

**BEAR CREEK TOWNSHIP  
EMMET COUNTY, MICHIGAN**

**Ordinance to Confirm the Establishment of a  
Planning Commission  
Ordinance No. 28-11**

**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 Bear Creek 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 BEAR CREEK, EMMET COUNTY, MICHIGAN, ORDAINS:

**Section 1: 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 provide that the Bear Creek Township Board shall hereby confirm the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., of the Bear Creek 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 2: Establishment**

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 Bear Creek Township Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq. The Bear Creek Township Planning Commission shall have 7 members. Members of the Bear Creek 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 3: 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. The 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. The ex officio member has full voting rights. The ex officio member's term on the planning commission shall be for a period of one year.

No other elected officer or employee of the township is eligible to be a member of the planning commission.

#### **Section 4: 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 5: 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 "a planning commissioner's" spouse, mother, father, sister, brother, son, or daughter, including an adopted child, or a relative of any degree residing in the same 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;

(c) The planning commission member owns or has a financial interest in adjacent property or any property that is within the notification radius for the subject request under the applicable zoning ordinance or the Michigan Zoning Enabling Act;

(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 6: 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 7: 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 8: 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 a 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 9: 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 10: 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.

Final authority to approve a master plan or any amendments thereto shall rest with the township board, which asserts and retains the right to approve or reject the master plan or any amendments.

Unless rescinded by the township, any plan adopted or amended under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq., need not be readopted under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq.

### **Section 11: 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 improvements, showing those structures and improvements in general order of their priority, for the following 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.

### **Section 12: 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.

The provisions of this section shall not affect the validity or applicability of any existing ordinances concerning subdivisions and land divisions.

**Section 13: 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.

**Section 14: Repeal**

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

**Section 15: Effective Date**

This ordinance shall take effect 63 days after the ordinance is published in a newspaper of general circulation in the township.

**CLERK'S CERTIFICATION**

I hereby certify this ordinance was adopted by the Bear Creek Township Board of Trustees at a regular meeting held on February 2, 2011, and that the vote was as follows:

FOR: Keiser, Notestine, Golding, Mays

AGAINST: none

Hoffman absent.

I further certify that copies of this ordinance were transmitted and published as directed by law.

Judy Mays, Clerk  
Bear Creek Township

