

Act No. 141
Public Acts of 1990
Approved by the Governor
June 26, 1990
Filed with the Secretary of State
June 27, 1990

**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1990**

Introduced by Reps. Niederstadt, Gnodtke, Hart, Spaniola, Ouwinga, Randall and Weeks

ENROLLED HOUSE BILL No. 5394

AN ACT to amend section 18 of Act No. 184 of the Public Acts of 1943, entitled as amended "An act to provide for the establishment in townships of zoning districts within which the proper use of land and natural resources may be encouraged or regulated by ordinance, and within which districts provisions may also be adopted designating the location of, the size of, the uses that may be made of, the minimum open spaces, sanitary, safety, and protective measures that shall be required for, and the maximum number of families that may be housed in dwellings, buildings, and structures, including tents and trailer coaches, that may be erected or altered after the effective date of this act; to designate the use of certain state licensed residential facilities; to provide for a method for the adoption of ordinances and amendments thereto; to provide for emergency interim ordinances; to provide for the acquisition by purchase, condemnation, or otherwise of nonconforming property; to provide for the administering of ordinances adopted; to provide for conflicts with other acts, ordinances, or regulations; to provide penalties for violations; to provide for the assessment, levy, and collection of taxes; to provide for the collection of fees for building permits; to provide for petitions, public hearings, and referenda; to provide for appeals; and to provide for the repeal of acts in conflict with this act," being section 125.288 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 18 of Act No. 184 of the Public Acts of 1943, being section 125.288 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 18. (1) In each township in which the township board exercises the authority conferred by this act, it shall appoint a township board of appeals. In a township having a population of 5,000 or more persons, the board of appeals shall be composed of not less than 5 regular members. In a township having a population of less than 5,000 persons, the board of appeals shall be composed of not less than 3 regular members. The precise number of regular members comprising the board of appeals shall be specified by the township board in the zoning ordinance. The first regular member of the board of appeals shall be a member of the township zoning board. In a township where the powers, duties, and responsibilities of the zoning board are transferred to the planning commission pursuant to section 11 of Act No. 168 of the Public Acts of 1959, as amended, being section 125.331 of the Michigan Compiled Laws, the first regular member of the board of appeals shall be a member of the township planning commission. The remaining regular members and any alternate members of the board of appeals shall be selected from the electors of the township residing outside of incorporated cities and villages. The members selected shall be representative of the population distribution and of the various interests present in the township. One regular member may be a member of the township board. An elected officer of the township shall not serve as chairperson of the board of appeals. An employee or contractor of the township board may not serve as a member of the township board of appeals.

(2) A township board may appoint not more than 2 alternate members for the same term as regular members to the zoning board of appeals. An alternate member may be called as specified in the zoning ordinance to serve as a regular member of the zoning board of appeals in the absence of a regular member if the regular member is absent from or will be unable to attend 2 or more consecutive meetings of the zoning board of appeals or is absent from or will be unable to attend meetings for a period of more than 30 consecutive days. An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the zoning board of appeals.

(3) The total amount annually allowed the board of appeals as per diem or as expenses actually incurred in the discharge of duties shall not exceed a reasonable sum, which shall be appropriated annually in advance by the township board.

(4) A member of the board of appeals may be removed by the township board for nonperformance of duty or misconduct in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes misconduct in office.

(5) Terms shall be for 3 years, except for members serving because of their membership on the zoning board, planning commission, or township board, whose terms shall be limited to the time they are members of the zoning board, planning commission, or township board, respectively, and the period stated in the resolution appointing them. When members are first appointed, the appointments may be for less than 3 years to provide for staggered terms. A successor shall be appointed not more than 1 month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.

(6) A township board of appeals shall not conduct business unless a majority of the regular members of the board is present.

Section 2. This amendatory act shall not take effect unless House Bill No. 5395 of the 85th Legislature is enacted into law.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved

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Governor.