

**GLEN ARBOR TOWNSHIP
LEELANAU COUNTY, MICHIGAN**

ORDINANCE #5-2021

**ORDINANCE TO CONFIRM THE ESTABLISHMENT OF A PLANNING
COMMISSION WITH ZONING AUTHORITY**

AN ORDINANCE TO AUTHORIZE THE CONTINUED EXISTENCE OF THE GLEN ARBOR TOWNSHIP PLANNING COMMISSION; TO ENSURE THAT THE PLANNING AND RELATED FUNCTIONS OF THE PLANNING COMMISSION ARE CARRIED OUT IN COMPLIANCE WITH THE MICHIGAN PLANNING ENABLING ACT, PUBLIC ACT 33 OF 2008, AS AMENDED (MPEA) AND THE MICHIGAN ZONING ENABLING ACT, PUBLIC ACT 100 OF 2006; TO REPEAL ANY TOWNSHIP ORDINANCES IN CONFLICT WITH OR REPLACED BY THIS ORDINANCE:

WHEREAS, the former Glen Arbor Township Planning and Zoning Board has been redesignated as the Glen Arbor Township Planning Commission (GAPC) and all responsibilities and duties of a zoning board or commission under the Michigan Zoning Enabling Act (MZEA) have been previously transferred to the GAPC prior to July 1, 2011;¹ and

WHEREAS, the Michigan Planning Enabling Act (MPEA), Public Act 33 of 2008, requires that a planning and zoning commission or board be changed to and referred to as a planning commission and that said action be accomplished by ordinance; and

WHEREAS, while the GAPC (once known as the Glen Arbor Township Planning and Zoning Board) was created before the enactment of the MPEA and has been in existence since at least

¹ MCL 125.3811(5) provides:

(5) Section 83 provides for the continued exercise by a planning commission, or the transfer to a planning commission, of the powers and duties of a zoning board or zoning commission." Mich. Comp. Laws 125.3811 Planning Commission; Creation; Adoption of Ordinance by Local Unit of Government; Notice Required; Exception; Adoption of Charter Provision by City or Home Rule Village; Effect of Repeal of Planning Act; Continued Exercise or Transfer of Powers and Duties of Zoning Board or Zoning Commission (Michigan Compiled Laws (2021 Edition))

And MCL 125.3883(3) provides:

(3) If, on or after the effective date of this act, a planning commission is created in a local unit of government that has had a zoning board or zoning commission since before the effective date of this act, the legislative body shall transfer all the powers, duties, and records of the zoning board or zoning commission to the planning commission before July 1, 2011. If the existing zoning board or zoning commission is nearing the completion of its draft zoning ordinance, the legislative body may, by resolution, postpone the transfer of the zoning board's or zoning commission's powers, duties, and records until the completion of the draft zoning ordinance, but not later than until 1 year after creation of the planning commission or July 1, 2011, whichever comes first...

1975, the duly adopted ordinance establishing the aforesaid planning and zoning board has been lost and has not been located; and

WHEREAS, consistent with the requirements of the MPEA, the former planning and zoning board has previously been named and has operated as the GAPC; and

WHEREAS, the Township desires to adopt this ordinance to formally acknowledge the prior establishment and continued lawful existence of APC (formerly known as the Glen Arbor Township Planning and Zoning Board) and to have the GAPC be in compliance with the provisions of the MPEA and the MZEA;² and

NOW, THEREFORE, THE TOWNSHIP OF GLEN ARBOR HEREBY ORDAINS:

Section 1. Continuation of GAPC.

Since former Public Act 184 of 1943 has been repealed by Public Act 33 of 2008, the Michigan Planning Enabling Act (MPEA) and, the ordinance which established the Glen Arbor Township Planning and Zoning Board pursuant to Public Act 184 shall be replaced by this ordinance as required by Public Act 33 continuing the existence of the GAPC in compliance with the provisions of the MPEA and the Michigan Zoning Enabling Act (MZEA). Therefore, the existence of the GAPC is hereby acknowledged and the GAPC continues to exist in compliance with the MPEA and the MZEA. The GAPC shall be and remain constituted in accordance with and shall have all of the powers and duties set forth in the MPEA, the MZEA and this ordinance.

No matter pending before the GAPC as of the effective date of this ordinance shall be affected in any way by the fact that the GAPC is being formally recognized and reconstituted by this ordinance. All such matters pending before the GAPC shall be continued at the same status as existed prior to the effective date of this ordinance.

Section 2. Membership.

A. Number of Members; Qualifications: The GAPC shall consist of 7 members³ appointed by the Township Supervisor, subject to the approval of a majority vote of the members of the Township Board elected and serving.⁴ To be qualified to be a

² MCL 125.3811(1) provides:

(1) A local unit of government may adopt an ordinance creating a planning commission with powers and duties provided in this act. The planning commission of a local unit of government shall be officially called "the "Planning Commission", even if a charter, ordinance, or resolution uses a different name such as "plan board" or "planning board".

³ MCL 125.3815(2) authorizes 5, 7 or 9 members for a township planning commission.

⁴ MCL 125.3815(1)

member and remain a member of the GAPC, the individual shall meet the qualifications set out below.

B. Conditions of Membership:

1. Members of the GAPC shall be qualified electors of the township.
2. Appointed members of the GAPC shall attend educational programs designed for training members of Michigan planning commissions if the adopted Township 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 such training from finishing his or her term of office unless the member resigns or is otherwise removed by action of the Township Board as provided by law. Unless the Township Board finds that such a member has special skills desired for service on the GAPC, a member who fails to attend any training made available shall be ineligible for re-appointment at the conclusion of his or her term.⁵
3. Training programs which qualify to meet this requirement shall be designed to maintain or increase the skill level of GAPC 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 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 Township Board may, but is not obligated to, appoint one of its members to serve as an *ex officio* member of the GAPC with full voting rights.⁶

D. Terms of Members: Members of the GAPC, other than the *ex officio* member, shall be appointed to 3-year terms as specified in section 15 of the MPEA. However, of

⁵ An example of such a member with “special skills” might be an attorney, particularly one who practices in the area of zoning and land use law, an educator who regularly trains and educates persons in zoning and land use law, etc.

⁶ MCL 125.3815(5)

the members of the GAPC, 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 GAPC. Qualified members may hold successive terms.

The term of an ex officio member of a GAPC 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. Vacancy: If a vacancy occurs on the GAPC, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment.

F. Removal: Pursuant to section 15, paragraph 9 of the MPEA, The Township Board may remove a member of the GAPC for misfeasance, malfeasance, or nonfeasance in office upon written charges prepared by or directed to be prepared by the Township Board and after a public hearing.

G. Compensation: All members of the GAPC may be compensated at such rate as may be determined from time to time by resolution of the Township Board. Members of the GAPC 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.

H. Representative Membership: GAPC members 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 from time to time in the township 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 township.⁷

Section 3. Organization and Procedures.

A. The GAPC shall elect a chairperson, vice chairperson, and secretary from its members and fill other offices, as it considers advisable. An *ex officio* member is

⁷ MCL 125.3815(3)

not eligible to serve as chairperson. The term of each officer shall be 1 year, with opportunity for reelection as specified in the GAPC's bylaws.⁸

B. *Bylaws.* The GAPC shall adopt bylaws for the transaction of its business, and shall keep a public record of its resolutions, transactions, findings, and determinations.⁹

C. *Advisory Committees.* The GAPC may appoint advisory committees whose members need not be members of the GAPC.¹⁰

D. *Annual Report.* No later than the 31st day of December of each year, the GAPC shall submit an annual written report to the Township Board.¹¹ Such report shall include a work program and a budget request for the coming year, and a report concerning its operations and the status of planning activities. The report may also make recommendations to the legislative body regarding planning and development.

E. *Meetings.* The GAPC shall hold not less than 4 regular meetings each year. The time and place of the meetings shall be established by a resolution of the GAPC. Unless the bylaws provide otherwise, a special meeting of the GAPC 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 GAPC members not less than 48 hours before the meeting.¹²

F. *Open Meetings Act.* The business that the GAPC 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.¹³

G. *Freedom of Information Act.* A document prepared, owned, used, in the possession of, or retained by the GAPC 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.

⁸ MCL 125.3817

⁹ MCL 125.3819(1) provides: "(1) A planning commission shall adopt bylaws for the transaction of business, and shall keep a public record of its resolutions, transactions, findings, and determinations."

¹⁰ MCL 125.3817

¹¹ MCL 125.3819(2) provides: "(2) A planning commission shall make an annual written report to the legislative body concerning its operations and the status of planning activities, including recommendations regarding actions by the legislative body related to planning and development."

¹² MCL 125.2821(1)

¹³ MCL 125.3821(2)

Section 4. Conflict of Interest.

- A. Each member of the Glen Arbor Township Planning Commission shall avoid conflicts of interest and/or incompatibility of office.
- B. Before entering into discussion or casting a vote on a matter on which a commission member may reasonably be considered to have a conflict of interest, the member shall verbally disclose the potential conflict of interest to the chair of the commission. This verbal identification of a potential conflict of interest shall be documented in the minutes.
- C. As used here, a conflict of interest shall at a minimum include, but not necessarily be 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.
 - 3. Issuing, deliberating on, voting on, or reviewing a case involving a corporation, company, partnership, or any other entity in which he or she is a part owner, or any other relationship where he or she may stand to have a financial gain or loss.
 - 4. Issuing, deliberating on, voting on, or reviewing a case which is an action which results in a specific pecuniary benefit to him or her.
 - 5. Issuing, deliberating on, voting on, or reviewing a case concerning his or her spouse, children, stepchildren, grandchildren, parents, brothers, sisters, grandparents, parents in-law, grandparents in-law, or members of his or her household.
 - 6. Issuing, deliberating on, voting on, or reviewing a case where his or her employee or employer is:
 - (a) an applicant or agent for an applicant, or
 - (b) has a direct interest in the outcome.
- D. If there is a question whether a conflict of interest exists or not, the question shall be put before the commission. Whether a conflict of interest exists or not shall be determined by the remaining members of the commission by roll call vote. The decision shall be documented in the minutes of the commission.
- E. When a conflict of interest exists, the member shall cease to participate in the matter for which he or she has the conflict of interest.
- F. Failure to disclose a potential conflict of interest constitutes malfeasance in office.
- G. This Conflict-of-Interest policy agrees with the Glen Arbor Township policy statement. This policy shall be reviewed annually at the first commission meeting of each year and shall be agreed to and signed by each commission member at the time of each new term in office.

Section 5. Duties and powers.

- A. *Master Plan.* The GAPC shall make and approve a master plan as a guide for development within the township and shall adopt same in accordance with the requirements of Sections 31 through 51 of the MPEA.¹⁴
- B. *Capital Improvements.* No work shall be initiated on any project involving the expenditure of money by the Township for the acquisition of land, the erection of structures, or the extension, construction, or improvement of any physical facility by the Township unless a full description of the project, including, but not limited to, its proposed location and extent, has been submitted to the GAPC and the report and advice of the GAPC on the proposal has been received by the Township Board, all in the manner provided for in sections 61 and 63 of the MPEA.¹⁵
- C. *Capital Improvements Program.* To further the desirable future development of the township under the master plan, the GAPC, after adoption of a master plan, shall annually prepare a capital improvements program of public structures and improvements.¹⁶
- D. *Subdivision Regulations and Plat Approval.* The GAPC may recommend to the Township Board 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 Township Board 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.¹⁷
- E. *Education; Consultation.* To promote public interest in and understanding of the master plan, the GAPC may publish and distribute copies of the master plan or of any report, and employ other means of publicity and education. The GAPC 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 51.¹⁸

¹⁴ Sections 31 through 51 of the MPEA are at MCL 125.3831 through 125.3851.

¹⁵ MCL 125.3861

¹⁶ MCL 125.3865. Note: Pursuant to MCL 125.3865, the GAPC may be exempted from the obligation to prepare an annual capital improvement program. If that is what is desired, this section should be amended to specifically state that the GAPC is exempted from that obligation.

¹⁷ MCL 125.3871

¹⁸ MCL 125.3851

F. Consultants: Upon request by the GAPC or upon its own initiative, the Township Board may retain the services of a professional planner or other professional consultant to assist the GAPC in any matter within the GAPC's jurisdiction.¹⁹

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 township.²⁰

¹⁹ MCL 125.3825

²⁰ MCL 125.3881; MCL 41.184

Adoption of the foregoing ordinance was moved by John Pepler and supported by Don Lewis.

Voting for: L. Houtteman, P. Laureto, T. Laureto, D. Lewis, J. Pepler

Voting against: none

The ordinance was declared adopted.



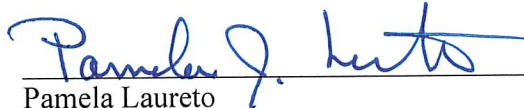
Thomas Laureto, Supervisor

Date of publication of Notice of Adoption: October 7, 2021

Effective date: October 8, 2021

CERTIFICATION

I, Pamela Laureto, the duly elected and serving Glen Arbor Township Clerk, do hereby certify that the foregoing Ordinance was duly adopted by the Glen Arbor Township Board at a regular meeting of said Board at which a quorum was present on the 21st day of September, 2021.



Pamela Laureto
Glen Arbor Township Clerk