before the Planning Commission beyond that which is experienced by the public in general; or where the member may receive or gain a financial benefit as a result of a vote on such issue or matter; or where the vote would result in a violation of the Standards of Conduct for Public Officers and Employees Act, 196 PA 1973 (being MCL 15.341 et seq.), the Incompatible Public Offices Act, 566 PA 1978 (being MCL 15.181 et seq.), or any other state law or City ordinance or policy applicable to conflicts of interest.

7.5 A Planning Commission member may be removed from office by the City Council for misfeasance, malfeasance or nonfeasance upon written charges and after a public hearing.

## 8. AMENDMENTS

These By-Laws and Rules of Procedure may be amended by the Planning Commission by a concurring vote pursuant to subsection 3.6 during a Regular Meeting, provided that all members have received an advance copy of the proposed amendments at least three (3) days prior to the meeting at which such amendments are to be considered.

NOVI PLANNING COMMISSION ADOPTED THE ABOVE STATED BY-LAWS AND RULES OF PROCEDURE ON ~~WEDNESDAY, MAY 24, 2006~~ JUNE 29, 2011.

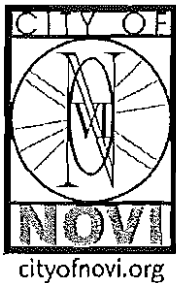
\_\_\_\_\_  
~~Victor Cassis~~ Mark Pehrson  
Gutman  
Chairperson

\_\_\_\_\_  
~~Mark Pehrson~~ Andrew  
Vice Chairperson

\_\_\_\_\_  
~~Michael Meyer~~ David Greco  
Secretary

- ❖ Rules Committee at the time of adoption:  
~~Lynn Kocan, Chair~~David Greco  
~~Victor Cassis~~Brian Larson  
~~John Avdeoules~~Leland Prince

CITY COUNCIL AMENDMENT PACKET



## 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 Gaff				
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:**