MEMORANDUM

To: Northport Village Council and Planning Commission
From: Jim Dyer, Village Manager and Zoning Administrator
Dated: February 13, 2025

PLANNING COMMISSION MEMBERSHIP

Questions have arisen about membership on the Planning Commission, specifically how many non-Village resident and Village council members are permitted on the Planning commission.

The primary source of authority for proper membership on a Village Planning Commission is the Michigan Planning Enabling Act. Section 15 of the Act defines Planning Commission membership. See, MCL 125.3815. The Village of Northport adopted Ordinance 99-2009, on October 1, 2009. The requirements of this ordinance closely track the Michigan Planning Enabling Act's requirements, particularly as they relate to Planning Commission membership.

All Planning Commission members are appointed by the chief elected official, the case of a Village its President, MCL 125.3515 (1). The statute permits a Village Planning Commission of five, seven or nine members. Section 2 of the Northport ordinance specifies a seven-member Planning Commission. Both the enabling act and the Northport ordinance specify two classes of Planning Commission membership. These membership classes are distinguished by the number of members permitted within the class, the qualifications for membership, and the expiration of the members term of office.

Both the state statute and the Northport ordinance specify that Planning Commission members must represent "important segments of the community." However, neither the statute nor the ordinance requires the President to designate what community segment the prospective member represents. As written, this section, MCL 125.3815 (3), can be viewed as a guideline, rather than a requirement.

The two classes of Planning Commission membership are:

1. Elector members and non-elector members, MCL 125.3815 (4).
2. Ex-Officio members, MCL 125.3815 (5).

It is important to note that ex-officio members are governed by a separate subsection of the State statute, compared to elector and non-elector members. This distinction is important given the current

perception that the Village is limited to a maximum of two Ex-Officio members AND that non-elector members were counted against that limit. The clear language of both the state statute and the Northport ordinance demonstrates that this perception is incorrect.

MCL 124.3815 (4) begins by saying that "Members of a Planning Commission must be qualified electors of the local unit of government." However, this same section allows a fixed number of Planning Commission members who are not electors of the local government. The number is population based. The subsection applicable to Northport is MCL 125.3815 (4)(b), which allows two non-elector Planning Commissioners "in a city or Village that has… a population of less than 5,000." There is a special carveout that permits three non-elector Planning Commissioners, but only in a city with a population of between 2,700 and 2,800. This is clearly a carveout specifically applicable to a limited number, perhaps only one, cities. All other cities Villages and counties are allowed one non-elector member. This population-based allowance for non-elector (and therefore non-resident) planning commission members appears based on the recognition that it is difficult to find qualified persons among a small population base. The only limit on appointment of a non-elector planning commission members is the requirement that they be a "qualified elector of another local unit of government."

Ex-officio planning commission membership is governed by a separate subsection, MCL 124.3815 (5). Like non-elector members, these positions are also permissive. A Village is not required to have ex-officio members, and many do not. These positions may only be filled by elected or appointed Village officials specifically designated in the State statute. Unlike non-elector members, there is no fixed number of ex-officio positions. Rather, they are limited to 1/3 of the total membership of the Commission. The only limits placed on ex-officio members is they are ineligible to serve as planning commission chair. In the case of Northport, with seven members, two ex-officio members are permitted.

In Northport's case the following persons (or any combination of them) may be ex-officio members. Like all other members the Village President appoints them:

1. The Village Manager, or a person designated by the Village Manager.
2. The Village President

3. A Village Trustee. (Both the statute and the Northport Ordinance say that "1 or more members" of the Village Council may serve as an ex-officio member.)

Because they are created by separate subsection, are calculated separately, and by different methods, and ex-officio membership is restricted to appointment from a specific subset of officials, it is my conclusion that the number of ex-officio members is separate from the number of non-elector members, and Northport may have two non-elector and Two ex-officio Planning Commission members.

Other relevant provision include:

1. An ex-officio member cannot be Chair of the Planning Commission, MCL 125.3817 (1).
2. The terms of elector and non-elector members are three years, MCL 125.3815 (2).
3. The term of an ex-officio member expires at the end of the term of their elected office, or at the end of the term of office of the President that appointed them, in the case of an administrative officer like the Village Manager, MCL 125.3815 (5) (a-c).
4. Planning Commission members shall hold office until their successor is appointed. MCL 125.3815 (2). Since this provision is in a general sub-section that applies to all members, it is reasonable to conclude that this "hold over membership" status applies to ex-officio members after their term of elected office expires.
5. Unless they are eligible for and are appointed as ex-officio members employees of the Village may not be appointed to the Planning Commission, MCL 125.3815 (5).