

# **Appendix C**

## **Agreement/Ordinance To Establish the Mayville Community Planning Commission**

## **AGREEMENT ESTABLISHING THE MAYVILLE AREA PLANNING COMMISSION**

This Agreement establishing the Mayville Area Planning Commission (hereinafter the "Agreement") is entered into by: Fremont Township, a Michigan municipal corporation, whose clerk's office is located at 4765 Mertz Road, Mayville, Michigan 48744 (hereinafter known as "TOWNSHIP"); and the Village of Mayville, a Michigan municipal corporation, whose office is located at 5950 Fox Street, Mayville, Michigan 48744 (hereinafter known as "VILLAGE").

### **1. Purpose and Jurisdictional Area**

The TOWNSHIP and VILLAGE find it in their long-term interest to cooperate on planning and zoning issues, and a means of achieving this goal is to jointly plan for land use and to jointly exercise zoning powers. As a result, both participating entities enter into this Agreement to establish a joint municipal planning commission pursuant to the legal authority granted by the Joint Municipal Planning Act, Public Act 226 of 2003, as amended (MCL 125.131, et seq.), as well as an ordinance enacted by the Township Board of the TOWNSHIP on January 11, 2006, and an ordinance enacted by the Village Council of the VILLAGE on January 17, 2006. The joint municipal planning commission established by this Agreement shall be referred to as the "Mayville Area Planning Commission."

The jurisdictional area of the Mayville Area Planning Commission shall comprise the corporate limits of Fremont Township, Tuscola County, Michigan, and the corporate limits of the Village of Mayville, Tuscola County, Michigan.

### **2. Composition of the Planning Commission**

The Mayville Area Planning Commission shall consist of nine (9) members.

### **3. Terms of Office**

By resolution of their respective governing bodies, the TOWNSHIP shall appoint five (5) members and the VILLAGE shall appoint four (4) members, comprising nine (9) members to the Mayville Area Planning Commission. The initial four (4) members from each entity shall be appointed for staggered terms ranging from one (1) to four (4) years. After the initial terms, all appointed members shall serve for terms of four (4) years that will end on December 31 of the applicable year.

The five (5) members initially appointed by the TOWNSHIP shall serve the following terms: one (1) member - date of appointment to December 31, 2006; one (1) member - date of appointment to December 31 2007; one (1) member - date of appointment to December 31, 2008; and two (2) members - date of appointment to December 31, 2009.

The four (4) members initially appointed by the VILLAGE shall serve the following terms: one (1) member - date of appointment to December 31, 2006; one (1) member - date of appointment to December 31 2007; one (1) member - date of appointment to December 31, 2008; and one (1) member - date of appointment to December 31, 2009.

#### **4. Alternate Members**

In addition to the nine (9) regular members of the Mayville Area Planning Commission, the TOWNSHIP and VILLAGE shall each appoint by resolution at least two (2) alternate members to represent their respective governing bodies. Alternates shall serve for one (1) year terms ending on December 31 of each year. The TOWNSHIP and VILLAGE shall not appoint the same person to serve as an alternate for both jurisdictions.

Any regular member who will be absent for a meeting of the Mayville Area Planning Commission shall be responsible for arranging an alternate member to serve in his/her stead, if available. A regular member and his/her alternate are not permitted to both serve as a voting member during the same meeting (i.e. substitution may not be made during the course of a meeting). A quorum may not be reached by the use of alternate members, requiring the attendance of at least five (5) regular members of the Mayville Area Planning Commission to constitute a quorum. Only those regular or alternate members who serve in a voting capacity shall be compensated for a meeting stipend.

#### **5. Qualifications for Office**

In accordance with the Municipal Planning Act, Public Act 285 of 1931, as amended (MCL 125.31, et seq.), and the Township Planning Act, Public Act 168 of 1959, as amended (MCL 125.321, et seq.), the Mayville Area Planning Commission shall consist of members who shall represent insofar as is possible different professions and occupations, and who shall be representative of major interests as they exist in the township and village, such as agriculture, recreation, education, public health, government, commerce, transportation and industry. All regular and alternate members shall be qualified electors and property owners of the jurisdiction from whence appointed. In addition, the initial appointees to the Mayville Area Planning Commission shall also be current members of the planning commissions of their respective governing bodies.

#### **6. Removal from Office and Filling Vacancies**

A member or alternate of the Mayville Area Planning Commission may be removed from office by a two-thirds (2/3) majority vote of the Mayville Area Planning Commission or by resolution of the appointing governing body for cause. "Cause" shall include, but not be limited to, performance, conduct, or behavior, whether by act or omission, that the Mayville Area Planning Commission or the entity appointing the member concludes materially adversely affects the orderly or efficient operation of the Mayville Area Planning Commission. Examples of performance, conduct, or behaviors that constitute "cause" for purposes of this provision include:

- Material breach of this Agreement;
- Violation of established by-laws, rules, regulations and/or policies, whether written or oral;
- Repeated unsatisfactory work performance or failure to attain objectives after appropriate notice and consultation;
- Attendance infractions (missing more than 3 meetings per year); and/or
- Conviction of any crime or engaging in conduct punishable as a crime.

The office of a member becomes vacant when the incumbent dies, resigns, is convicted of a felony, is removed by the Mayville Area Planning Commission or the appointing

governing body for cause, or ceases to be a resident of the participating governing body that appointed him/her. If a vacancy occurs, the vacancy shall be filled for the balance of the unexpired term by a resolution of the governing body that made the original appointment to the vacant position.

## **7. Operating Procedures**

The business performed by the Mayville Area Planning Commission shall be conducted at a public meeting of the Mayville Area Planning Commission held in compliance with the Open Meetings Act, Public Act 267 of 1976, as amended (MCL 15.261, et seq.). Materials prepared for, or on behalf of, the Mayville Area Planning Commission in the performance of an official function are subject to the Freedom of Information Act, Public Act 442 of 1976, as amended (MCL 15.231, et seq.). The Mayville Area Planning Commission, at its first meeting of every calendar year, shall select a Chairperson, Vice-Chairperson, and Secretary, who shall serve as such officials of the Mayville Area Planning Commission for that calendar year. At least one of these three (3) positions shall be an appointee of the TOWNSHIP and at least one of these three (3) positions shall be an appointee of the VILLAGE. One-half (1/2) of all meetings of the Mayville Area Planning Commission in a calendar year shall be held at a location designated by the TOWNSHIP and one-half at a location designated by the VILLAGE.

## **8. Operating Budget**

The Mayville Area Planning Commission shall be funded by the participating entities on an annual basis. The funds and financials of the Mayville Area Planning Commission shall be managed as a separate account under the auspices of the TOWNSHIP. The Mayville Area Planning Commission shall approve payments for goods, services, and per diem member fees drawn from an account jointly held by the TOWNSHIP and VILLAGE. The Mayville Area Planning Commission shall establish an annual budget, which requires the approval of the TOWNSHIP and VILLAGE.

Funding for the annual budget shall be divided between the TOWNSHIP and VILLAGE based on the ratio of representation. The TOWNSHIP's contribution shall equal five-ninths (5/9) of the annual approved budget of the Mayville Area Planning Commission. The VILLAGE's contribution shall equal four-ninths (4/9) of the annual approved budget of the Mayville Area Planning Commission.

## **9. Procedure for Joining the Mayville Area Planning Commission**

A non-participating entity may join the Mayville Area Planning Commission upon ratification of an agreement by the TOWNSHIP and VILLAGE, as well as the new entity or entities, in accordance with the legal authority granted by the Joint Municipal Planning Act, Public Act 226 of 2003, as amended (MCL 125.131, et seq.), and the enactment of a supporting ordinance by all of the parties to the new agreement. Upon formation of a new joint municipal planning commission having any jurisdiction within the corporate limits of the TOWNSHIP and/or the VILLAGE, this Agreement shall become null and void and the Mayville Area Planning Commission, as created herein, shall cease to function and shall have no further legal authority.

## **10. Procedure for Withdrawal from the Mayville Area Planning Commission**

A participating entity shall have the right to withdraw from the Mayville Area Planning Commission subject to the following requirements:

- Any and all obligations of the Mayville Area Planning Commission shall be settled prior to withdrawal; and
- Passing an ordinance, which states the reasons for formal withdrawal from the Mayville Area Planning Commission.

The withdrawal shall take effect when the above requirements have been satisfied. Upon the withdrawal of a participating entity, this Agreement shall become null and void and the Mayville Area Planning Commission shall cease to function and shall have no further legal authority.

## **11. Powers and Duties**

Upon formation, the Mayville Area Planning Commission shall begin working on a joint Master Plan and a joint Zoning Ordinance for both the TOWNSHIP and VILLAGE, covering the jurisdictional area of the Mayville Area Planning Commission. For a period of not more than six (6) months following the ratification of this Agreement (hereinafter known as the "transitional period"), the TOWNSHIP and VILLAGE shall each continue to maintain their current individual planning commissions to carry out the usual powers and duties of a planning commission under each applicable planning act for their respective jurisdictions. During this transitional period, the Mayville Area Planning Commission shall also prepare itself to perform the full duties of a joint municipal planning commission over the entire jurisdiction by studying the Zoning Ordinances of both the TOWNSHIP and VILLAGE. This transitional period may be shortened to less than six months upon the adoption of a resolution by the TOWNSHIP, VILLAGE and Mayville Area Planning Commission.

Immediately following the completion of the transitional period, and as it relates to the formulation of a joint Master Plan and a joint Zoning Ordinance during the transitional period, all the powers and duties of a planning commission under each applicable planning act are, with respect to the jurisdictional area of the Mayville Area Planning Commission, hereby transferred by the participating entities to the Mayville Area Planning Commission. In exercising such powers or performing such duties, the Mayville Area Planning Commission shall follow the procedures of the Municipal Planning Act, Public Act 285 of 1931, as amended (MCL 125.31, et seq.), and the City and Village Zoning Act, Public Act 207 of 1921, as amended (MCL 125.581, et seq.).

## **12. Amendments**

This Agreement may only be amended by written addendum approved and executed by the designated officials following an ordinance enacted by both the TOWNSHIP and the VILLAGE.

## **13. Effective Date**

Provided that no proper notice of intent to file a petition or a petition is filed with the VILLAGE and TOWNSHIP as provided by Section 9 of the Joint Municipal Planning Act, Public Act 226 of 2003 (MCL 125.139), this Agreement shall take effect upon the adoption and publication by the

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VILLAGE and TOWNSHIP, respectively, of ordinances pursuant to the procedures outlined in the Joint Municipal Planning Act, Public Act 226 of 2003.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of January , 2006.

**FREMONT TOWNSHIP**

Dated: January , 2006

By: Henry Wymore  
Its: Township Supervisor

Subscribed and sworn before me in Tuscola County, Michigan, on the day of January, 2006.

Notary Public, State of Michigan, County of  
My Commission Expires:  
Acting in the County of

**VILLAGE OF MAYVILLE**

Dated: January , 2006

By: Clare Fryers  
Its: Village President

Subscribed and sworn before me in Tuscola County, Michigan, on the day of January, 2006.

Notary Public, State of Michigan, County of  
My Commission Expires:  
Acting in the County of

ORDINANCE # 06-1  
MAYVILLE AREA PLANNING COMMISSION

AN ORDINANCE TO ESTABLISH A JOINT PLANNING COMMISSION BETWEEN FREMONT TOWNSHIP AND THE VILLAGE OF MAYVILLE TO BE KNOWN AS THE "MAYVILLE AREA PLANNING COMMISSION."

The TOWNSHIP and VILLAGE find it in their long-term interest to cooperate on planning and zoning issues, and a means of achieving this goal is to jointly plan for land use and to jointly exercise certain zoning powers. As a result, both entities desire to enter into an agreement to establish a joint planning commission pursuant to Public Act 226 of 2003, which shall be referred to as the "Mayville Area Planning Commission". The jurisdictional area of the Mayville Area Planning Commission shall be the corporate limits of Fremont Township, Tuscola County, Michigan, and the corporate limits of the Village of Mayville, Tuscola County, Michigan.

**Fremont Township hereby ordains:**

**SECTION 1: FORMATION OF MAYVILLE AREA PLANNING COMMISSION**

Fremont Township approves the establishment of a joint planning commission pursuant to Public Act 226 of 2003, as amended, and shall enter into and adhere to the Agreement Establishing the Mayville Area Planning Commission between Fremont Township and the Village of Mayville regarding the formation, composition, and operation of the Mayville Area Planning Commission.

**SECTION 2: SEVERABILITY**

If any clause, sentence, paragraph, or part of this Ordinance shall for any reason be finally adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment is rendered.

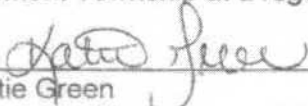
**SECTION 3: REPEAL**

All ordinances or parts of ordinances of Fremont Township inconsistent herewith are hereby repealed so far as they may be inconsistent with the provisions of this Ordinance.

**SECTION 4: EFFECTIVE DATE**

This Ordinance shall take effect following its adoption and publication pursuant to the procedures outlined in Section 9 of Public Act 226 of 2003 (MCL 125.139).

I, Katie Green, Township Clerk of Fremont Township, hereby certify that the foregoing is a true copy of the original of Ordinance Number 06-1 adopted by the Township Board of Fremont Township at a regularly scheduled meeting on January 11, 2006.

  
\_\_\_\_\_  
Katie Green  
Township Clerk, Fremont Township

1/11/06  
\_\_\_\_\_  
Date

VILLAGE OF MAYVILLE  
MAYVILLE AREA PLANNING COMMISSION

ORDINANCE NO. 136

**An ordinance to establish a joint planning commission between the Village of Mayville and Fremont Township to be known as the "Mayville Area Planning Commission".**

The Village of Mayville ordains that the Mayville Village Code is hereby amended by adding sections to be numbered 2-121 through 2-125, which sections read as follows:

**Section 2-121. Purpose.**

The VILLAGE and TOWNSHIP find it in their long-term interest to cooperate on planning and zoning issues, and a means of achieving this goal is to jointly plan for land use and to jointly exercise certain zoning powers. As a result, both entities desire to enter into an agreement to establish a joint planning commission pursuant to Public Act 226 of 2003, which shall be referred to as the "Mayville Area Planning Commission". The jurisdictional area of the Mayville Area Planning Commission shall be corporate limits of the Village of Mayville, Tuscola County, Michigan, and the corporate limits of Fremont Township, Tuscola County, Michigan.

**Section 2-122. Formation of Mayville Area Planning Commission.**

The Village of Mayville approves the establishment of a joint planning commission pursuant to Public Act 226 of 2003, as amended, and shall enter into and adhere to the Agreement Establishing the Mayville Area Planning Commission between the Village of Mayville and Fremont Township regarding the formation, composition, and operation of the Mayville Area Planning Commission.

**Section 2-123. Severability.**

If any clause, sentence, paragraph, or part of this Ordinance shall for any reason be finally adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment is rendered.

**Section 2-124. Repeal.**


All ordinances or parts of ordinances of the Village of Mayville inconsistent herewith are hereby repealed so far as they may be inconsistent with the provisions of this Ordinance.

**Section 2-125. Effective Date.**

This Ordinance shall take effect following its adoption and publication pursuant to the procedures outlined in Section 9 of Public Act 226 of 2003 (MCL 125.139).

The undersigned President and Clerk of the Village of Mayville hereby certify that this ordinance was duly adopted by the Mayville Village Council at a meeting held on the 17<sup>th</sup> day of January, 2006, and published in the Mayville Monitor on the 36 day of January, 2006.

  
Clare Fryers, President

  
James M. Welke, Clerk