

KINROSS CHARTER TOWNSHIP ORDINANCE NO. 1.134

An Ordinance to Establish a Planning Commission
In the Township of Kinross
Adopted: August 2, 2010
Published:
Effective:

(To confirm the previous establishment of a planning commission by resolution or ordinance adopted before September 1, 2008, or to designate zoning authority to a planning commission that existed prior to September 1, 2008. This ordinance replaces Kinross Township Ordinance No. 24.)

Preamble:

An ordinance to confirm the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., of the Kinross 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 KINROSS, CHIPPEWA COUNTY, MICHIGAN, ORDAINS:

Section 1: Definitions

- A. The following definitions shall apply in this ordinance:
- i. Misfeasance is defined as the wrongful performance of a normally lawful act or the wrongful and injurious exercise of lawful authority.
 - ii. Malfeasance is defined as the performance by a public official of an act that is legally unjustified, harmful, or contrary to law
 - iii. Nonfeasance is defined as the omission of some act that ought to have been performed.

Section 2: Scope, Purpose and Intent

This ordinance is adopted pursuant to the authority granted 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 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. The purpose of this ordinance is to confirm the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., of the Kinross 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

The Kinross Township Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq. is hereby established. The Planning Commission shall have five (5) members. Members of the 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

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. Planning Commission members, other than an ex officio member, shall serve for terms of 3 years each. 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. 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. One member of the Township Board shall be appointed to the Planning Commission as an ex officio member. 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. No other elected officer or employee of the Township is eligible to be a member 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: Conflict of Interest

Before casting a vote on a matter on which a Planning Commission member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Planning Commission. Failure of a member to disclose a potential conflict of interest as required by this ordinance constitutes malfeasance in office. For the purposes of this section, conflict of interest is defined as, and a Planning Commission member shall declare a conflict of interest and abstain from participating in Planning Commission deliberations and voting on a request, when:

- (a) An immediate family member is involved in any request for which the Planning Commission is asked to make a decision. "Immediate family member" is defined as: The Planning Commission member's spouse, the member and member's spouse's children (including adopted) and their spouses, step-children and their spouses, grandchildren and their spouses, parents and step-parents, brothers and sisters and

their spouses, grandparents, parents in-law, grandparents in-law, or any person regularly residing in the Planning Commission member's household.

- (b) The Planning Commission member has a business or financial interest in the property involved in the request or has a business or financial interest in the applicant's company, agency or association. This subsection shall not apply to a Planning Commission member who owns 1 % or less of the shares of a publicly traded corporation.
- (c) The Planning Commission member owns or has a financial interest in neighboring property. For the purposes of this subsection, a neighboring property shall include any property whose boundary is immediately adjoining or is within 50 feet of the property involved in the request.
- (d) There is a reasonable appearance of a conflict of interest, as determined by a majority vote of the remaining members of the planning commission.

Section 7: Compensation

The Planning Commission members may be compensated for their services as provided by Township Board resolution. The Planning Commission may adopt bylaws relative to compensation and expenses of its members for travel when engaged in the performance of activities authorized by the Township Board, including, but not limited to, attendance at conferences, workshops, educational and training programs and meetings.

Section 8: Officers and Committees

The Planning Commission shall elect a chairperson and a secretary from its members, and may create and fill other offices as it considers advisable. An ex officio member of the Planning Commission is not eligible to serve as chairperson. The term of each office shall be 1 year, with opportunity for reelection as specified in the Planning Commission bylaws. The Planning Commission may also appoint advisory committees whose members are not members of the Planning Commission.

Section 9: Bylaws, Meetings and Records

The Planning Commission shall adopt bylaws for the transaction of business.

The Planning Commission shall hold at least 4 regular meetings each year, and shall by resolution determine the time and place of the meetings.

Unless otherwise provided in the Planning Commission's bylaws, a special meeting of the Planning 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 Planning Commission members at least 48 hours before the meeting.

The business that the Planning 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.

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 10: 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 11: Authority to Make Master Plan

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. The master plan shall comply with and be prepared and adopted as required in the Michigan Planning Enabling Act. The Township's current master plan adopted under the Township Planning Act, Public Act 168 of 1959, MCL 125.321 et seq., shall continue in full force and effect unless or until it is rescinded by the Township Board. 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 or reject the master plan.

Section 12: Zoning Powers

The Township Board hereby confirms the transfer of all powers, duties, and responsibilities provided for zoning boards or zoning commissions by the former Township Zoning Act, Public Act 184 of 1943, MCL 125.271, et seq.; the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101, et seq.; or other applicable zoning statutes to the Kinross Township Planning Commission formerly established under the Township Planning Act. Public Act 168 of 1959. MCL 125.321. et seq.

Any existing zoning ordinance shall remain in full force and effect except as otherwise amended or repealed by the Township Board.

Section 13: Capital Improvements Program

To further the desirable future development of the Township under the master plan, the Township Board, after the master plan is adopted, shall prepare or cause to be prepared by the Township Supervisor or by a designated nonelected administrative official, a capital improvements program of public structures and improvement showing those structures and improvement is in general order of their priority for the ensuing 6-year period. The prepared capital improvements program, if prepared by someone other than the Township Board, shall be subject to final approval by the Township Board. The Planning Commission is hereby exempted from preparing a capital improvements plan, but may recommend programs for public structures and improvements and for financing such improvements.

Section 14: Subdivision and Land Division Recommendations

The Planning Commission may recommend to the Township Board provisions of an ordinance or rules governing the subdivision of land. Before recommending such an ordinance or rule, the Planning Commission shall hold a public hearing on the proposed ordinance or rule. The planning 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

township. The Planning Commission shall review and make recommendation on a proposed plat before action thereon by the Township Board 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 planning 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 township. Similar notice shall be mailed to the owners of land immediately adjoining the proposed platted land.

Section 15: Severability

The provisions of this ordinance are hereby declared to be severable, and if any part is declared invalid for any reason by a court of competent jurisdiction, it shall not affect the remainder of the ordinance, which shall continue in full force and effect. Further, in construing and applying this ordinance, the terms of Public Act 33 of 2008 shall apply in the event of a conflict between the Act and this ordinance.

Section 16: Repeal

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. The resolution or ordinance establishing the Kinross Township Planning Commission under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq., is hereby repealed.

Section 17: Effective Date

This ordinance shall take effect on the date of its publication.

CERTIFICATE

The undersigned, as the duly elected and acting clerk of the township, hereby certifies that this ordinance was duly adopted by the township board at a regular meeting of said board, at which a quorum was present, held on August 2, 2010, and that copies of the ordinance were transmitted and published as directed.

Marvin Besteman, Township Clerk

Lawrence J. Palma, Township Supervisor