

**YATES TOWNSHIP
LAKE COUNTY, MICHIGAN
(Ordinance No. 22-03)**

At a rescheduled regular meeting of the Township Board for Yates Township held on July 28, 2022, at 5:00 p.m., this Ordinance was offered for adoption by Township Board Member Jacqueline Patterson and was seconded by Township Board Member Barbara McGregory:

AN ORDINANCE TO CONFIRM THE ESTABLISHMENT UNDER THE MICHIGAN PLANNING ENABLING ACT, PUBLIC ACT 33 OF 2008, MCL 125.3801, *et seq.*, OF THE YATES TOWNSHIP PLANNING COMMISSION; PROVIDE FOR THE COMPOSITION OF THAT PLANNING COMMISSION; PROVIDE FOR THE POWERS, DUTIES AND LIMITATIONS OF THAT PLANNING COMMISSION; AND REPEAL ANY ORDINANCE OR PARTS OF ORDINANCES OR RESOLUTIONS IN CONFLICT WITH THIS ORDINANCE.

THE TOWNSHIP OF YATES (the “TOWNSHIP”) ORDAINS:

SECTION 1: NAME:

The name of the body is the Yates Township Planning Commission, hereafter sometimes known as the “Commission.”

SECTION 2: SCOPE, PURPOSE AND INTENT

This Ordinance is adopted pursuant to the authority granted to the Township Board 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 and/or confirm a township 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.

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

SECTION 3: ESTABLISHMENT AND CONFIRMATION

The Township Board hereby confirms the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., of the Yates Township Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq., (and *the Municipal Planning Act, Public Act 285 of 1931, MCL 125.31, et seq.*). Members of the Yates Township Planning Commission as of the effective date of this Ordinance shall, except for an ex officio member whose remaining term on the Planning Commission shall be limited to his or her term on the Township Board, continue to serve for the remainder of their existing terms so long as they continue to meet all of the eligibility requirements for Planning Commission membership set forth within the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq.

SECTION 4: APPOINTMENTS AND TERMS

A. The Planning Commission shall have seven (7) members in total. The Township Supervisor, with the approval of the Township Board by a majority vote of the members elected and serving, shall appoint all Planning Commission members, including the ex officio member.

B. The Planning Commission members, other than an ex officio member, shall serve for terms of 3 years each. If it is unclear when the term of a specific Planning Commission member ends, the Township Board shall determine the end of that member's term and the decision of the Township Board shall be binding and conclusive.

C. A Planning Commission member shall hold office until his or her successor is appointed. Vacancies shall be filled for the unexpired term in the same manner as the original appointment.

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

E. An ex officio member has full voting rights. An ex officio member's term on the Planning Commission shall expire with his or her term on the Township Board.

F. One member of the Planning Commission shall be a member of the Township Board. No other elected officer or employee of the Township is eligible to be a member of the Planning Commission. The liaison member's term of office shall coincide with his or her elected term of office on the Township Board. This liaison member of the Planning Commission shall not serve as the chairperson of the Planning Commission.

SECTION 5: REMOVAL

The Township Board may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

SECTION 6: COMPENSATION

The Planning Commission members may be compensated for their services as provided by Township Board resolution.

SECTION 7: BYLAWS, MEETINGS AND RECORDS

- A. The Planning Commission shall adopt bylaws for the transaction of business.
- B. The Planning Commission shall keep a public record of its resolutions, transactions, findings, and determinations. A writing prepared, owned, used, in the possession of, or retained by the Planning Commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

SECTION 8: ANNUAL REPORT

The Planning Commission shall make an annual written report to the Township Board concerning its operations and the status of the planning activities, including recommendations regarding actions by the Township Board related to planning and development.

SECTION 9: AUTHORITY TO MAKE MASTER PLAN

- A. Under the authority of the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., and other applicable planning statutes, the Planning Commission shall make a master plan as a guide for development within the Township's planning jurisdiction.
- B. Final authority to approve a master plan or any amendments thereto shall rest with the Planning Commission unless the Township Board passes a resolution asserting the right to approve, revise or reject the master plan.

SECTION 10: MEMBERSHIP AND OFFICERS:

- A. At the first regular meeting of each year, the Planning Commission shall elect from its membership a chairperson, vice-chairperson and secretary to serve a term of one (1) year each. All officers shall be eligible for re-appointment for consecutive terms for the same or a different office. The member of the Planning Commission who is also a member of the Township Board shall not serve as the chairperson or vice-chairperson of the Planning Commission.
- B. The chairperson shall preside at all meetings, appoint subcommittees (with Planning Commission confirmation) and perform other duties as may be necessary. In the absence of the chairperson, the vice-chairperson shall act as chairperson. In the event the office of chairperson becomes vacant, the vice chairperson shall succeed to this office for the unexpired term and the Planning Commission shall elect a successor to the office of vice chairperson for the unexpired term. In the absence of both, the secretary shall act as chairperson.
- C. The vice-chairperson shall act in the capacity of the chairperson in the absence of the chairperson and shall succeed to the office of the chairperson in the event of a vacancy in that office, in which case the Planning Commission shall select a successor to the office of vice-chairperson at the earliest possible time.
- D. The secretary shall execute and certify documents in the name of the Planning Commission, perform the duties listed below and perform such other duties as the Planning Commission may determine.
1. Minutes. The secretary shall be responsible for overseeing a permanent record of the minutes of each meeting and having them recorded in suitable permanent records

retained by the Township Clerk. The minutes shall contain a synopsis of the meeting, including a complete restatement of all motions and record of votes, conditions or recommendations made on any action and record of attendance and any other matters required by law.

2. Planning Correspondence. The secretary shall be responsible for issuing formal written correspondence with other groups or persons as directed by the Planning Commission. All communications, petitions, reports or other written materials received by the secretary shall be brought to the attention of the Planning Commission.
3. Attendance. The secretary shall be responsible for maintaining an attendance record for the Planning Commission.
4. Notices. The secretary shall issue such notices as may be required by the Commission or state law.
5. Recording Secretary. A recording secretary (who is not a member of the Planning Commission) may assume some or all duties of the secretary.

E. If the chairperson and vice-chairperson are both absent from a meeting of the Planning Commission and are unable to serve as chairperson at that meeting, then the remaining members shall select a member of the Planning Commission to serve as temporary chairperson of that meeting.

SECTION 11: MEETINGS:

A. Unless determined otherwise by the Planning Commission, the Planning Commission shall meet once each month at the Township Hall or at such other time and/or location as the Planning Commission shall specify.

- B. Special meetings may be called by the Chairperson or by at least four (4) members of the Planning Commission. Notice shall also be posted in appropriate locations.
- C. All meetings are subject to Public Act No. 267 of 1967, as amended, being the Michigan Open Meetings Act. The dates and times of such meetings shall be posted by the Township according to that Act. All meetings, minutes, resolutions, records, documents, correspondence and other materials of the Planning Commission shall also be subject to public inspection in accordance with Public Act No. 442 of 1976, as amended, being the Freedom of Information Act, except as may otherwise be provided by law.
- D. If a member is unable to attend a meeting insofar as is practicable, he or she shall contact the chairperson or other Planning Commission officer before the meeting. If it is determined that a quorum may not be available, the chairperson or other Planning Commission officer shall contact the other Planning Commissioners to cancel or adjourn the meeting. The chairperson or other officer shall then post such notice of the meeting cancellation or adjournment at the Township Hall.
- E. For the purpose of permitting adequate time for the Planning Commission to conduct its review of all business contained on the agenda, the public comment pertaining to agenda items shall be generally limited to the following:
 - 1. Public comments at a public hearing shall be taken during the period that the Planning Chairperson opens and then closes for the public hearing. This hearing generally occurs after the applicant has had the opportunity to address the Planning Commission. Additional public comments may be taken by the Planning Commission after closure of the public hearing, but only upon recognition by the Chairperson.

2. Typically, the chairperson will allow three minutes of public comment per person for each agenda item. However, the chairperson may allow one spokesperson (whether that is an attorney, engineer, planner or otherwise) to speak for a group of people and the chairperson can then allow more than five minutes for such public comment by that representative.
3. Citizen groups are encouraged to designate one or more representatives to speak on their behalf.
4. Speakers should provide their names, address and any groups or businesses they represent.
5. The full Planning Commission (by majority vote of those present) can override a decision by the chairperson involving public comments.

F. A quorum shall be constituted by at least four (4) members of the Planning Commission.

G. Township staff, with the prior approval of the chairperson, may cancel or adjourn a meeting of the Planning Commission beforehand due to inclement weather, the anticipated lack of a quorum, the lack of matters on the agenda, an emergency or for similar reasons. Notice of a cancelled meeting shall be posted at the Township offices. An adjourned meeting will be noticed in the manner and to the extent required by law.

SECTION 12: VOTING:

- A. Each Planning Commissioner, including the chairperson, shall have one (1) vote. A voice vote shall be taken unless a roll call is requested by a Planning Commissioner or is required by law.
- B. Motions shall be restated by the chairperson before a vote is taken. The name of the maker and supporters of the motions shall be recorded. The chairperson may make and second motions.

- C. A majority of the quorum present at a meeting is required to pass a motion or adopt a resolution, unless state law, this Ordinance, or the Zoning Ordinance provides otherwise.
- D. All members of the Planning Commission (including the chairperson) shall vote on all matters, but the chairperson shall vote last. Any member may be excused from voting but only if that person has a conflict of interest as set forth in Section 15 herein.
- E. A tie vote shall cause the defeat of any motion for final action. Votes recommending proposals to the Township Board resulting in a tie vote will cause a “No Recommendation” to be forwarded to the Township Board, unless the motion is later passed by the Planning Commission in the interim.
- F. At least four (4) affirmative votes are required to adopt or amend the Master Plan.
- G. No official action shall be taken without a quorum.
- H. A written agenda for all regular meetings shall be prepared before a meeting as follows. The order of business shall generally be:
 - 1. Roll Call
 - 2. Pledge of Allegiance
 - 3. Agenda Additions/Deletions
 - 4. Public Comments and Communications Concerning Items Not on the Agenda
 - 5. Approval of Minutes
 - 6. Public Hearings
 - 7. Unfinished Business
 - 8. New Business

9. Reports

10. Comments from Planning Commissioners

11. Adjournment

SECTION 13: STAFF SUPPORT:

- A. The Township Clerk shall be responsible for coordinating the agendas, public hearings and other meetings of the Planning Commission and for providing staff for subcommittees.
- B. The Zoning Administrator or Township Planner (if applicable) shall solicit and coordinate the zoning application review process and forward pertinent information to the Planning Commission to aid in its decision making process.
- C. The Zoning Administrator or the Township Planner (if applicable) shall be responsible for carrying out the directives of the Planning Commission. The Zoning Administrator or the Township Planner (if applicable) shall also advise and assist the Planning Commission in the establishment of general planning policy and shall represent that policy to the public.
- D. Staff support shall be provided to compile required records, maintain files and indices, and perform clerical work for the Planning Commission. At the direction of the Planning Commission, staff shall provide factual information and recommendations to the Planning Commission on development proposals and other pertinent issues. Recommendations shall not be binding on the Planning Commission.

SECTION 14: SUBCOMMITTEES:

- A. The Planning Commission may create subcommittees composed of at least three (3), but less than a quorum, members of the Planning Commission.

- B. The Commission may establish and appoint *ad hoc* subcommittees for special purposes of issues as deemed necessary.
- C. The Planning Commission or chairperson may establish and appoint citizen subcommittees with the consent of the Planning Commission. Membership can be any number, so long as less than a quorum of the Planning Commission serve on a citizen subcommittee at any given time. The purpose of the citizen subcommittee is to have more citizen and municipal government involvement, to be able to use individuals who are knowledgeable or expert in the particular issue before the Planning Commission and to better represent various interest groups in the Township.

SECTION 15: CONFLICTS OF INTEREST:

- A. Each member of the Planning Commission shall avoid conflicts of interest and/or incompatibility of office. As used here, a conflict of interest shall, at a minimum include, but is not limited to, the following:
 - 1. Issuing, deliberating on, voting on, or reviewing a case concerning him or her.
 - 2. Issuing, deliberating on, voting on, or reviewing a case concerning work on land owned by him or her or which is adjacent to land owned by him or her.
 - 3. Issuing, deliberating on, voting on, or reviewing a case involving a corporation, company, partnership, or any other entity in which he or she has an ownership interest or may be financially impacted.
 - 4. Issuing, deliberating on, voting on, or reviewing a case which is an action which results in a pecuniary benefit to him or her.

5. Issuing, deliberating on, voting on, or reviewing a case where his or her employee or employer is an applicant or agent for an applicant or has a direct interest in the outcome.
 6. Issuing, deliberating on, voting on, or reviewing a case concerning property owned or controlled by his or her spouse, children, step-children, grandchildren, parents, brothers, sisters, grandparents, parents in-law, grandparents in-law, or members of his or her household.
 7. Any situation where the Planning Commissioner has a conflict of interest under Michigan law or Township ordinance. These By-laws also incorporate the conflict of interest rules and requirements contained in subsection 1(e) of the Yates Township Planning Commission Ordinance (being Ordinance No. 11-01).
- B. Planning Commissioners deemed to have a conflict or interest are disqualified from participating and voting on the matter at issue. Failure to disclose a known conflict of interest constitutes malfeasance in office.
- C. The Planning Commission member declaring a conflict of interest must state the nature of the conflict and whether they believe they can impartially consider the request before the Planning Commission. They should individually decide to abstain from any discussion or votes relative to the matter that is the subject of the conflict.

In cases where it is not entirely clear that there is a conflict of interest, the member with a potential conflict of interest may ask the other Planning Commission members to decide if the member with a potential conflict of interest should abstain. If this is requested, the remaining Planning Commission members shall vote on the abstention, and the results of the vote shall determine the participation of the member declaring the conflict.

D. The member declaring a conflict may, but need not, leave the room in which the discussion takes place, but should excuse himself or herself from the Planning Commission table until the matter is decided by the Planning Commission.

A Planning Commissioner shall have the right to address any matter before the Planning Commission as a private citizen. In doing so, the Planning Commissioner must excuse himself or herself from the Planning Commission table and address the Planning Commission from the floor.

However, this may be seen as placing undue pressure on fellow Planning Commissioners in their consideration of the project or matter. Such action on the part of a conflicted Planning Commissioner should be carefully considered in order to avoid the appearance of a conflict of interest.

SECTION 16: POWERS AND DUTIES:

A. The Planning Commission shall have the powers and duties as are set forth in Michigan Public Act No. 33 of 2008, as amended, being the Michigan Planning Enabling Act, MCL 125.3801 *et seq.* and the Michigan Public Act No. 110 of 2006, as amended, being the Michigan Zoning Enabling Act, (MCL 125.3101 *et seq.*) and the Zoning Ordinance. In addition, the Planning Commission's duties shall include the following:

1. Take such action on petitions, staff proposals and Township Board requests for amendments to the Zoning Ordinance as required.
2. Take such action on petitions, staff proposals and Township Board requests for amendments to the master plan as required.

3. Prepare and adopt By-laws for the transaction of business, and keep a public record of its resolutions, transactions, findings and determinations.
4. Prepare an annual report to the Township Board concerning operations and the status of planning activities, including recommendations regarding legislative actions related to planning and development.
5. Review subdivision and condominium proposals and recommend appropriate actions to the Township Board.
6. Prepare special studies and plans, as deemed necessary by the Planning Commission or Township Board, and for which appropriations of funds have been approved by the Township Board, as needed.
7. Attend training sessions, conferences, or meetings as needed and as recommended by Township staff, the Township Board, Township Supervisor or the chairperson of the Planning Commission to properly fulfill the duties of a Planning Commissioner and for which appropriations of funds have been approved by the Township Board, as needed.
8. Members shall avoid to the best of their abilities *ex parte* contact (i.e. contact outside of a formal Planning Commission public meeting) with a representative of an applicant before the Planning Commission (or the neighbors). Should such contact occur, the member shall disclose it publicly to the Planning Commission at the next Planning Commission meeting.

SECTION 17: EDUCATION

Within sixty (60) days of a regular member of the Planning Commission being initially

appointed to the Planning Commission, that member shall complete the MSU citizen planner program. For every one (1) year thereafter, each member of the Planning Commission shall attend at least three hours of seminars for a municipal planning commission as approved by the Yates Township Board. The Yates Township Board may impose further additional continuing education requirements for members of the Planning Commission. Failure to comply with this Section 17 (or any other continuing education requirements specified by the Township Board) shall constitute nonfeasance in an office for purposes of a member of the Planning Commission potentially being remove from the Planning Commission.

SECTION 18: SEVERABILITY

Each portion of this Ordinance shall be deemed to be severable. Should any article, section, subsection, paragraph, subparagraph, sentence, or clause of this Ordinance ever be declared by a court of competent jurisdiction to be unconstitutional or invalid in whole or in part, that holding shall not affect the validity of this Ordinance, other than that part declared to be unconstitutional or invalid.

SECTION 19: REPEAL

Ordinance 72-1 passed 5-2-1972 Sections 154.088 through 154.102

Ordinance 11-4 passed 6-28-2011 Sections 154.088 through 154.102

SECTION 20: EFFECTIVE DATE

This Ordinance shall become effective upon the expiration of thirty (30) days after this Ordinance or a summary thereof appears in the newspaper as provided by law.

The vote to adopt this Ordinance was as follows:

YEAS: Marilyn Burns, Barbara McGregory, Jacqueline Patterson, Charles Atkins, Shawn Coffey

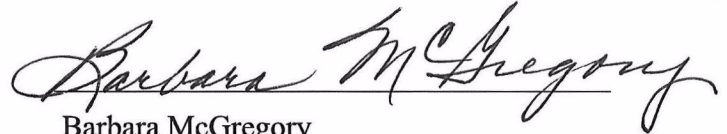
NAYS: - none -

ABSENT/ABSTAIN: - none -

THIS ORDINANCE IS DECLARED TO BE DULY ADOPTED.

CERTIFICATION

I hereby certify the above is a true copy of the Ordinance adopted by the Township Board for Yates Township as of the date, time and place as specified above, pursuant to the required statutory procedures.

A handwritten signature in cursive script that reads "Barbara McGregory". The signature is written in black ink and is positioned above the printed name and title.

Barbara McGregory
Yates Township Clerk