

HOUSE BILL No. 5973

June 30, 1998, Introduced by Rep. Brackenridge and referred to the Committee on Local Government.

A bill to amend 1945 PA 246, entitled

"An act to authorize township boards to adopt ordinances and regulations to secure the public health, safety and general welfare; to provide for the establishment of a township police department; to provide for policing of townships by certain law enforcement officers and agencies; to provide for the publication of ordinances; to prescribe powers and duties of township boards and certain local and state officers and agencies; to provide sanctions; and to repeal all acts and parts of acts in conflict with the act,"

by amending sections 1, 4, and 5 (MCL 41.181, 41.184, and 41.185), section 1 as amended by 1994 PA 315, section 4 as amended by 1994 PA 14, and section 5 as added by 1989 PA 78.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) The township board of a township, ~~may,~~ at a
2 regular or special meeting by a majority of the members elect of
3 the township board, MAY adopt ordinances regulating the public
4 health, safety, and general welfare of persons and property,
5 including, but not limited to ORDINANCES CONCERNING fire

1 protection, licensing or use of bicycles, traffic, ~~and~~ parking
2 of vehicles, sidewalk maintenance and repairs, the licensing of
3 business establishments, the licensing and regulating of public
4 amusements, and the regulation or prohibition of public nudity,
5 and MAY provide ~~penalties~~ SANCTIONS for the violation of the
6 ordinances. The township shall enforce the ordinances and may
7 employ and establish a police department with full power to
8 enforce township ordinances and state laws. If state laws are to
9 be enforced, a township shall have a law enforcement unit or may
10 by resolution appropriate funds and call upon the sheriff of the
11 county in which the township is located, the department of state
12 police, or ~~other~~ ANOTHER law enforcement agency to provide spe-
13 cial police protection for the township. The sheriff, department
14 of state police, or other local law enforcement agency shall, if
15 called upon, provide special police protection for the township
16 and enforce local township ordinances to the extent that township
17 funds are appropriated for the enforcement. Special township
18 deputies appointed by the sheriff shall be under the jurisdiction
19 of and solely responsible to the sheriff. Ordinances regulating
20 traffic and parking of vehicles and bicycles shall not ~~be in~~
21 ~~contravention of~~ CONTRAVENE the Michigan vehicle code, ~~Act No.~~
22 ~~300 of the Public Acts of 1949, as amended, being sections 257.1~~
23 ~~to 257.923 of the Michigan Compiled Laws~~ 1949 PA 300, MCL 257.1
24 TO 257.923.

25 (2) Ordinances enacted may apply to streets, roads, high-
26 ways, or portions of the township determined by the township
27 board or may be limited to specified platted lands within the

1 township, and with respect to these lands shall be valid and
2 enforceable whether the roads and streets have been dedicated to
3 public use or not. Township boards of townships enacting ordi-
4 nances under this section may accept contributions from duly con-
5 stituted representatives of the platted lands benefited by the
6 ordinances to defray administrative and enforcement costs inci-
7 dent to the enactment of ordinances.

8 (3) A TOWNSHIP MAY ADOPT A STATUTE OR RULE OF THIS STATE,
9 INCLUDING BUT NOT LIMITED TO A STATUTE OR RULE ADOPTING BY REFER-
10 ENCE A CODE PROMULGATED BY ANOTHER PUBLIC ENTITY OR A PRIVATE
11 ENTITY OR A STATUTE OR RULE CONSTITUTING THE TEXT OF A CODE, OR
12 MAY ADOPT A CODE PROMULGATED BY ANOTHER PUBLIC ENTITY OR A PRI-
13 VATE ENTITY, BY REFERENCE IN AN ADOPTING ORDINANCE. IF AN ORDI-
14 NANCE ADOPTS BY REFERENCE A STATUTE OR RULE OF THIS STATE, THE
15 ORDINANCE MAY INCORPORATE FUTURE AMENDMENTS OR REVISIONS OF THE
16 STATUTE OR RULE BY EXPLICITLY PROVIDING THAT FUTURE AMENDMENTS OR
17 REVISIONS ARE INCORPORATED BY REFERENCE WHEN, OR A SPECIFIED
18 PERIOD OF TIME AFTER, THEY TAKE EFFECT IN THIS STATE. THE STAT-
19 UTE, RULE, OR CODE SHALL BE CLEARLY IDENTIFIED IN THE ORDINANCE.

20 (4) ~~-(3)-~~ As used in this section, "public nudity" means
21 knowingly or intentionally displaying in a public place, or for
22 payment or promise of payment by any person including, but not
23 limited to, payment or promise of payment of an admission fee,
24 any individual's genitals or anus with less than a fully opaque
25 covering, or a female individual's breast with less than a fully
26 opaque covering of the nipple and areola. Public nudity does not
27 include any of the following:

1 (a) A woman's breastfeeding of a baby whether or not the
2 nipple or areola is exposed during or incidental to the feeding.

3 (b) Material as defined in section 2 of ~~Act No. 343 of the~~
4 ~~Public Acts of 1984, being section 752.362 of the Michigan~~
5 ~~Compiled Laws~~ 1984 PA 343, MCL 752.362.

6 (c) Sexually explicit visual material as defined in section
7 3 of ~~Act No. 33 of the Public Acts of 1978, being section~~
8 ~~722.673 of the Michigan Compiled Laws~~ 1978 PA 33, MCL 722.673.

9 Sec. 4. (1) A township ordinance shall contain a provision
10 stating when the ordinance takes effect.

11 (2) Except as provided in section 22 of ~~Act No. 359 of the~~
12 ~~Public Acts of 1947, being section 42.22 of the Michigan Compiled~~
13 ~~Laws~~ THE CHARTER TOWNSHIP ACT, 1947 PA 359, MCL 42.22, and sec-
14 tion 11 of the township ~~rural~~ zoning act, ~~Act No. 184 of the~~
15 ~~Public Acts of 1943, being section 125.281 of the Michigan~~
16 ~~Compiled Laws~~ 1943 PA 184, MCL 125.281, a township ordinance
17 shall take effect as follows:

18 (a) If an ordinance imposes a sanction for the violation of
19 the ordinance, the ordinance shall take effect 30 days after the
20 first publication of the ordinance.

21 (b) If an ordinance does not impose a sanction for the vio-
22 lation of the ordinance, the ordinance shall take effect the day
23 following the date of the publication of the ordinance or any
24 date following publication specified in the ordinance.

25 (3) Publication of the ordinance shall be made within 30
26 days after the passage of the ordinance by inserting either a
27 true copy or a summary of the ordinance once in a newspaper

1 circulating within the township. A summary of an ordinance may
2 be drafted by the same person ~~that~~ WHO drafted the ordinance or
3 by the township board or township zoning board and shall be writ-
4 ten in clear and nontechnical language. Each section of an ordi-
5 nance or a summary of an ordinance shall be preceded by a catch
6 line. ~~-(4)-~~ If a summary of an ordinance is published, the town-
7 ship shall designate in the publication the location in the town-
8 ship where a true copy of the ordinance can be inspected or
9 obtained.

10 (4) IF AN ORDINANCE ADOPTS BY REFERENCE A STATUTE OR RULE OF
11 THIS STATE, INCLUDING BUT NOT LIMITED TO A STATUTE OR RULE ADOPT-
12 ING BY REFERENCE A CODE PROMULGATED BY ANOTHER PUBLIC ENTITY OR A
13 PRIVATE ENTITY OR A STATUTE OR RULE CONSTITUTING THE TEXT OF A
14 CODE, OR ADOPTS BY REFERENCE A CODE PROMULGATED BY ANOTHER PUBLIC
15 ENTITY OR A PRIVATE ENTITY, A STATEMENT OF THE PURPOSE OF THE
16 STATUTE, RULE, OR CODE SHALL BE PUBLISHED WITH THE ADOPTING ORDI-
17 NANCE OR WITH THE SUMMARY OF THE ADOPTING ORDINANCE UNDER SUBSEC-
18 TION (3). COPIES OF THE STATUTE, RULE, OR CODE ADOPTED BY THE
19 TOWNSHIP BY REFERENCE SHALL BE KEPT IN THE OFFICE OF THE TOWNSHIP
20 CLERK, AVAILABLE FOR INSPECTION BY AND DISTRIBUTION TO THE
21 PUBLIC. IF A STATUTE OR RULE OF THIS STATE IS ADOPTED BY THE
22 TOWNSHIP BY REFERENCE AND THE STATUTE OR RULE ADOPTS BY REFERENCE
23 A CODE PROMULGATED BY ANOTHER PUBLIC ENTITY OR A PRIVATE ENTITY,
24 COPIES OF THE CODE ITSELF SHALL ALSO BE KEPT IN THE OFFICE OF THE
25 TOWNSHIP CLERK, AVAILABLE FOR INSPECTION BY AND DISTRIBUTION TO
26 THE PUBLIC. THE TOWNSHIP SHALL INCLUDE IN THE PUBLICATION THE
27 DESIGNATION OF A LOCATION IN THE TOWNSHIP WHERE A COPY OF THE

1 STATUTE, RULE, OR CODE CAN BE INSPECTED OR OBTAINED. IF AN
2 ORDINANCE ADOPTS BY REFERENCE A STATUTE OR RULE OF THIS DATE AND
3 THE STATUTE OR RULE ADOPTS BY REFERENCE A CODE PROMULGATED BY
4 ANOTHER PUBLIC ENTITY OR A PRIVATE ENTITY, THE TOWNSHIP SHALL
5 ALSO INCLUDE IN THE PUBLICATION THE DESIGNATION OF A LOCATION IN
6 THE TOWNSHIP WHERE A COPY OF THE CODE ITSELF CAN BE INSPECTED OR
7 OBTAINED.

8 Sec. 5. (1) Within 1 week after the ~~first~~ publication of
9 an ordinance as provided in section 4, the township clerk shall
10 record the ordinance in a book of ordinances kept by him or her
11 for that purpose; record the date of the passage of the ordi-
12 nance, the names of the members of the township board voting, and
13 how each member voted; and file an attested copy of the ordinance
14 with the county clerk. IF THE ORDINANCE ADOPTS BY REFERENCE A
15 STATUTE OR RULE OF THIS STATE, INCLUDING BUT NOT LIMITED TO A
16 STATUTE OR RULE ADOPTING BY REFERENCE A CODE PROMULGATED BY
17 ANOTHER PUBLIC ENTITY OR A PRIVATE ENTITY OR A STATUTE OR RULE
18 CONSTITUTING THE TEXT OF A CODE, OR ADOPTS BY REFERENCE A CODE
19 PROMULGATED BY ANOTHER PUBLIC ENTITY OR A PRIVATE ENTITY, THE
20 TOWNSHIP CLERK SHALL ALSO FILE A COPY OF THE STATUTE, RULE, OR
21 CODE WITH THE COUNTY CLERK. IF THE ORDINANCE ADOPTS BY REFERENCE
22 A STATUTE OR RULE OF THIS DATE AND THE STATUTE OR RULE ADOPTS BY
23 REFERENCE A CODE PROMULGATED BY ANOTHER PUBLIC ENTITY OR A PRI-
24 VATE ENTITY, THE TOWNSHIP CLERK SHALL ALSO FILE A COPY OF THE
25 CODE ITSELF WITH THE COUNTY CLERK. The township clerk shall cer-
26 tify under the ordinance in a blank space provided the date or
27 dates of publication of the ordinance, the name of the newspaper

1 in which publication was made, and the date of filing with the
2 county clerk.

3 (2) The county clerk shall maintain separate files for the
4 ~~ordinances of~~ STATUTES, RULES, AND CODES FILED UNDER SUBSECTION
5 (1) FOR each township in the county. ~~and~~ THE COUNTY CLERK SHALL
6 make the files readily available to the public.

7 (3) The provisions of this section with regard to filing
8 with the county clerk ~~shall~~ DO not apply to a township that
9 maintains a township office open to the public during regular
10 hours on each business day.

11 (4) The county clerk may charge a reasonable fee for the
12 reproduction or furnishing of a copy of an ordinance, STATUTE,
13 RULE, OR CODE FILED UNDER SUBSECTION (1).