

# Legislative Analysis

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## MICHIGAN ZONING ENABLING ACT

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House Bill 4398 as enrolled

Public Act 110 of 2006

Sponsor: Rep. Kevin Elsenheimer

House Committee: Local Government and Urban Policy

Senate Committee: Natural Resources and Environmental Affairs

### Second Analysis (4-11-06)

**BRIEF SUMMARY:** The bill would repeal three zoning acts — the City and Village Zoning Act, the County Zoning Act, and the Township Zoning Act — and replace them with a single new act, the Michigan Zoning Enabling Act.

**FISCAL IMPACT:** The bill would not appear to have any significant fiscal impact.

### **THE APPARENT PROBLEM:**

Currently, there are three separate acts governing zoning in local units of government, one for cities and villages, one for townships, and one for counties. They contain many similar provisions. The township and county acts are very similar, but the act for cities and villages is organized differently. One of the recommendations of the final report of the Michigan Land Use Leadership Council in August of 2003 was the unification and modernization of the three zoning enabling acts. A recent legislative work group has molded the three existing zoning acts into a single new act that, while modernized and reorganized, does not make substantive changes to current zoning laws.

### **THE CONTENT OF THE BILL:**

The bill would repeal three zoning acts — the City and Village Zoning Act, the County Zoning Act, and the Township Zoning Act — and replace them with a single new act, the Zoning Enabling Act. The new act would take effect July 1, 2006.

Generally speaking, the new act would be a recodification of current zoning laws, with the provisions of the existing laws combined into one statute. Provisions are reorganized but do not appear to be substantively changed.

In most cases, the bill would provide uniform provisions for the different forms of local government, but separate provisions would be retained in a few cases to reflect current differences in the composition, jurisdiction, and operations of zoning commissions of counties, cities and villages, and townships.

The new act would allow a local unit of government to adopt an interim zoning ordinance for a limited amount of time during the period required for the preparation and enactment of an initial zoning ordinance. (A township would have to submit an interim ordinance to

the County Zoning Commission or the Coordinating Zoning Committee.) An interim ordinance would be limited to one year from its effective date and two years of renewal (by resolution of the local unit).

The new act (in the article on zoning boards of appeals) would limit the authority to grant variances from uses of land to 1) cities and villages; 2) townships and counties that as of February 15, 2006, had ordinances using the phrases "use variance" or "variances from the use of land" to expressly authorize the granting of use variances by the zoning board of appeals; and 3) townships and counties that granted a use variance before February 15, 2006.

The new act is divided into seven articles: Article I, general provisions and definitions; Article II, Zoning Authorization and Initiation; Article III, Zoning Commissions; Article IV, Zoning Adoption and Enforcement; Article V, Special Zoning Provisions (special land uses and planned unit developments); Article VI, Zoning Board of Appeals; and Article VII, Statutory Compliance (with the Open Meetings and Freedom of Information Acts) and Repealers.

## ***ARGUMENTS:***

### ***For:***

The Michigan Association of Planning has listed the following as the benefits of creating one new act to replace the three current zoning acts:

**\*\* One act is significantly easier to amend than three should legislation become necessary in the future.**

**\*\* One act means fewer pages to read, search, and duplicate and less time to process future changes or prepare training material on changes. One act also means a simplification of legal citations. The public and practitioners will no longer have to remember the many differences between the acts.**

**\*\* Local units are provided with common powers and responsibilities (except in a few special cases), and the public hearing notice provisions are the same for all units for ease of compliance.**

**\*\* The legislation eliminates archaic language, thus making the act easier to understand.**

**\*\* The structure of the new act, with separate articles for similar topics, makes it easier to use and reference, and the structure itself makes amending the act easier.**

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.