

BENZIE COUNTY, MICHIGAN
ORDINANCE NUMBER 2017-001

BENZIE COUNTY PLANNING COMMISSION ORDINANCE

AN ORDINANCE TO AMEND ORDINANCE NUMBER 2012-001, THE BENZIE COUNTY PLANNING COMMISSION ORDINANCE, TO INCREASE THE NUMBER OF COUNTY BOARD OF COMMISSIONER MEMBERS WHO MAY BE APPOINTED, AND TO ADD LANGUAGE REGARDING LOCAL UNIT OF GOVERNMENT MEMBERSHIP.

The County of Benzie hereby ordains:

Section 1. Repeal of Ordinance No. 2009-002; Continuation Planning Commission.

Ordinance No. 2009-002 which established a planning commission for the County of Benzie under 2008 PA 33, the Michigan Planning Enabling Act (MPEA), is hereby repealed, but the planning commission for the County of Benzie established thereby shall be continued as provided for in this ordinance. The planning commission shall be and remain constituted in accordance with and shall have all of the powers and duties set forth in the MPEA and in this ordinance. No matter pending before the planning commission as of the effective date of this ordinance shall be affected in any way by the fact that the planning commission is being reconstituted by this Ordinance. All such pending matters shall be carried forward under the planning commission at the same status as existed prior to the effective date of this ordinance.

Section 2. Membership.

A. Number of Members: The Planning Commission shall consist of an odd number of not less than 7 and not more than 11 members, as determined from time to time by the Benzie County Board of Commissioners, and appointed by said Board of Commissioners; except that if the Board of Commissioners decides to reduce the number of members of the Planning Commission, such reduction shall not result in the termination of the term of an existing member, but instead shall take effect upon the expiration of said member's term. To be qualified to be a member and remain a member of the Planning Commission, the individual shall meet the qualifications set out below.

B. Conditions of Membership:

1. Members of the Planning Commission shall be qualified electors of the county.
2. Appointed members of the Planning Commission shall attend educational programs designed for training members of Michigan planning commissions if the adopted Benzie County budget for that fiscal year includes funds to pay for tuition, registration, and travel expenses for such training. Nothing in this paragraph shall prevent a member who has not had training from finishing his or her term of office unless the member resigns or is otherwise removed by action of the County Board of Commissioners as provided by law. Unless the County Board of Commissioners finds that such member has special skills

desired for service on the Planning Commission, a member who fails to attend any training made available shall be ineligible for reappointment at the conclusion of his or her term.

3. Training programs which qualify to meet this requirement shall be designed to maintain or increase the skill level of Planning Commission members in the area of planning, zoning and/or the law relative thereto and shall include:

- a. educational programs presented by established educational institutions such as universities, colleges or community colleges;
- b. educational programs presented by an established association of governmental units or governmental officials, such as the Michigan Association of Counties, the Michigan Townships Association, the Michigan Municipal League or the Michigan Association of Municipal Attorneys;
- c. educational programs presented by experienced planning and/or legal consultants, or associations thereof, such as the Michigan Association of Planners or the Michigan Bar Association.

C. Ex Officio Member: The County Board of Commissioners may, but is not obligated to, appoint up to two of its members to serve as an ex officio member of the Planning Commission with full voting rights.

D. Terms of Members: Members of the Planning Commission, other than the ex officio member, shall be appointed to 3-year terms as specified in section 15 of the MPEA. However, of the members of the Planning Commission, other than ex officio members, first appointed, a number shall be appointed to 1-year or 2-year terms such that, as nearly as possible, the terms of 1/3 of all members shall expire each year. Each member, including ex officio members, shall hold office until his or her successor is appointed. Ex officio members qualify as members as long as they hold membership in the organization that authorizes their ex officio membership on the Planning Commission. Qualified members may hold successive terms.

The term of an ex officio member of a planning commission shall be as specified in the Michigan Planning Enabling Act which currently provides as follows:

- (1) The term of a chief elected official shall correspond to his or her term as chief elected official.
- (2) The term of a member of the legislative body shall expire with his or her term on the legislative body.

E. Planning Commissioner Appointments to Other Boards and Commissions. As provided in Section 1 of the County and Regional Parks and Recreation Commissions Act, Public Act 261 of 1965 [MCL 46.351], the chairperson of the Planning Commission shall serve on the county Parks and Recreation Commission. At the request of the chairperson, the Planning Commission

may designate one of its members to serve on the Parks and Recreation Commission in place of the chairperson.

F. Vacancy: If a vacancy occurs on the Planning Commission, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment.

G. Removal: Pursuant to section 15, paragraph 9 of the MPEA, The Benzie County Board of Commissioners may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges prepared by or directed to be prepared by the board of commissioners and after a public hearing. Failure to disclose a potential conflict of interest shall be considered malfeasance in office. Repeated failure to attend Commission meetings shall be considered nonfeasance of office. The secretary of the Planning Commission shall report any member who has missed three regular meetings in a row to the Benzie County Board of Commissioners.

H. Compensation: All members of the Planning Commission may be compensated at such rate as may be determined from time to time by resolution of the county board of commissioners. Members of the Planning Commission may be reimbursed for actual, reasonable and necessary expenses incurred in the discharge of their duties to the extent provided for by actual appropriation of money for said purposes.

I. Appointment of Members: The Chairman of the Benzie County Board of Commissioners shall, with the approval of the Board, appoint the members of the planning commission. Members shall be representative of important segments of the community such as the economic, governmental, educational, and social development of the county, in accordance with the major interests as they exist from time to time in the county such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. Members shall also, to the extent possible, be representative of the entire geography of the county.

J. Education Member: The Benzie County Board of Commissioners shall make every effort to appoint *an elected*, or an administrative employee of a school district included, in whole or in part within Benzie County.

K. Local Unit of Government Members: The Benzie County Board of Commissioners shall make every effort to appoint a member of a township, village, city planning commission or elected board, or a member of a joint planning commission located within Benzie County.

L. Transition from Previous Ordinance: If necessary to reduce the number of members of the planning commission from that number of persons appointed under 4 prior Ordinance No. 2009-002 to the number required by this ordinance, the board of commissioners, in its sole discretion, but mindful of the representation guidelines set forth in the MPEA and section 2 of this ordinance, may remove any members necessary to reduce the planning commission membership to the number of members authorized by section 2 of this Ordinance. In doing so, the Board of Commissioners may also re-align the terms of members so that, except for the ex officio member, the terms of no more than one-third of the members will expire in each year.

Section 3. Organization and Procedures.

A. The Planning Commission shall elect a chairperson, vice chairperson, and secretary from its members and fill other offices, as it considers advisable. An ex officio member is not eligible to serve as an officer. The term of each officer shall be 1 year, with opportunity for reelection as specified in the Planning Commission's bylaws.

B. *Bylaws.* The Planning Commission shall adopt bylaws for the transaction of its business, and shall keep a public record of its resolutions, transactions, findings, and determinations.

C. *Advisory Committees.* The Planning Commission may appoint advisory committees whose members need not be members of the Planning Commission.

D. *Annual Report.* No later than the 1st day of June of each year, the Planning Commission shall submit an annual written report, including a work program for the coming year, and a budget request for the commission and planning department to the county board of commissioners concerning its operations and the status of planning activities. The report may also make recommendations to the legislative body regarding planning and development. Once the annual report is done, or concurrently, the planning commission may prepare a detailed budget of its operations for the coming year. This should be accompanied by a work program describing each proposed activity and the budget to go with it. The legislative body may approve or disapprove the budget, but in any event the planning commission must operate within the funds appropriated by the legislative body to cover its operations.

E. *Meetings.* The Planning Commission shall hold not less than 4 regular meetings each year. The time and place of the meetings shall be established by resolution. Unless the bylaws provide otherwise, 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 provide otherwise, the secretary shall send written notice of a special meeting to Planning Commission members not less than 48 hours before the meeting.

F. *Open Meetings Act.* The business that the Planning Commission may perform shall be conducted at public meetings held in compliance with the Open Meetings Act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of a regular or special meeting shall be given in the manner required by that act.

G. *Freedom of Information Act.* A document prepared, owned, used, in the possession of, or retained by the Planning Commission and staff members in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, 1976 PA442, and MCL 15.231 to 15.246.

Section 4. Conflict of Interest.

A. Conflict of interest shall be defined as a situation in which a planning commissioner has competing professional or personal interests in the outcome of a vote. Such competing interests include but are not limited to financial reward or the involvement of employers or immediate family members. Such competing interests can make it difficult to fulfill his or her impartiality. A

conflict of interest exists even if no unethical or improper act results from it. A conflict of interest can create an appearance of impropriety that can undermine confidence in the conduct of Planning Commission business. "Immediate family" shall include a member's spouse, children, other dependents, parents, siblings and a spouse's parents and a spouse's siblings.

B. In accordance with MPEA Section 15. (9), failure of a Planning Commission member to disclose a potential conflict of interest constitutes malfeasance in office.

C. Before joining in deliberation, fact finding, or 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. Following such disclosure, unless a majority of the remaining members of the Planning Commission excluding the member with the potential conflict, finds that no conflict exists, the member with the conflict is disqualified from fact finding, deliberation, and voting on the matter.

Section 5. Duties and powers.

A. *Master Plan.* The Planning Commission shall make and approve a master plan as a guide for development within the county and shall adopt same in accordance with the requirements of Sections 31 through 51 of the MPEA.

B. *Capital Improvements.* No work shall be initiated on any project involving the expenditure of money by a county board, department, or agency for the acquisition of land, the erection of structures, or the extension, construction, or improvement of any physical facility by any county board, department, or agency unless a full description of the project, including, but not limited to, its proposed location and extent, has been submitted to the Planning Commission and the report and advice of the Planning Commission on the proposal has been received by the county board of commissioners, all in the manner provided for in sections 61 and 63 of the MPEA.

C. *Capital Improvements Program.* To further the desirable future development of the county under the master plan, the Planning Commission, after adoption of a master plan, shall annually prepare a capital improvements program of public structures and improvements. All procedures in the preparation and processing of such capital improvements plan shall be in accordance with sections 65 and 67 of the MPEA.

D. *Subdivision Regulations and Plat Approval.* The Planning Commission may recommend to the County Board of Commissioners provisions of an ordinance or rules governing the subdivision of land authorized under section 105 of the land division act, 1967 PA 288, MCL 560.105, and shall review and make recommendations on plats before action thereon by the County Board of Commissioners under section 112 of the land division act, 1967 PA 288, MCL 560.112, all in accordance with the provisions of section 71 of the MPEA.

E. *Education; Consultation.* To promote public interest in and understanding of the master plan, the Planning Commission may publish and distribute copies of the master plan or of any report, and employ other means of publicity and education. The Planning Commission shall consult with and advise public officials and agencies, public utility companies, civic, educational,

professional, and other organizations, and citizens concerning the promotion or implementation of the master plan pursuant to the MPEA, section 51.

F. Consultants: Upon request by the planning commission or upon its own initiative, the board of commissioners may retain the services of a professional planner or other professional consultant to assist the planning commission in any matter within the planning commission's jurisdiction. Before retaining such consultant, however, the board of commissioners shall consider any consultants recommended by the planning commission.

G. Management:

- a. The County Board of Commissioners may, but is not obligated to, appoint a county planner. If, however, the Board does appoint a county planner, the management of planning staff, if any, shall be supervised by the county planner.
- b. The planning commission shall manage and direct the county planner, if one is appointed, for purposes of prioritization of projects, planning policy, annual work plan, subdivision review, capital improvement program and reviews, other matters of business which come before or are assigned to the planning commission, and evaluation of performance in these areas.
- c. The management of the county planner, if one is appointed, shall be under the general supervision and control of the Board of Commissioners, or its designee, for purposes of being the sole employer, including but not limited to payroll, benefits, department head administrative and managerial duties, budget, other non-planning duties that may be assigned (e.g., EDC, Remonumentation, Recreation/Parks, Brownfield Board, etc.), compliance with Benzie County employee policies and evaluation of performance in these areas.
- d. The management of the county planner, if one is appointed, shall be under the general supervision and control of the Board of Commissioners. Only the Board of Commissioners may hire or fire the county planner.
- e. The Board of Commissioners, and its designee, shall carry out its general supervision of the county planner with full consultation with the Planning Commission which shall be afforded the opportunity to consult on any planning staff management decision.

Section 6. Amendments to the MPEA.

If there is any conflict between this Ordinance and any provision of the MPEA, as amended, the provisions of the MPEA shall control.

Section 7. Repeal of Inconsistent Ordinances or Resolutions.

Any prior ordinances or resolutions addressing the same subject matter as this ordinance and any amendments thereto are hereby repealed. Section 8. Effective Date. This ordinance shall be effective on the day following the day when notice of its adoption is published in a newspaper of general circulation in the county.

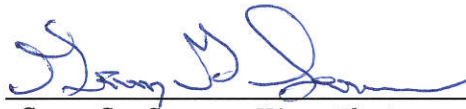
This Ordinance shall become effective upon publication of a notice of its adoption in a newspaper of general circulation in the County.

At a regular meeting of the Benzie County Board of Commissioners held on November 14, 2017, adoption of the foregoing ordinance was moved by Commissioner Carland and seconded by Commissioner Warsecke. The ordinance was adopted by said Board of Commissioners as follows:

Voting for: Carland, Griner, Jeannot, Roelofs, Sauer, Walterhouse and Warsecke

Voting against: None

The Ordinance was declared adopted.

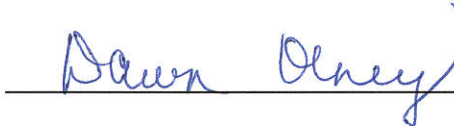


Gary G. Sauer, Vice Chair

~~Guster Carland, Chair~~

I certify that true copy of Ordinance No. 001 of 2017 was adopted at a regular meeting of the Benzie County Board of Commissioners on November 14, 2017.

Dated: November 28, 2017



Dawn Olney, County Clerk