

Chapter 6: Principles and Recommendations for Planning and Development Regulation

By far the largest number of recommendations, offered in both previous studies and land use initiatives over the last decade and in recent surveys, focus groups, and public hearings conducted for the council, address issues associated with the structure of or system for planning and development regulation in Michigan. There is a widespread perception that the current system does not work very well, and that it results in the land use pattern known as sprawl, in the unnecessary loss of farms, forests, and other open space lands, as well as in a decline in the quality of life of many of our communities—but especially in our large older cities. There are many interrelated reasons why land use patterns favor sprawl over urban development and redevelopment. Some relate to market response to personal choices to live on large lots in the country, but the combination of public policy and the institutional structure for land use decision making in Michigan also plays a very large role. Consider the following fundamental characteristics of the current structure for land use decision making in Michigan.

- Michigan has over 1,850 counties, cities, villages, and townships empowered to plan and zone. The sheer number of governmental units making independent decisions has led to conflicts and the lack of coordinated efforts to address multijurisdictional concerns. In addition, there are dozens of special public entities authorized to plan and use land that act independently of counties, cities, villages, and townships.
- Michigan’s planning and zoning enabling acts were all adopted in the 1920s and have not been significantly changed since then; yet the total population of Michigan, the range and type of land uses, the impact of the automobile, and the pace of life have all changed dramatically. These basic tools have not kept pace with contemporary needs.
- There are four separate planning enabling acts and three separate zoning enabling acts in the state. These acts differ in terms of powers, responsibilities, or procedures, with no apparent reasons for the differences. In addition, they provide very little statutory guidance on what local plans should contain and inconsistent language linking local zoning decisions to local plans.
- Counties are permitted to plan but can zone land only in townships that have not adopted zoning. Counties do not have similar authority with regard to land division regulations or regulation of certain land uses like billboards. The result is often a patchwork of planning and zoning in rural Michigan. Only about two dozen of Michigan’s 83 counties exercise any zoning authority.
- There is no state statutory authority for joint planning or joint zoning for those cities, villages, and townships that wish to do so cooperatively.
- Michigan has long been among the states with the largest number of appellate court decisions on local planning and zoning issues. Appellate courts are commonly called upon to interpret the law in land use disputes between the public and private sectors. This results in significant delay, uncertainty in the outcome, and added expenses for local governments, developers, and citizens.

- Local governments are prohibited by state law from being exclusionary in the application of local zoning except under narrow circumstances. However, local governments are given no guidance, nor is any mechanism in place, to establish what is an appropriate multijurisdictional share of affordable housing, or what other types of nonresidential development should be accommodated. As a result, most communities zone for nearly all land uses, ensuring a spread of development across the landscape, even if there is inadequate public infrastructure to accommodate more intensive forms of development.
- Michigan's local governments are not required to plan for or ensure that infrastructure will be in place to service land planned or zoned for more intensive development; they routinely zone more land for a higher density or intensity use than existing roads and other public services can properly accommodate (even though that density may only be one dwelling per 1–5 acres). This is called overzoning. The problem is often compounded by the fact that communities with zoning authority do not always have responsibility for roads, sewer, water and other public services impacted by their zoning decisions.
- Michigan communities sometimes zone land served by sewer and water infrastructure at a very low density (such as one to three dwelling units per acre), severely underutilizing limited infrastructure and forcing development to be spread further across the landscape.
- Michigan's local governments are not required to coordinate plans, zoning, or infrastructure with adjoining units of local government or with the county, region, or state, although recent amendments to the local planning enabling acts do require notification and an opportunity for adjoining units of local government to comment on the proposed plans of adjacent governmental units. State property tax laws that provide the major support for local government encourage competition for development among local governments rather than encouraging collaboration and cooperation in land use decision making.
- Michigan's local governments do not have express statutory authority to use many of the growth management tools used by governmental units in other parts of the country.
- In 1978, local governments were promised in state legislation that statewide land use data would be made available every five years and land cover data every ten years to assist in land use planning and decisions, yet the state has only provided such essential data on a statewide basis once (in 1990 based upon 1978 data).
- There are no adopted state land use goals to guide state agency, regional, county, or local land use decisions as in other states.
- There has been no designated state agency charged with provision of technical assistance to local governments on general land use issues since 1982 (except in the brownfield and economic development arenas, and where state agencies have initiated such actions independently, as with transportation).
- Michigan permits planning and development regions to be created (there are presently 14) and recognizes them for various state activities, such as transportation planning; but since the early 1980s the state has failed to establish programmatic requirements or uniform funding for regional land use planning.

- Michigan has no coordinated method for integrating the infrastructure and land management decisions of state agencies with plans prepared by regions, counties, or local governments, except with regard to transportation.

Michigan has myriad state policies that directly and indirectly support, subsidize, or promote sprawl, in contrast to very few policies that support a compact settlement pattern or urban revitalization. The rising costs of sprawl are only just becoming apparent in a wide variety of ways. These costs include both direct and indirect fiscal and opportunity costs. Without a fundamental change in the way government land use decisions are made and coordinated, there is little opportunity to avoid the spiraling government costs associated with sprawl and its attendant social, environmental, and economic problems.

GUIDING PRINCIPLES

In formulating its recommendations for Michigan, the council established the following guiding principles that address policies and practices of government, and the need for new and improved tools and a supporting legal framework for coordinated planning and development regulation at the local, regional, and state level. The council believes that it is important for state, regional, and local governments to have policies and practices that recognize the following principles:

Education and Public Information

- Local government officials, citizens, property owners, and the development community have a wide range of current land use and related information available to assist with decision making.
- Local government officials, citizens, property owners, and the development community have a wide range of educational opportunities available to improve land use and related decisions consistent with the consensus vision.

Planning and Zoning Policies, Practices, and Tools

- Planning and zoning enabling legislation is updated to reflect contemporary growth, redevelopment, and preservation needs and to define the respective roles of government in meeting these needs.
- Incentives and tools (including existing tools and the creation of new ones) are available, and disincentives are eliminated to allow local governments to make better land use decisions and to improve intergovernmental coordination and planning.

Housing and Development

- Mechanisms are in place that allow local governments to
 - manage growth without the imposition of large lot sizes,
 - encourage cluster development in areas zoned for residential development with concurrent preservation of open space,
 - provide for a functional mix of living, working, shopping, and recreational activities, and
 - encourage historic preservation, adaptive reuse, and urban redevelopment as viable growth options.

State Role for Intergovernmental Cooperation

- One coordinated set of statewide land use goals is adopted. [Objections: R. Jones]
- These state land use goals recognize that all units and levels of government must cooperate and coordinate to achieve common objectives.
- A structure for land use decision making ensures that decisions are coordinated among all jurisdiction levels and agencies in a timely fashion but made at the most effective level of government.
- Public policies related to land use planning are coordinated with infrastructure-related public policies.
- State agencies coordinate decisions on land use–related issues.
- Federal and state land use policies that inhibit land use change consistent with the vision and goals as defined in Chapter 3 of this report are targeted for elimination. [Reservations: R. Jones]
- Financial assistance is provided for local governments and regional planning organizations to create and update land use or comprehensive plans.

Regional Intergovernmental Cooperation

- The appropriate exercise of home rule authority requires reasonable consideration of impacts on adjoining jurisdictions and a proper respect for sharing decision making with other governmental units on issues of greater than local concern.
- Land use incentives and tools are coordinated across jurisdictions.
- Effective mechanisms are available to accommodate land uses that address essential regional needs (e.g., schools, manufactured home parks, landfills, airports, prisons, etc.).
- Competition for tax base that undermines regional or metropolitan cooperation is reduced.

Local Governance Structure

- “Home rule/local control” as exercised by local units of government is the principal means for implementing land use decisions for Michigan that are consistent with the vision and goals as defined in Chapter 3 of this report.
- Local officials’ planning efforts are supported (e.g., multiauthority planning coordination, public and private sector education, technical assistance and tools, funding mechanisms) and their planning limitations (e.g., private property rights, recall, right of referendum) are recognized and addressed.

RECOMMENDATIONS

The council recommends the following actions to foster strategic, long-term, coordinated planning and development regulation at the local, regional, and state level in Michigan. These recommendations are founded on the vision and goals as defined in Chapter 3 of this report, paying particular attention to the smart growth tenets.

Education and Public Information

1. **Land use education.** Training, education, and knowledge in the means and methods of managing land use change and community development, in smart growth tenets as defined in Chapter 3 of this report, and in effective techniques should be provided to all local planning and zoning officials and to local elected officials. Provide incentive-based programs to maximize participation at the local level.
 - a. By 2010, more than 60 percent of all appointed planning and zoning officials and local elected officials in a single jurisdiction should be encouraged to participate in basic land use planning, zoning, and smart growth educational programs and document participation in such programs within one year of appointment or election. [Reservations: R. Jones, M. McGraw, G. White]
 - b. The state is encouraged to solicit and post on its website the titles and locations of sample educational materials that address land use, community development, environment, and related issues as supplemental materials for use by Michigan teachers. The Department of Education should also consider making such resources, materials, and training available to teachers through intermediate school districts. [Reservations: B. Warner]

[Reservations: Rep. R. Johnson]
2. **Technical planning information.** The state should provide financial incentives to regional and county planning organizations and multijurisdictional subareas to:
 - a. Encourage development of community planning information such as composite zoning maps and other technical studies
 - b. Provide technical assistance for local build-out analyses so communities understand the missed opportunities for compact settlement where existing infrastructure is underutilized because the density is too low
 - c. Help local governments ensure that land use decisions are made in long-term, landscape-scale contexts
3. **Public education.** The state, foundations, and stakeholder organizations should support public participation in land use decision making and informed dialogue through the exchange of ideas and information, including a public education campaign that includes concepts to help citizens:
 - a. Better understand the implications of continuation of land use trends and the benefits of planned development in general; as well as the specific benefits of alternative design schemes that focus on density rather than minimum lot sizes including:
 - (1) Density-based zoning
 - (2) New urbanism
 - (3) Diverse socioeconomic development patterns

[Objections: Rep. R. Johnson]]

- b. Become familiar with the ten common smart growth tenets as defined in Chapter 3 of this report
- c. Better understand the balancing of public, institutional, and private interests
- d. Recognize the value and benefit of publicly owned lands on our collective quality of life, economic vitality, and environment [Reservations: W. Wood]
- e. Improve individual land stewardship
- f. Preserve historic and cultural assets

Planning and Zoning Policies, Practices, and Tools

4. **Spatial database and decision support system.** The legislature and governor should ensure the development and maintenance of a spatial database and decision support system that incorporates the following actions:
 - a. Continually update (every five years) the Michigan Resource Information System (MIRIS) with land use/land cover data using all technology available, create a reliable funding mechanism to support this tool, and ensure its incorporation into the state's Center for Geographic Information (CGI) framework mapping project
 - b. Every five years conduct land use forecasting and analysis that uses sound, objective, scientific information
 - c. Democratize the geographic information and outputs of forecasts by installing an Internet-based interactive geographic information system (GIS) through an access service for all citizens to use
 - d. Complete work on the state's Uniform Digital Map, the CGI framework project, to create and maintain necessary data layers to support integrated land use planning using GIS
 - e. Update, upgrade, and integrate the Michigan Natural Features inventory data with the CGI framework mapping project to inform state and local land use decisions
 - f. Integrate historic structure inventories with the CGI framework mapping project to inform state and local land use decisions

Housing and Development

5. **Review new regulations for housing impact.** The state should:
 - a. Encourage state and local governments to review regulatory barriers that add to the cost of or effectively discourage a variety of types of housing production and/or existing housing stock, and where appropriate, eliminate these regulatory barriers [Reservations: L. Pollack]
 - b. Adopt policies that ensure a continuous supply of appropriately zoned land and appropriate public infrastructure for a wide variety of housing choices

6. **Land Division Act reform** (See recommendation 16 in Chapter 5: Land Resource–Based Industries)
7. **Density and mix of land uses.** The state should reduce overall land consumption by fostering more dense residential development through activities such as:
 - a. Encouraging minimum allowable housing densities of four units per acre for single-family housing and ten units per acre for multifamily or attached housing commensurate with available water, sewer, and road infrastructure [Reservations: Rep. R. Johnson, G. White]
 - b. Encouraging counties and local governments to use local zoning ordinances to provide for a range of cluster development options in appropriate residential and mixed-use zones, and encouraging developers to use these cluster development options by providing appropriate incentives such as allowing higher density and/or a streamlined development review process [Reservations: Rep. R. Johnson, G. White]
 - c. Promoting development of accessory dwelling units such as carriage houses or accessory apartments
 - d. Providing incentives favoring the development of housing above existing retail in downtown and suburban areas
 - e. Encouraging residential mixed-use and mixed-use zoning
8. **Manufactured home communities legislation.** The state should address the following issues in manufactured home communities legislation, including:
 - a. Implementing taxation methods to make taxes on mobile homes in manufactured home communities comparable to site-constructed housing
 - b. Providing local governments with more authority to regulate buffers, landscaping, roads, sidewalks, sewer and water, and the location of manufactured home communities through local zoning
 - c. Allowing the development of manufactured home communities, including their location, to be part of a multijurisdictional housing strategy[Reservations: Rep. R. Johnson]
9. **Community design.** A variety of approaches are suggested to enhance existing efforts to improve community design.
 - a. The state shall adopt context-sensitive design rules (character of the roadway being designed is related to the character of the location receiving it) for state highways where safe and appropriate, to help ensure that new or expanded roads do not detract from the environment or community design. [Objections: B. Warner]
 - b. The state should authorize and strongly encourage the Michigan Department of Transportation (MDOT), county road commissions, and local communities to use alternative road design standards where safe and otherwise appropriate, including

context-sensitive design rules that minimize environmental and community character impacts. These standards would include but are not limited to:

- (1) Standards for narrower width residential roads and rights-of-way serving residential developments, including associated standards that address grades, curves, landscaping in road rights-of-way, and similar design features
 - (2) Flexible, alternative design standards for public roads, bridges, and rights-of-way that take into account their use and scenic character and include options such as narrower lanes, reduced speeds, and other alternatives
 - (3) Protection from liability for road authorities that authorize use of narrower than current standard width public roads and rights-of-way including associated standards that address grades, curves, landscaping in road rights-of-way, and similar design features
- c. The state should promote expansion of programs to preserve historic structures and enhance scenic/aesthetic qualities
 - d. Foundations should be encouraged to facilitate the building of local and multiauthority partnerships and alliances committed to improving the appearance of the rural landscape [Reservations: R. Jones; Objections: M. McGraw]
 - e. State, county and local standards for improved road corridors should be encouraged to include nonmotorized accommodations, native landscaping, and storm water retention, and should be sensitive to the surrounding environment, especially in historic and scenic areas

State Role in Land Use and Intergovernmental Cooperation

10. Impacts of impervious surfaces on water quality. The council recognizes the importance of understanding and addressing the impact on water quality of nonpoint sources and impervious surfaces in both urban and rural watersheds. The council recommends the development of state-level technical assistance for watershed-wide and coordinated storm water management initiatives and state-level guidance for public and private decision makers regarding prevention and mitigation of negative impacts of impervious surfaces. In addition to authorizing reduction in road width and rights-of-way (see recommendation 9 above), which will significantly reduce impervious surfaces and storm water runoff, the council recommends that the state:

- a. Initiate development of pervious surface guidelines for new or replacement parking lots and pathways in order to promote on-site storm water management
- b. Provide incentives for the voluntary incorporation of storm water best management practices in all public and private land developments
- c. Identify alternative development designs that reduce total storm water runoff and its negative impacts on water quality

11. Local best practices. The state should create a recognition program for communities that:

- a. Form strong, action-oriented coalitions that include business, environmental, and agricultural stakeholders to generate broad political support for legislation and investment to impact state, regional, and local land use policy consistent with the vision and goals as defined in Chapter 3 of this report [Reservations: J. Barrett, R. Jones, M. McGraw]
- b. Achieve exemplary implementation of adopted state land use goals (see recommendation 12 below) [Objections: R. Jones]
- c. Collaborate on a multijurisdictional basis for positive outcomes in addressing affordable housing needs and mixed-use development

[Reservations: G. White]

12. **Establishment of state land use goals for Michigan.** The state should establish broad-based, visionary land use goals for Michigan that incorporate the vision and goals as defined in Chapter 3 of this report. [Reservations: Rep. R. Johnson; Objections: R. Jones, M. McGraw]
13. **Funding for planning and innovative zoning.** The state should provide incentives for innovative local and multijurisdictional planning and zoning efforts that advance and implement the vision and goals as defined in Chapter 3 of this report, paying particular attention to the smart growth tenets. [Reservations: J. Barrett, Rep. R. Johnson, R. Jones]
14. **Housing needs report.** The governor should direct the Michigan State Housing Development Director to prepare at least every two years, in conjunction with private housing sector input, a housing needs report of housing markets in Michigan that defines market areas, demographics, and number of homeowners and renters, and identifies housing need by income category. [Reservations: L. Pollack]
15. **“Live where you work” programs.** The state should create a pilot incentive-based project to encourage “live where you work” programs with a special focus on communities that are actively working on and promoting more transit-oriented and walkable/bikeable development. A sample program would create partnerships with local governments to support, instruct, and provide limited down payment assistance for employees choosing to live near their work. The state could take the lead by promoting such a program among state employees. [Reservations: Rep. R. Johnson, R. Jones]
16. **Biological Diversity Act.** Part 355 of the Natural Resources and Environmental Protection Act (Act 451, P.A. 1994) establishes biodiversity conservation as a goal of state government. It directs state agencies to cooperate toward that end, and to develop a statewide strategy for biodiversity conservation. The governor and legislature should implement the requirements of the act, including the interdepartmental coordination called for in Part 355. They should also direct state agencies to take a proactive approach by integrating natural resources and environmental considerations into their planning. [Reservations: Rep. R. Johnson, M. McGraw, B. Warner, W. Wood; Objections: R. Jones]

17. **Modernization of the planning and zoning enabling acts.** The legislature should unify and modernize Michigan’s four planning enabling acts and three zoning enabling acts consistent with the recommendations in this chapter. [Reservations: Rep. R. Johnson, R. Jones, M. McGraw, G. White]
18. **Documenting impact of state policies and programs on land use patterns.** The governor should initiate a sound, objective analysis of all major state policies, programs, and subsidies for their direct and indirect impacts on growth patterns in Michigan with a special emphasis on sprawl and compact growth patterns. The results should be used to guide recommendations for legislative, budget, and administrative changes. [Reservations: Rep. R. Johnson]
19. **Coordinating and implementing the state’s role.** The governor should organize the activities of the executive branch of state government to advance the vision, goals, and recommendations of this report. These activities include coordinating interagency decisions, establishing appropriate mechanisms for stakeholder input, securing federal funds for state, multijurisdictional, multiauthority, and local initiatives to advance statewide land use goals (see recommendation 12 above). [Reservations: J. Barrett, R. Jones, B. Warner]
20. **Revenue sharing formula.** When evaluating the formula for revenue sharing in 2006, the legislature and governor are encouraged to examine the relationship between revenue sharing and adopted state land use goals (see recommendation 12 above). [Objections: Rep. R. Johnson, L. Merrill]

Regional Land Use and Intergovernmental Cooperation

While they often perform important functions, regional planning commissions are responsible for geographic areas that do not always correspond with the way “natural” regions and metropolitan communities actually interact and function; too often they also involve only government. Therefore their potential effectiveness is greatly compromised.

Effective local and multijurisdictional planning requires collaboration among government and private and institutional sector organizations. Governmental units lack the authority, scope, and resource capabilities to address many of the major challenges and opportunities related to economic prosperity, environmental integrity, and social equity, such as determining the framework for regional multimodal transportation systems or restoring a watershed. Achieving sustainable livable communities requires these three sectors to have a common vision and agreement on efforts and resources, in support of mutually beneficial goals.

21. **Regional planning commission responsibilities.** The legislature should consider amending the regional planning act to establish clearer requirements for regional planning commissions with regard to types and contents of plans and provision of technical assistance services; and to encourage changes in the boundaries of Michigan’s 14 planning and development regions to make them more effective. Regional planning commissions should be statutorily required to be representative of the needs of local governments and to assist in the resolution of multijurisdictional impacts and/or disputes of major development and infrastructure investment decisions

on a multijurisdictional level. The state should create incentives for regional cooperation using state and, where possible, federal funding for certain activities such as infrastructure with multijurisdictional impacts, for regional plans, and for other multijurisdictional initiatives. The state should contribute funding to regional planning commissions that carry out the following responsibilities:

- a. The preparation of general regional land use plans that respect and represent community needs while promoting consistency with state land use goals (see recommendation 12 above), as well as the preparation of regional resource management plans; regional environmental protection plans; regional greenways plans; regional transportation, sewer, and water service plans; energy conservation plans; regional affordable housing plans; regional economic development plans; regional emergency preparedness plans; and methods to deal with issues of greater than local concern [Reservations: M. McGraw; Objections: R. Jones, B. Warner]
- b. The provision of maps, data, education, and technical assistance to local units of government, citizens, and the private sector
- c. The preparation of composite local future land use maps and local zoning maps for all jurisdictions in the region
- d. Annual compilation and reporting of all community capital improvement programs within the region

[Reservations: Rep. R. Johnson, R. Jones, G. White]

22. **Regional and multijurisdictional partnerships.** The legislature, the governor, and regional and multijurisdictional entities should advocate for the development of stronger partnerships between public, private, and institutional organizations in efforts to promote urban redevelopment and compact and mixed-use designs and discourage low-density greenfield development. [Reservations: Rep. R. Johnson, G. White]
23. **Coordinating decisions:** The governor and the legislature should create a new structure for coordinating state, regional, multijurisdictional, and major local land use, economic development, and infrastructure decisions that addresses the following elements:
 - a. Establish a commerce centers program consistent with recommendation 5 in Chapter 4: Urban Revitalization. [Reservations: J. Barrett, Rep. R. Johnson, R. Jones, M. McGraw]
 - b. Create incentives for local cooperation on regional and multijurisdictional infrastructure and economic development decisions. Require communities that are applying for grants on projects that have multijurisdictional impacts to collaborate with each other to develop integrated regional or multiauthority plans and policies as a requirement for funding for county, state, and federal government transportation, infrastructure, and land acquisition activities. [Reservations: Rep. R. Johnson]

- c. Address issues of greater than local concern. The legislature should enact laws that address the impacts of land use, infrastructure, and economic development decisions whose scale or impact is such that they clearly extend beyond jurisdiction boundaries, consistent with the vision and goals as defined in Chapter 3 of this report, paying particular attention to the goal related to social equity. . [Reservations: Rep. R. Johnson, R. Jones, M. McGraw; Objections: B. Warner]
 - d. Require government buildings to be subject to local zoning. All new state, county, township, city, village, and special district government buildings should be subject to local zoning, except where the legislature specifically exempts them, as with state prisons.
 - e. Reprioritize dollars from the state school bond fund to provide incentives for redevelopment of existing school structures on existing sites. [Reservations: Rep. R. Johnson; Objections: R. Jones]
 - f. Create fiscal and other incentives for coordination among local jurisdictions to ensure that regional affordable housing needs are distributed equitably across jurisdictions based on the availability of adequate infrastructure. [Reservations: R. Jones]
- [Reservations: R. Jones, G. White]

Local Governance Structure

24. **Authorization of joint planning commissions.** Allow two or more communities to form a joint planning commission.

Balanced Growth Strategy

25. **Balancing the authorization of new planning and zoning tools with certainty for obtaining approval for higher density.** The legislature should enact legislation that would enable local governments that have master plans with specified plan elements (tie bar to recommendation 17 above) to adopt and implement the following planning and zoning tools within a single jurisdiction, or on a multijurisdictional basis in some cases. Such enabling legislation should recognize the desirability of:
 - Allowing higher density than is typical where infrastructure and community services are adequate and much lower density than is typical where there are farmland, open space, environmentally sensitive lands, and other resources of high priority for long-term protection and economic viability [Reservations: G. White]
 - Providing more certainty of outcomes for all involved (local governments, citizens, development community, etc.)
 - Encouraging inclusionary zoning and not perpetuating exclusionary zoning
 - Acknowledging that one size does not fit all
 - Allowing local governments to choose their community design character

- Acknowledging that not all communities should have to provide for every land use if they participate in a multijurisdictional process to identify ways to meet regional needs

Necessary elements to consider:

To these ends, the following changes to existing state and local laws and policies are proposed to fairly balance the interests of developers, local governments, environmental organizations, and citizens. These changes are proposed with the understanding that all the elements listed under recommendations 25a and 25b below are necessary to achieve the desired balance:

- a. **Increase density and mix of land uses.** Reduce overall land consumption by fostering more dense residential development through activities such as:
 - (1) Requiring that every master plan or future land use plan document residential needs of a wide variety of types for a 20-year period and be updated every five years
 - (2) Including a housing element in the master plan that provides the basis for inclusionary zoning and has affordable housing as a required subelement
 - (3) Adopting local master plans that are consistent with state land use goals (see recommendation 12 above) [Objections: R. Jones, M. McGraw]
 - (4) Setting a higher maximum density level for all developments commensurate with the availability of sewer, water, and roads. The allowable density must be not less than four units per acre for single-family detached housing with minimum lot sizes to accommodate those densities, or ten units per acre for multifamily or attached housing development in areas zoned or master planned for residential use [Reservations: B. Warner; Objections: Rep. R. Johnson]
 - (5) Encouraging state and local governments to review regulatory barriers that add to the cost of, or effectively discourage, a variety of types of housing production and/or existing housing stock; and, where appropriate, eliminating these regulatory barriers
 - (6) Establishing the adequacy of those public services and facilities to meet regional or qualified multijurisdictional housing needs; if they are not adequate, the master plan shall establish how to meet those needs
 - (7) Requiring a capital improvement program that is updated annually and consistent with the plan above
 - (8) Creating incentives for natural, historic, and cultural feature preservation planning
 - (9) Allowing for the use of MDEQ-approved alternative individual wastewater disposal systems and allow for MDEQ-approved community water and sewer systems subject to local government approval, which should not be unreasonably withheld [Reservations: J. Barrett, H. Voss]

- b. **Authorize new tools for local governments provided they have addressed the elements above.** These include:
- (1) Authorizing local governments to prepare urban and general services districts tied to the plan above
 - (2) Authorizing the adoption of special assessment districts or adequate public facilities ordinances that ensure the provision of roads, sewer, water, and storm drain infrastructure as new development occurs, according to standards in the ordinances that:
 - a) permit negotiation in the determination of responsibility for provision of roads, sewer, water, and storm drain infrastructure
 - b) equitably assign costs among benefiting parties and permits the community to establish a threshold for development size, below which the ordinance standards do not apply
 - c) do not charge expenses to a developer for benefits accrued to the public as a whole or for their cumulative impact over time
 - d) would not include deferred maintenance and capital improvements over time as established through a third party cost of services study
 - e) are tied to an adopted master plan with the elements required in recommendation 25a
 - f) are tied to an adopted local capital improvement program for a six-year period, which is annually updated and spells out community commitments for the provision of new infrastructure, and provides an effective means of enforcement of the ordinance

[Reservations: J. Barrett, M. McGraw, L. Pollack; Objections: R. Jones]

- (3) Providing specific authorization for large minimum parcel sizes for use as a tool to protect farmland, forestland, and open space as designated in the local master plan [Reservations: M. McGraw; Objections: R. Jones]
- (4) Enabling local governments to create and adopt public facility maps that show the proposed location of new public facilities
- (5) Enabling local governments to adopt and effectively enforce more robust aesthetic controls [Reservations: W. Wood; Objections: J. Barrett, Rep. R. Johnson, R. Jones, M. McGraw, B. Warner, G. White]
- (6) Enabling local governments to enter into voluntary development agreements for on- and/or off-site improvements in return for long-term guarantees on development approval
- (7) Authorizing local governments to establish a market-driven density enhancement program involving the preservation of land in one part of a community by means of a density transfer to another part of the same community or to a different community via the terms of a coordinated agreement, provided the program has the following characteristics:

- a) The community providing the density enhancement already has in place an allowable density of not less than four units per acre for single-family detached housing or ten units per acre for multifamily or attached housing development and has public sewer, water, and roads available to serve development at those densities, or will have sewer, water, and roads at the time the new development using the transferred density is available for use [Reservations: L. Pollack]
 - b) Density for the transferred development rights will be granted based on the allowable per-acre density of the land as it currently exists. The development rights being moved are in addition to the allowable density already in place within the development area. If minimum lot size requirements do not allow for the added density, minimum lot sizes shall be adjusted to allow for the added density [Reservations: G. White]
 - c) Developments using density enhancement will be subject to a streamlined and expedited review and approval process [Reservations: L. Pollack]
 - d) The community from which the transferred development rights originate shall designate areas eligible for transfer of development rights according to standards that define the public purposes for permanent land preservation that may include but are not limited to preservation of farm or forestland, wetlands, or other sensitive natural features, archeological or historic sites, or other designated lands [Objections: G. White]
 - e) If the land subject to transfer of development rights was in a designated farmland or forestland preservation program with a minimum lot size larger than the minimum under local zoning prior to inclusion in the program, then that land shall have density rights transferred based on its density prior to inclusion in the farm or forestland protection program, or a higher density established by local zoning ordinance [Reservations: G. White]
 - f) The local basis for such a density enhancement program shall be provided in the local master plan of the participating communities and implemented through the local zoning ordinance or a separate density enhancement ordinance
 - g) The adopted master plan has the elements required in recommendation 25a
 - h) The program is tied to an adopted local capital improvement program for a six-year period, which is annually updated and spells out community commitments for the provision of services identified in master plans
[Objections: J. Barrett, Rep. R. Johnson, R. Jones, M. McGraw]
- (8) Allowing aesthetic/design-oriented “contract zoning” if mutually agreed to by the developer and local government

[Reservations: G. White]

26. Recall and referendum provisions. The ease of Michigan’s referendum and recall laws creates uncertainty for developers and homeowners and divisiveness within communities. Elected decision makers need to be empowered to make decisions that are more final than the present law allows. At the same time, those who rely on the

master plans and zoning ordinances adopted by elected officials to make investment decisions should have the right to greater certainty. To this end, the council recommends that the governor and the legislature appoint a taskforce to examine the role of referendum, recall, and lawsuits in the outcomes of zoning and planning decisions including the use of administrative law and other conflict resolution techniques to resolve conflicts.