

**SUBSTITUTE FOR
HOUSE BILL NO. 4398**

A bill to codify the laws regarding local units of government regulating the development and use of land; to provide for the adoption of zoning ordinances; to provide for the establishment in counties, townships, cities, and villages of zoning districts; to prescribe the powers and duties of certain officials; to provide for the assessment, levy, and collection of taxes and fees; to authorize the issuance of bonds and notes; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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ARTICLE I

GENERAL PROVISIONS

Sec. 101. This act shall be known and may be cited as the

1 "Michigan zoning enabling act".

2 Sec. 102. As used in this act:

3 (a) "Agricultural land" means substantially undeveloped land
4 devoted to the production of plants and animals, including, but not
5 limited to, forage and sod crops, grains, feed crops, dairy
6 products, poultry and poultry products, livestock, herbs, flowers,
7 seeds, grasses, nursery stock, fruits, vegetables, trees, and other
8 similar uses and activities.

9 (b) "Airport" means an airport licensed by the Michigan
10 department of transportation, bureau of aeronautics under section
11 86 of the aeronautics code of the state of Michigan, 1945 PA 327,
12 MCL 259.86.

13 (c) "Airport approach plan" and "airport layout plan" mean a
14 plan, or an amendment to a plan, filed with the zoning commission
15 under section 151 of the aeronautics code of the state of Michigan,
16 1945 PA 327, MCL 259.151.

17 (d) "Airport manager" means that term as defined in section 10
18 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL
19 259.10.

20 (e) "Airport zoning regulations" means airport zoning
21 regulations under the airport zoning act, 1950 (Ex Sess) PA
22 23, MCL 259.431 to 259.465, for an airport hazard area that lies in
23 whole or part in the area affected by a zoning ordinance under this
24 act.

25 (f) "Conservation easement" means that term as defined in
26 section 2140 of the natural resources and environmental protection
27 act, 1994 PA 451, MCL 324.2140.

1 (g) "Coordinating zoning committee" means a coordinating
2 zoning committee as described under section 307.

3 (h) "Development rights" means the rights to develop land to
4 the maximum intensity of development authorized by law.

5 (i) "Development rights ordinance" means an ordinance, which
6 may comprise part of a zoning ordinance, adopted under section 308.

7 (j) "Family day-care home" and "group day-care home" mean
8 those terms as defined in section 1 of 1973 PA 116, MCL 722.111,
9 and only apply to the bona fide private residence of the operator
10 of the family or group day-care home.

11 (k) "Greenway" means a contiguous or linear open space,
12 including habitats, wildlife corridors, and trails, that links
13 parks, nature reserves, cultural features, or historic sites with
14 each other, for recreation and conservation purposes.

15 (l) "Improvements" means those features and actions associated
16 with a project that are considered necessary by the body or
17 official granting zoning approval to protect natural resources or
18 the health, safety, and welfare of the residents of a local unit of
19 government and future users or inhabitants of the proposed project
20 or project area, including roadways, lighting, utilities,
21 sidewalks, screening, and drainage. Improvements do not include the
22 entire project that is the subject of zoning approval.

23 (m) "Intensity of development" means the height, bulk, area,
24 density, setback, use, and other similar characteristics of
25 development.

26 (n) "Legislative body" refers to the county board of
27 commissioners of a county, the board of trustees of a township, the

1 council of a city or village, or other similar duly elected
2 representative body of a county, township, city, or village.

3 (o) "Local unit of government" means a county, township, city,
4 or village.

5 (p) "Other eligible land" means land that has a common
6 property line with agricultural land from which development rights
7 have been purchased and is not divided from that agricultural land
8 by a state or federal limited access highway.

9 (q) "Population" means the population according to the most
10 recent federal decennial census or according to a special census
11 conducted under section 7 of the Glenn Steil state revenue sharing
12 act of 1971, 1971 PA 140, MCL 141.907, whichever is the more
13 recent.

14 (r) "Site plan" includes the documents and drawings required
15 by the zoning ordinance to insure that a proposed land use or
16 activity is in compliance with local ordinances and state and
17 federal statutes.

18 (s) "State licensed residential facility" means a structure
19 constructed for residential purposes that is licensed by the state
20 under the adult foster care facility licensing act, 1979 PA 218,
21 MCL 400.701 to 400.737, or 1973 PA 116, MCL 722.111 to 722.128, and
22 provides residential services for 6 or fewer persons under 24-hour
23 supervision or care.

24 (t) "Undeveloped state" means a natural state preserving
25 natural resources, natural features, scenic or wooded conditions,
26 agricultural use, open space, or a similar use or condition. Land
27 in an undeveloped state does not include a golf course but may

1 include a recreational trail, picnic area, children's play area,
2 greenway, or linear park. Land in an undeveloped state may be, but
3 is not required to be, dedicated to the use of the public.

4 (u) "Zoning commission" means a zoning commission as described
5 under section 401.

6 (v) "Zoning jurisdiction" refers to the area encompassed by
7 the legal boundaries of a city or village or to the area
8 encompassed by the legal boundaries of a county or township outside
9 the limits of incorporated cities and villages. The zoning
10 jurisdiction of a county does not include the areas subject to
11 township zoning by a township that has adopted a zoning ordinance
12 under this act.

13 Sec. 103. Except as otherwise provided under this act, if a
14 local unit of government is required to provide notice and hearing
15 under this act, the local unit of government shall publish notice
16 of the request in a newspaper of general circulation in the local
17 unit of government. Notice shall also be sent by mail or personal
18 delivery to the owners of property for which approval is being
19 considered, to all persons to whom real property is assessed within
20 300 feet of the property, and to the occupants of all structures
21 within 300 feet of the property. The notice shall be given not less
22 than 15 days before the date the application will be considered for
23 approval. If the name of the occupant is not known, the term
24 "occupant" may be used in making notification under this
25 subsection. The notice shall do all of the following:

26 (a) Describe the nature of the request.

27 (b) Indicate the property that is the subject of the request.

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(c) State when and where the request will be considered.

(d) Indicate when and where written comments will be received concerning the request.

ARTICLE II

ZONING AUTHORIZATION AND INITIATION

Sec. 201. (1) A local unit of government may provide by zoning ordinance for the regulation of land development and the establishment of 1 or more districts within its zoning jurisdiction which regulate the use of land and structures [to meet the needs of the state's citizens for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land, to ensure that use of the land is situated in appropriate locations and relationships, to limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities, to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility requirements, and to promote public health, safety, and welfare].

(2) Except as otherwise provided under this act, the regulations shall be uniform for each class of land or buildings, dwellings, and structures within a district.

(3) A local unit of government may provide under the zoning ordinance for the regulation of land development and the establishment of districts which apply only to land areas and activities involved in a special program to achieve specific land management objectives and avert or solve specific land use problems, including the regulation of land development and the establishment of districts in areas subject to damage from flooding or beach erosion.

(4) A local unit of government may adopt land development regulations under the zoning ordinance designating or limiting the location, height, bulk, number of stories, uses, and size of dwellings, buildings, and structures that may be erected or altered, including tents and recreational vehicles.

Sec. 202. (1) The legislative body of a local government may

1 provide by ordinance for the manner in which the regulations and
2 boundaries of districts or zones shall be determined and enforced
3 or amended, supplemented, or changed. Amendments or supplements to
4 the zoning ordinance shall be made in the same manner as provided
5 under this act for the enactment of the original ordinance.

6 (2) If an individual property or several adjacent properties
7 are proposed for rezoning, the zoning commission shall give a
8 notice of the proposed rezoning in the same manner as required
9 under section 103.

10 (3) An amendment to a zoning ordinance by a city or village is
11 subject to a protest petition under section 403.

12 Sec. 203. (1) The zoning ordinance shall be based upon a plan
13 designed to promote the public health, safety, and general welfare,
14 to encourage the use of lands in accordance with their character
15 and adaptability, to limit the improper use of land, to conserve
16 natural resources and energy, to meet the needs of the state's
17 residents for food, fiber, and other natural resources, places of
18 residence, recreation, industry, trade, service, and other uses of
19 land, to insure that uses of the land shall be situated in
20 appropriate locations and relationships, to avoid the overcrowding
21 of population, to provide adequate light and air, to lessen
22 congestion on the public roads and streets, to reduce hazards to
23 life and property, to facilitate adequate provision for a system of
24 transportation, sewage disposal, safe and adequate water supply,
25 education, recreation, and other public requirements, and to
26 conserve the expenditure of funds for public improvements and
27 services to conform with the most advantageous uses of land,

1 resources, and properties. The zoning ordinance shall be made with
2 reasonable consideration to the character of each district, its
3 peculiar suitability for particular uses, the conservation of
4 property values and natural resources, and the general and
5 appropriate trend and character of land, building, and population
6 development.

7 (2) If a local unit of government adopts or revises a plan
8 required under subsection (1) after an airport layout plan or
9 airport approach plan has been filed with the local unit of
10 government, the local unit of government shall incorporate the
11 airport layout plan or airport approach plan into the plan adopted
12 under subsection (1).

13 (3) In addition to the requirements of subsection (1), a
14 zoning ordinance adopted after March 28, 2001 shall be adopted
15 after reasonable consideration of both of the following:

16 (a) The environs of any airport within a district.

17 (b) Comments received at or before a public hearing under
18 section 306 or 308 from the airport manager of any airport.

19 (4) If a zoning ordinance was adopted before March 28, 2001,
20 the zoning ordinance is not required to be consistent with any
21 airport zoning regulations, airport layout plan, or airport
22 approach plan. A zoning ordinance amendment adopted or variance
23 granted after March 28, 2001 shall not increase any inconsistency
24 that may exist between the zoning ordinance or structures or uses
25 and any airport zoning regulations, airport layout plan, or airport
26 approach plan. This section does not limit the right to petition
27 for submission of a zoning ordinance amendment to the electors

1 under section 402 or the right to file a protest petition under
2 section 403.

3 Sec. 204. A zoning ordinance adopted under this act shall
4 provide for the use of a single-family residence by an occupant of
5 that residence for a home occupation to give instruction in a craft
6 or fine art within the residence. This section does not prohibit
7 the regulation of noise, advertising, traffic, hours of operation,
8 or other conditions that may accompany the use of a residence under
9 this section.

10 Sec. 205. (1) An ordinance adopted under this act is subject
11 to the electric transmission line certification act, 1995 PA 30,
12 MCL 460.561 to 460.575.

13 (2) A county or township shall not regulate or control the
14 drilling, completion, or operation of oil or gas wells or other
15 wells drilled for oil or gas exploration purposes and shall not
16 have jurisdiction with reference to the issuance of permits for the
17 location, drilling, completion, operation, or abandonment of such
18 wells.

19 Sec. 206. (1) Except as otherwise provided in subsection (2),
20 a state licensed residential facility shall be considered a
21 residential use of property for the purposes of zoning and a
22 permitted use in all residential zones and is not subject to a
23 special use or conditional use permit or procedure different from
24 those required for other dwellings of similar density in the same
25 zone.

26 (2) Subsection (1) does not apply to adult foster care
27 facilities licensed by a state agency for care and treatment of

1 persons released from or assigned to adult correctional
2 institutions.

3 (3) For a county or township, a family day-care home is
4 considered a residential use of property for the purposes of zoning
5 and a permitted use in all residential zones and is not subject to
6 a special use or conditional use permit or procedure different from
7 those required for other dwellings of similar density in the same
8 zone.

9 (4) A group day-care home shall be issued a special use
10 permit, conditional use permit, or other similar permit if the
11 group day-care home meets all of the following standards:

12 (a) Is located not closer than 1,500 feet to any of the
13 following:

14 (i) Another licensed group day-care home.

15 (ii) Another adult foster care small group home or large group
16 home licensed under the adult foster care facility licensing act,
17 1979 PA 218, MCL 400.701 to 400.737.

18 (iii) A facility offering substance abuse treatment and
19 rehabilitation service to 7 or more people licensed under article 6
20 of the public health code, 1978 PA 368, MCL 333.6101 to 333.6523.

21 (iv) A community correction center, resident home, halfway
22 house, or other similar facility which houses an inmate population
23 under the jurisdiction of the department of corrections.

24 (b) Has appropriate fencing for the safety of the children in
25 the group day-care home as determined by the local unit of
26 government.

27 (c) Maintains the property consistent with the visible

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characteristics of the neighborhood.

(d) Does not exceed 16 hours of operation during a 24-hour period. The local unit of government may limit but not prohibit the operation of a group day-care home between the hours of 10 p.m. and 6 a.m.

(e) Meets regulations, if any, governing signs used by a group day-care home to identify itself.

(f) Meets regulations, if any, requiring a group day-care home operator to provide off-street parking accommodations for his or her employees.

(5) A licensed or registered family or group day-care home that operated before March [3], 1989 is not required to comply with the requirements of this section.

(6) The requirements of this section shall not prevent a local unit of government from inspecting and enforcing a family or group day-care home for the home's compliance with the local unit of government's zoning ordinance. For a county or township, an ordinance shall not be more restrictive for a home than as provided under 1973 PA 116, MCL 722.111 to 722.128.

(7) The subsequent establishment of any of the facilities listed under subsection (4)(a) will not affect any subsequent special use permit renewal, conditional use permit renewal, or other similar permit renewal pertaining to the group day-care home.

(8) The requirements of this section shall not prevent a local unit of government from issuing a special use permit, conditional use permit, or other similar permit to a licensed or registered group day-care home that does not meet the standards listed under

1 subsection (4).

2 (9) The distances required under subsection (4)(a) shall be
3 measured along a road, street, or place maintained by this state or
4 a local unit of government and generally open to the public as a
5 matter of right for the purpose of vehicular traffic, not including
6 an alley.

7 Sec. 207. A zoning ordinance or zoning decision shall not have
8 the effect of totally prohibiting the establishment of a land use
9 within a local unit of government in the presence of a demonstrated
10 need for that land use within either that local unit of government
11 or the surrounding area within the state, unless a location within
12 the local unit of government does not exist where the use may be
13 appropriately located or the use is unlawful.

14 Sec. 208. (1) If the use of a dwelling, building, or structure
15 or of the land is lawful at the time of enactment of a zoning
16 ordinance or an amendment to a zoning ordinance, then that use may
17 be continued although the use does not conform to the provisions of
18 the zoning ordinance or amendment.

19 (2) The legislative body may provide in a zoning ordinance for
20 the completion, resumption, restoration, reconstruction, extension,
21 or substitution of nonconforming uses or structures upon terms and
22 conditions provided in the zoning ordinance. In establishing terms
23 for the completion, resumption, restoration, reconstruction,
24 extension, or substitution of nonconforming uses or structures,
25 different classes of nonconforming uses may be established in the
26 zoning ordinance with different requirements applicable to each
27 class.

1 (3) The legislative body may acquire, by purchase,
2 condemnation, or otherwise, private property or an interest in
3 private property for the removal of nonconforming uses and
4 structures. The legislative body may provide that the cost and
5 expense of acquiring private property may be paid from general
6 funds or assessed to a special district in accordance with the
7 applicable statutory provisions relating to the creation and
8 operation of special assessment districts for public improvements
9 in local units of government. Property acquired under this
10 subsection by a city or village shall not be used for public
11 housing.

12 (4) The elimination of the nonconforming uses and structures
13 in a zoning district is declared to be for a public purpose and for
14 a public use. The legislative body may institute proceedings for
15 condemnation of nonconforming uses and structures under 1911 PA
16 149, MCL 213.21 to 213.25.

17 Sec. 209. Except as otherwise provided under this act, a
18 township that has enacted a zoning ordinance under this act is not
19 subject to an ordinance, rule, or regulation adopted by a county
20 under this act.

21 Sec. 210. Except as otherwise provided under this act, an
22 ordinance adopted under this act shall be controlling in the case
23 of any inconsistencies between the ordinance and an ordinance
24 adopted under any other law.

25 Sec. 211. (1) The legislative body may proceed with the
26 adoption of a zoning ordinance containing land development
27 regulations and establishing zoning districts under this act upon

1 appointment of a zoning commission as provided in section 301.

2 (2) The legislative body may appoint a zoning commission for
3 purposes of formulating a zoning ordinance on its own initiative or
4 upon receipt of a petition requesting that action as provided under
5 subsection (3).

6 (3) Upon receipt of a petition signed by a number of qualified
7 and registered voters residing in the zoning jurisdiction equal to
8 not less than 8% of the total votes cast within the zoning
9 jurisdiction for all candidates for governor at the last preceding
10 general election at which a governor was elected, filed with the
11 clerk of the local unit of government requesting the legislative
12 body to appoint a zoning commission for purposes of formulating a
13 zoning ordinance, the legislative body, at the next regular
14 meeting, may initiate action to formulate a zoning commission and
15 zoning ordinance under this act.

16 ARTICLE III

17 ZONING COMMISSION

18 Sec. 301. (1) Each local unit of government in which the
19 legislative body exercises authority under this act shall create a
20 permanent zoning commission.

21 (2) The zoning commission shall be the planning commission of
22 the local unit of government if the legislative body has
23 transferred the powers of the zoning commission to the planning
24 commission as provided by law.

25 (3) If subsection (2) does not apply, the zoning commission
26 shall be created by resolution and be composed of not fewer than 5
27 or more than 11 members appointed by the legislative body. Not less

1 than 2 of the members of a county zoning commission shall be
2 recommended for membership by the legislative bodies of townships
3 that are, or shall be, subject to the county zoning ordinance. This
4 requirement may be met as vacancies occur on a county zoning
5 commission that existed on the effective date of this act.

6 (4) The members of the zoning commission shall be selected
7 upon the basis of the members' qualifications and fitness to serve
8 as members of a zoning commission.

9 (5) The first zoning commission appointed shall be divided as
10 nearly as possible into 3 equal groups, with terms of each group as
11 follows:

12 (a) One group for 1 year.

13 (b) One group for 2 years.

14 (c) One group for 3 years.

15 (6) Upon the expiration of the terms of the members first
16 appointed, successors shall be appointed in like manner for terms
17 of 3 years each. A member of the zoning commission shall serve
18 until a successor is appointed and has been qualified.

19 (7) A vacancy shall be filled in the same manner as is
20 provided under this section for the remainder of the unexpired
21 term.

22 (8) An elected officer of the local unit of government or an
23 employee of the legislative body shall not serve simultaneously as
24 a member or an employee of the zoning commission, except that 1
25 member of the zoning commission may be a member of the legislative
26 body.

27 (9) The legislative body shall provide for the removal of a

1 member of the zoning commission for misfeasance, malfeasance or
2 nonfeasance in office upon written charges and after public
3 hearing.

4 (10) The zoning commission shall elect from its members a
5 chairperson, a secretary, and other officers or establish such
6 committees it considers necessary and may engage any employees,
7 including for technical assistance, it requires. The election of
8 officers shall be held not less than once in every 2-year period.

9 Sec. 302. Members of the zoning commission shall be reimbursed
10 for reasonable expenses actually incurred in the discharge of their
11 duties and may receive compensation as fixed by the legislative
12 body.

13 Sec. 303. (1) With the approval of the legislative body, the
14 zoning commission may engage the services of a planning expert.
15 Compensation for the planning expert shall be paid by the
16 legislative body.

17 (2) The zoning commission shall consider any information and
18 recommendations furnished by appropriate public officials,
19 departments, or agencies.

20 Sec. 304. The zoning commission shall hold a minimum of 2
21 regular meetings annually, giving notice of the time and place by
22 publication in a newspaper of general circulation in the zoning
23 jurisdiction. Notice shall be given not less than 15 days before
24 the meeting.

25 Sec. 305. The zoning commission shall adopt and file with the
26 legislative body the following recommendations:

27 (a) A zoning plan for the areas subject to zoning of the local

1 unit of government.

2 (b) The establishment of zoning districts, including the
3 boundaries of those districts.

4 (c) The text of a zoning ordinance with the necessary maps and
5 zoning regulations to be adopted for a zoning district or the
6 zoning jurisdiction as a whole.

7 (d) The manner of administering and enforcing the zoning
8 ordinance.

9 Sec. 306. (1) Before submitting its recommendations for a
10 proposed zoning ordinance to the legislative body, the zoning
11 commission shall hold at least 1 public hearing. Notice of the time
12 and place of the public hearing shall be given in the same manner
13 as required under section 103.

14 (2) Notice of the time and place of the public hearing shall
15 also be given by mail to each electric, gas, and pipeline public
16 utility company, each telecommunication service provider, each
17 railroad operating within the district or zone affected, and the
18 airport manager of each airport, that registers its name and
19 mailing address with the clerk of the legislative body for the
20 purpose of receiving the notice of public hearing.

21 (3) The notices required under this section shall include the
22 places and times at which the proposed text and any maps of the
23 zoning ordinance may be examined.

24 Sec. 307. (1) Following the hearing required in section 306, a
25 township shall submit for review and recommendation the proposed
26 zoning ordinance, including any zoning maps, to the zoning
27 commission of the county in which the township is situated if a

1 county zoning commission has been appointed as provided under this
2 act.

3 (2) If there is not a county zoning commission or county
4 planning commission, the proposed zoning ordinance shall be
5 submitted to the coordinating zoning committee. The coordinating
6 zoning committee shall be composed of either 3 or 5 members
7 appointed by the legislative body of the county for the purpose of
8 coordinating the zoning ordinances proposed for adoption under this
9 act with the zoning ordinances of a township, city, or village
10 having a common boundary with the township.

11 (3) The county will have waived its right for review and
12 recommendation of an ordinance if the recommendation of the county
13 zoning commission, planning commission, or coordinating zoning
14 committee has not been received by the township within 30 days from
15 the date the ordinance is received by the county.

16 (4) The legislative body of a county by resolution may waive
17 its right to review township ordinances and amendments under this
18 section.

19 Sec. 308. (1) Following the required public hearing under
20 section 306, the zoning commission shall transmit a summary of
21 comments received at the hearing and its proposed zoning ordinance,
22 including any zoning maps and recommendations, to the legislative
23 body of the local unit of government.

24 (2) Following the enactment of the zoning ordinance, the
25 zoning commission shall at least once per year prepare for the
26 legislative body a report on the administration and enforcement of
27 the zoning ordinance and recommendations for amendments or

1 supplements to the ordinance.

2 ARTICLE IV

3 ZONING ADOPTION AND ENFORCEMENT

4 Sec. 401. (1) The legislative body may hold a public hearing
5 if it considers it necessary or as may otherwise be required.

6 (2) Notice of the hearing to be held by the legislative body
7 shall be given in the same manner as required under section 103.

8 (3) The legislative body may refer any proposed amendments to
9 the zoning commission for consideration and comment within a time
10 specified by the legislative body.

11 (4) The legislative body shall grant a hearing on a proposed
12 ordinance provision to a property owner who requests a hearing by
13 certified mail, addressed to the clerk of the legislative body.

14 (5) After the public hearing held as allowed under this
15 section, the legislative body shall consider and vote upon the
16 adoption of a zoning ordinance, with or without amendments. A
17 zoning ordinance and any amendments shall be approved by a majority
18 vote of the members of the legislative body.

19 (6) Except as otherwise provided under section 402, a zoning
20 ordinance shall take effect upon the expiration of 7 days after
21 publication as required by this section or at such later date after
22 publication as may be specified by the legislative body.

23 (7) Following adoption of a zoning ordinance and any
24 subsequent amendments by the legislative body, the zoning ordinance
25 or subsequent amendments shall be filed with the clerk of the
26 legislative body, and a notice of ordinance adoption shall be
27 published in a newspaper of general circulation in the local unit

1 of government within 15 days after adoption.

2 (8) A copy of the notice required under subsection (7) shall
3 be mailed to the airport manager of an airport entitled to notice
4 under section 306.

5 (9) The notice required under this section shall include all
6 of the following information:

7 (a) In the case of a newly adopted zoning ordinance, the
8 following statement: "A zoning ordinance regulating the development
9 and use of land has been adopted by the legislative body of the
10 [county, township, city, or village] of _____.".

11 (b) In the case of an amendment to an existing zoning
12 ordinance, either a summary of the regulatory effect of the
13 amendment, including the geographic area affected, or the text of
14 the amendment.

15 (c) The effective date of the ordinance or amendment.

16 (d) The place where and time when a copy of the ordinance or
17 amendment may be purchased or inspected.

18 (10) The filing and publication requirements under this
19 section supersede any other statutory requirements relating to the
20 filing and publication of county, township, city, or village
21 ordinances.

22 Sec. 402. (1) Within 7 days after publication of a zoning
23 ordinance under section 204, a registered elector residing in the
24 zoning jurisdiction of a county or township may file with the clerk
25 of the legislative body a notice of intent to file a petition under
26 this section.

27 (2) If a notice of intent is filed under subsection (1), the

1 petitioner shall have 30 days following the publication of the
2 zoning ordinance to file a petition signed by a number of
3 registered electors residing in the zoning jurisdiction not less
4 than 15% of the total vote cast within the zoning jurisdiction for
5 all candidates for governor at the last preceding general election
6 at which a governor was elected, with the clerk of the legislative
7 body requesting the submission of a zoning ordinance or part of a
8 zoning ordinance to the electors residing in the zoning
9 jurisdiction for their approval.

10 (3) Upon the filing of a notice of intent under subsection
11 (1), the zoning ordinance or part of the zoning ordinance adopted
12 by the legislative body shall not take effect until 1 of the
13 following occurs:

14 (a) The expiration of 30 days after publication of the
15 ordinance, if a petition is not filed within that time.

16 (b) If a petition is filed within 30 days after publication of
17 the ordinance, the clerk of the legislative body determines that
18 the petition is inadequate.

19 (c) If a petition is filed within 30 days after publication of
20 the ordinance, the clerk of the legislative body determines that
21 the petition is adequate and the ordinance or part of the ordinance
22 is approved by a majority of the registered electors residing in
23 the zoning jurisdiction voting on the petition at the next regular
24 election or at any special election called for that purpose. The
25 legislative body shall provide the manner of submitting the zoning
26 ordinance or part of the zoning ordinance to the electors for their
27 approval or rejection and determining the result of the election.

1 (4) A petition and an election under this section are subject
2 to the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

3 Sec. 403. (1) An amendment to a zoning ordinance by a city or
4 village is subject to a protest petition as required by this
5 subsection. If a protest petition is filed, approval of the
6 amendment to the zoning ordinance shall require a 2/3 vote of the
7 legislative body, unless a larger vote, not to exceed a 3/4 vote,
8 is required by ordinance or charter. The protest petition shall be
9 presented to the legislative body of the city or village before
10 final legislative action on the amendment and shall be signed by 1
11 or more of the following:

12 (a) The owners of at least 20% of the area of land included in
13 the proposed change.

14 (b) The owners of at least 20% of the area of land included
15 within an area extending outward 100 feet from any point on the
16 boundary of the land included in the proposed change.

17 (2) Publicly owned land shall be excluded in calculating the
18 20% land area requirement under subsection (1).

19 Sec. 404. (1) To protect the public health, safety, and
20 general welfare of the inhabitants and the lands and resources of a
21 local unit of government during the period required for the
22 preparation and enactment of an initial zoning ordinance under this
23 act, the legislative body of a local unit of government may direct
24 the zoning commission to submit, within a specified period of time,
25 recommendations as to the provisions of an interim zoning
26 ordinance.

27 (2) Before presenting its recommendations to the legislative

1 body, the zoning commission of a township shall submit the interim
2 zoning ordinance, or an amendment to the ordinance, to the county
3 zoning commission or the coordinating zoning committee, for the
4 purpose of coordinating the zoning ordinance with the zoning
5 ordinances of a township, city, or village having a common boundary
6 with the township. The ordinance shall be considered approved 15
7 days from the date the zoning ordinance is submitted to the
8 legislative body.

9 (3) After approval, the legislative body, by majority vote of
10 its members, may give the interim ordinance or amendments to the
11 ordinance immediate effect. An interim ordinance and subsequent
12 amendments shall be filed and published as required under section
13 401.

14 (4) The interim ordinance, including any amendments, shall be
15 limited to 1 year from the effective date and to not more than 2
16 years of renewal thereafter by resolution of the local unit of
17 government.

18 Sec. 405. (1) An owner of land may voluntarily offer in
19 writing, and the local unit of government may approve, certain use
20 and development of the land as a condition to a rezoning of the
21 land or an amendment to a zoning map.

22 (2) In approving the conditions under subsection (1), the
23 local unit of government may establish a time period during which
24 the conditions apply to the land. Except for an extension under
25 subsection (4), if the conditions are not satisfied within the time
26 specified under this subsection, the land shall revert to its
27 former zoning classification.

1 (3) The local government shall not add to or alter the
2 conditions approved under subsection (1) during the time period
3 specified under subsection (2) of this section.

4 (4) The time period specified under subsection (2) may be
5 extended upon the application of the landowner and approval of the
6 local unit of government.

7 (5) A local unit of government shall not require a landowner
8 to offer conditions as a requirement for rezoning. The lack of an
9 offer under subsection (1) shall not otherwise affect a landowner's
10 rights under this act, the ordinances of the local unit of
11 government, or any other laws of this state.

12 Sec. 406. (1) The legislative body may require the payment of
13 reasonable fees for zoning permits as a condition to the granting
14 of authority to use, erect, alter, or locate dwellings, buildings,
15 and structures, including tents and recreational vehicles, within a
16 zoning district established under this act.

17 (2) A local unit of government may levy a sufficient tax, in
18 addition to other taxes authorized by law, upon the real and
19 personal property subject to taxation in the local unit of
20 government. When the taxes or fees are collected, they shall be
21 applied to the payment of any indebtedness incurred by the local
22 unit of government subject to this act and to no other purpose. The
23 taxes assessed, levied, and collected under this act shall not
24 cause the limit of taxes established by law to be exceeded.

25 Sec. 407. Except as otherwise provided by law, a use of land
26 or a dwelling, building, or structure, including a tent or
27 recreational vehicle, used, erected, altered, razed, or converted

1 in violation of a zoning ordinance or regulation adopted under this
2 act is a nuisance per se. The court shall order the nuisance
3 abated, and the owner or agent in charge of the dwelling, building,
4 structure, tent, recreational vehicle, or land is liable for
5 maintaining a nuisance per se. The legislative body shall in the
6 zoning ordinance enacted under this act designate the proper
7 official or officials who shall administer and enforce the zoning
8 ordinance and do either of the following for each violation of the
9 zoning ordinance:

10 (a) Impose a penalty for the violation.

11 (b) Designate the violation as a municipal civil infraction
12 and impose a civil fine for the violation.

13 ARTICLE V

14 SPECIAL ZONING PROVISIONS

15 Sec. 501. (1) The local unit of government may require the
16 submission and approval of a site plan before authorization of a
17 land use or activity regulated by a zoning ordinance. The zoning
18 ordinance shall specify the body or official responsible for
19 reviewing site plans and granting approval.

20 (2) If a zoning ordinance requires site plan approval, the
21 site plan, as approved, shall become part of the record of
22 approval, and subsequent actions relating to the activity
23 authorized shall be consistent with the approved site plan, unless
24 a change conforming to the zoning ordinance receives the mutual
25 agreement of the landowner and the body or official that initially
26 approved the site plan.

27 (3) The procedures and requirements for the submission and

1 approval of site plans shall be specified in the zoning ordinance.
2 Site plan submission, review, and approval shall be required for
3 special land uses and planned unit developments. Decisions
4 rejecting, approving, or conditionally approving a site plan shall
5 be based upon requirements and standards contained in the zoning
6 ordinance, other local unit of government planning documents, other
7 applicable ordinances, and state and federal statutes.

8 (4) A site plan shall be approved if it contains the
9 information required by the zoning ordinance and is in compliance
10 with the conditions imposed under the zoning ordinance, other local
11 unit of government planning documents, other applicable ordinances,
12 and state and federal statutes.

13 Sec. 502. (1) The legislative body may provide in a zoning
14 ordinance for special land uses in a zoning district. A special
15 land use shall be subject to the review and approval of the zoning
16 commission, the planning commission, an official charged with
17 administering the zoning ordinance, or the legislative body as
18 required by the zoning ordinance. The zoning ordinance shall
19 specify all of the following:

20 (a) The special land uses and activities eligible for approval
21 and the body or official responsible for reviewing and granting
22 approval.

23 (b) The requirements and standards for approving a request for
24 a special land use.

25 (c) The procedures and supporting materials required for the
26 application, review, and approval of a special land use.

27 (2) Upon receipt of an application for a special land use

1 which requires a discretionary decision, the local unit of
2 government shall provide notice of the request as required under
3 section 103. The notice shall indicate that a public hearing on the
4 special land use request may be requested by any property owner or
5 the occupant of any structure located within 300 feet of the
6 property being considered for a special land use.

7 (3) At the initiative of the body or official responsible for
8 approving the special land use or upon the request of the
9 applicant, a real property owner whose real property is assessed
10 within 300 feet of the property, or the occupant of a structure
11 located within 300 feet of the property, a public hearing shall be
12 held before a discretionary decision is made on the special land
13 use request.

14 (4) The body or official designated to review and approve
15 special land uses may deny, approve, or approve with conditions a
16 request for special land use. The decision on a special land use
17 shall be incorporated in a statement of conclusions relative to the
18 special land use which specifies the basis for the decision and any
19 conditions imposed.

20 Sec. 503. (1) As used in this section, "planned unit
21 development" includes such terms as cluster zoning, planned
22 development, community unit plan, and planned residential
23 development and other terminology denoting zoning requirements
24 designed to accomplish the objectives of the zoning ordinance
25 through a land development project review process based on the
26 application of site planning criteria to achieve integration of the
27 proposed land development project with the characteristics of the

1 project area.

2 (2) The legislative body may establish planned unit
3 development requirements in a zoning ordinance that permit
4 flexibility in the regulation of land development, encourage
5 innovation in land use and variety in design, layout, and type of
6 structures constructed, achieve economy and efficiency in the use
7 of land, natural resources, energy, and the provision of public
8 services and utilities, encourage useful open space, and provide
9 better housing, employment, and shopping opportunities particularly
10 suited to the needs of the residents of this state. The review and
11 approval of planned unit developments shall be by the zoning
12 commission, an individual charged with administration of the zoning
13 ordinance, or the legislative body, as specified in the zoning
14 ordinance.

15 (3) Within a land development project designated as a planned
16 unit development, regulations relating to the use of land,
17 including, but not limited to, permitted uses, lot sizes, setbacks,
18 height limits, required facilities, buffers, open space areas, and
19 land use density, shall be determined in accordance with the
20 planned unit development regulations specified in the zoning
21 ordinance. The planned unit development regulations need not be
22 uniform with regard to each type of land use if equitable
23 procedures recognizing due process principles and avoiding
24 arbitrary decisions are followed in making regulatory decisions.
25 Unless explicitly prohibited by the planned unit development
26 regulations, if requested by the landowner, a local unit of
27 government may approve a planned unit development with open space

1 that is not contiguous with the rest of the planned unit
2 development.

3 (4) The planned unit development regulations established by
4 the local unit of government shall specify all of the following:

5 (a) The body or official responsible for the review and
6 approval of planned unit development requests.

7 (b) The conditions that create planned unit development
8 eligibility, the participants in the review process, and the
9 requirements and standards upon which applicants will be reviewed
10 and approval granted.

11 (c) The procedures required for application, review, and
12 approval.

13 (5) Following receipt of a request to approve a planned unit
14 development, the body or official responsible for the review and
15 approval shall hold at least 1 public hearing on the request. A
16 zoning ordinance may provide for preapplication conferences before
17 submission of a planned unit development request and the submission
18 of preliminary site plans before the public hearing. Notification
19 of the public hearing shall be given in the same manner as required
20 under section 103.

21 (6) Within a reasonable time following the public hearing, the
22 body or official responsible for approving planned unit
23 developments shall meet for final consideration of the request and
24 deny, approve, or approve with conditions the request. The body or
25 official shall prepare a report stating its conclusions, its
26 decision, the basis for its decision, and any conditions imposed on
27 an affirmative decision.

1 (7) If amendment of a zoning ordinance is required by the
2 planned unit development regulations of a zoning ordinance, the
3 requirements of this act for amendment of a zoning ordinance shall
4 be followed, except that the hearing and notice required by this
5 section shall fulfill the public hearing and notice requirements of
6 section 306.

7 (8) If the planned unit development regulations of a zoning
8 ordinance do not require amendment of the zoning ordinance to
9 authorize a planned unit development, the body or official
10 responsible for review and approval may approve, approve with
11 conditions, or deny a request.

12 (9) Final approval may be granted on each phase of a
13 multiphased planned unit development if each phase contains the
14 necessary components to insure protection of natural resources and
15 the health, safety, and welfare of the users of the planned unit
16 development and the residents of the surrounding area.

17 (10) In establishing planned unit development requirements, a
18 local unit of government may incorporate by reference other
19 ordinances or statutes which regulate land development. The planned
20 unit development regulations contained in zoning ordinances shall
21 encourage complementary relationships between zoning regulations
22 and other regulations affecting the development of land.

23 Sec. 504. (1) If the zoning ordinance authorizes the
24 consideration and approval of special land uses or planned unit
25 developments under section 502 or 503 or otherwise provides for
26 discretionary decisions, the regulations and standards upon which
27 those decisions are made shall be specified in the zoning

1 ordinance.

2 (2) The standards shall be consistent with and promote the
3 intent and purpose of the zoning ordinance and shall insure that
4 the land use or activity authorized shall be compatible with
5 adjacent uses of land, the natural environment, and the capacities
6 of public services and facilities affected by the land use. The
7 standards shall also insure that the land use or activity is
8 consistent with the public health, safety, and welfare of the local
9 unit of government.

10 (3) A request for approval of a land use or activity shall be
11 approved if the request is in compliance with the standards stated
12 in the zoning ordinance, the conditions imposed under the zoning
13 ordinance, other applicable ordinances, and state and federal
14 statutes.

15 (4) Reasonable conditions may be required with the approval of
16 a special land use, planned unit development, or other land uses or
17 activities permitted by discretionary decision. The conditions may
18 include conditions necessary to insure that public services and
19 facilities affected by a proposed land use or activity will be
20 capable of accommodating increased service and facility loads
21 caused by the land use or activity, to protect the natural
22 environment and conserve natural resources and energy, to insure
23 compatibility with adjacent uses of land, and to promote the use of
24 land in a socially and economically desirable manner. Conditions
25 imposed shall meet all of the following requirements:

26 (a) Be designed to protect natural resources, the health,
27 safety, and welfare, as well as the social and economic well-being,

1 of those who will use the land use or activity under consideration,
2 residents and landowners immediately adjacent to the proposed land
3 use or activity, and the community as a whole.

4 (b) Be related to the valid exercise of the police power and
5 purposes which are affected by the proposed use or activity.

6 (c) Be necessary to meet the intent and purpose of the zoning
7 requirements, be related to the standards established in the zoning
8 ordinance for the land use or activity under consideration, and be
9 necessary to insure compliance with those standards.

10 (5) The conditions imposed with respect to the approval of a
11 land use or activity shall be recorded in the record of the
12 approval action and remain unchanged except upon the mutual consent
13 of the approving authority and the landowner. The approving
14 authority shall maintain a record of conditions which are changed.

15 Sec. 505. (1) To ensure compliance with a zoning ordinance and
16 any conditions imposed under a zoning ordinance, a local unit of
17 government may require that a cash deposit, certified check,
18 irrevocable letter of credit, or surety bond acceptable to the
19 local unit of government covering the estimated cost of
20 improvements be deposited with the clerk of the legislative body to
21 insure faithful completion of the improvements. The performance
22 guarantee shall be deposited at the time of the issuance of the
23 permit authorizing the activity or project. The local unit of
24 government may not require the deposit of the performance guarantee
25 until it is prepared to issue the permit. The local unit of
26 government shall establish procedures by which a rebate of any cash
27 deposits in reasonable proportion to the ratio of work completed on

1 the required improvements shall be made as work progresses.

2 (2) This section shall not be applicable to improvements for
3 which a cash deposit, certified check, irrevocable bank letter of
4 credit, or surety bond has been deposited under the land division
5 act, 1967 PA 288, MCL 560.101 to 560.293.

6 Sec. 506. (1) Subject to subsection (4) and section 402, a
7 qualified local unit of government shall provide in its zoning
8 ordinance that land zoned for residential development may be
9 developed, at the option of the landowner, with the same number of
10 dwelling units on a smaller portion of the land than specified in
11 the zoning ordinance, but not more than 50% for a county or
12 township or 80% for a city or village, that could otherwise be
13 developed, as determined by the local unit of government under
14 existing ordinances, laws, and rules on the entire land area, if
15 all of the following apply:

16 (a) The land is zoned at a density equivalent to 2 or fewer
17 dwelling units per acre or, if the land is served by a public sewer
18 system, 3 or fewer dwelling units per acre.

19 (b) A percentage of the land area specified in the zoning
20 ordinance, but not less than 50% for a county or township or 20%
21 for a city or village, will remain perpetually in an undeveloped
22 state by means of a conservation easement, plat dedication,
23 restrictive covenant, or other legal means that runs with the land,
24 as prescribed by the zoning ordinance.

25 (c) The development does not depend upon the extension of a
26 public sewer or public water supply system, unless development of
27 the land without the exercise of the option provided by this

1 subsection would also depend upon the extension.

2 (d) The option provided under this subsection has not
3 previously been exercised with respect to that land.

4 (2) After a landowner exercises the option provided under
5 subsection (1), the land may be rezoned accordingly.

6 (3) The development of land under subsection (1) is subject to
7 other applicable ordinances, laws, and rules, including rules
8 relating to suitability of groundwater for on-site water supply for
9 land not served by public water and rules relating to suitability
10 of soils for on-site sewage disposal for land not served by public
11 sewers.

12 (4) Subsection (1) does not apply to a qualified local unit of
13 government if both of the following apply:

14 (a) On or before October 1, 2001, the local unit of government
15 had in effect a zoning ordinance provision providing for both of
16 the following:

17 (i) Land zoned for residential development may be developed, at
18 the option of the landowner, with the same number of dwelling units
19 on a smaller portion of the land that, as determined by the local
20 unit of government, could otherwise be developed under existing
21 ordinances, laws, and rules on the entire land area.

22 (ii) If the landowner exercises the option provided by
23 subparagraph (i), the portion of the land not developed will remain
24 perpetually in an undeveloped state by means of a conservation
25 easement, plat dedication, restrictive covenant, or other legal
26 means that runs with the land.

27 (b) On or before December 15, 2001, a landowner exercised the

1 option provided under the zoning ordinance provision referred to in
2 subdivision (a) with at least 50% of the land area for a county or
3 township or 20% of the land area for a city or village, remaining
4 perpetually in an undeveloped state.

5 (5) The zoning ordinance provisions required by subsection (1)
6 shall be cited as the "open space preservation" provisions of the
7 zoning ordinance.

8 (6) As used in this section, "qualified local unit of
9 government" means a county, township, city, or village that meets
10 all of the following requirements:

11 (a) Has adopted a zoning ordinance.

12 (b) Has a population of 1,800 or more.

13 (c) Has land that is not developed and that is zoned for
14 residential development at a density described in subsection
15 (1)(a).

16 Sec. 507. (1) As used in this section and sections 508 and
17 509, "PDR program" means a purchase of development rights program.

18 (2) The legislative body may adopt a development rights
19 ordinance limited to the establishment, financing, and
20 administration of a PDR program, as provided under this section and
21 sections 508 and 509. The PDR program may be used only to protect
22 agricultural land and other eligible land. This section and
23 sections 508 and 509 do not expand the condemnation authority of a
24 local unit of government as otherwise provided for in this act.

25 (3) A PDR program shall not acquire development rights by
26 condemnation. This section and sections 508 and 509 do not limit
27 any authority that may otherwise be provided by law for a local

1 unit of government to protect natural resources, preserve open
2 space, provide for historic preservation, or accomplish similar
3 purposes.

4 (4) A legislative body shall not establish, finance, or
5 administer a PDR program unless the legislative body adopts a
6 development rights ordinance. If the local unit of government has a
7 zoning ordinance, the development rights ordinance may be adopted
8 as part of the zoning ordinance under the procedures for a zoning
9 ordinance under this act. A local unit of government may adopt a
10 development rights ordinance in the same manner as required for a
11 zoning ordinance.

12 (5) A legislative body may promote and enter into agreements
13 with other local units of government for the purchase of
14 development rights, including cross-jurisdictional purchases,
15 subject to applicable development rights ordinances.

16 Sec. 508. (1) A development rights ordinance shall provide for
17 a PDR program. Under a PDR program, the local unit of government
18 purchases development rights, but only from a willing landowner. A
19 development rights ordinance providing for a PDR program shall
20 specify all of the following:

21 (a) The public benefits that the local unit of government may
22 seek through the purchase of development rights.

23 (b) The procedure by which the local unit of government or a
24 landowner may by application initiate purchase of development
25 rights.

26 (c) The development rights authorized to be purchased subject
27 to a determination under standards and procedures required by

1 subdivision (d).

2 (d) The standards and procedures to be followed by the
3 legislative body for approving, modifying, or rejecting an
4 application to purchase development rights, including the
5 determination of all the following:

6 (i) Whether to purchase development rights.

7 (ii) Which development rights to purchase.

8 (iii) The intensity of development permitted after the purchase
9 on the land from which the development rights are purchased.

10 (iv) The price at which development rights will be purchased
11 and the method of payment.

12 (v) The procedure for ensuring that the purchase or sale of
13 development rights is legally fixed so as to run with the land.

14 (e) The circumstances under which an owner of land from which
15 development rights have been purchased under a PDR program may
16 repurchase those development rights and how the proceeds of the
17 purchase are to be used by the local unit of government.

18 (2) If the local unit of government has a zoning ordinance,
19 the purchase of development rights shall be consistent with the
20 plan referred to in section 203 upon which the zoning ordinance is
21 based.

22 (3) Development rights acquired under a PDR program may be
23 conveyed only as provided under subsection (1)(e).

24 (4) A county shall notify each township, city, or village, and
25 a township shall notify each village, in which is located land from
26 which development rights are proposed to be purchased of the
27 receipt of an application for the purchase of development rights

1 and shall notify each township, city, or village of the disposition
2 of that application.

3 (5) A county shall not purchase development rights under a
4 development rights ordinance from land subject to a township, city,
5 or village zoning ordinance unless all of the following
6 requirements are met:

7 (a) The development rights ordinance provisions for the PDR
8 program are consistent with the plan upon which the township, city,
9 or village zoning is based.

10 (b) The legislative body of the township, city, or village
11 adopts a resolution authorizing the PDR program to apply in the
12 township, city, or village.

13 (c) As part of the application procedure for the specific
14 proposed purchase of development rights, the township, city, or
15 village provides the county with written approval of the purchase.

16 Sec. 509. (1) A PDR program may be financed through 1 or more
17 of the following sources:

18 (a) General appropriations by the local unit of government.

19 (b) Proceeds from the sale of development rights by the local
20 unit of government subject to section 508(3).

21 (c) Grants.

22 (d) Donations.

23 (e) Bonds or notes issued under subsections (2) to (5).

24 (f) General fund revenue.

25 (g) Special assessments under subsection (6).

26 (h) Other sources approved by the legislative body and
27 permitted by law.

1 (2) The legislative body may borrow money and issue bonds or
2 notes under the revised municipal finance act, 2001 PA 34, MCL
3 141.2101 to 141.2821, subject to the general debt limit applicable
4 to the local unit of government. The bonds or notes may be revenue
5 bonds or notes, general obligation limited tax bonds or notes, or,
6 subject to section 6 of article IX of the state constitution of
7 1963, general obligation unlimited tax bonds or notes.

8 (3) The legislative body may secure bonds or notes issued
9 under this section by mortgage, assignment, or pledge of property,
10 including, but not limited to, anticipated tax collections, revenue
11 sharing payments, or special assessment revenues. A pledge made by
12 the legislative body is valid and binding from the time the pledge
13 is made. The pledge immediately shall be subject to the lien of the
14 pledge without a filing or further act. The lien of the pledge
15 shall be valid and binding as against parties having claims in
16 tort, contract, or otherwise against the local unit of government,
17 irrespective of whether the parties have notice of the lien. Filing
18 of the resolution, the trust agreement, or another instrument by
19 which a pledge is created is not required.

20 (4) Bonds or notes issued under this section are exempt from
21 all taxation in this state except inheritance and transfer taxes,
22 and the interest on the bonds or notes is exempt from all taxation
23 in this state.

24 (5) The bonds and notes issued under this section may be
25 invested in by the state treasurer and all other public officers,
26 state agencies, and political subdivisions, insurance companies,
27 financial institutions, investment companies, and fiduciaries and

1 trustees and may be deposited with and received by the state
2 treasurer and all other public officers and the agencies and
3 political subdivisions of this state for all purposes for which the
4 deposit of bonds or notes is authorized. The authority granted by
5 this section is in addition to all other authority granted by law.

6 (6) A development rights ordinance may authorize the
7 legislative body to finance a PDR program by special assessments.
8 In addition to meeting the requirements of section 508, the
9 development rights ordinance shall include in the procedure to
10 approve and establish a special assessment district both of the
11 following:

12 (a) The requirement that there be filed with the legislative
13 body a petition containing all of the following:

14 (i) A description of the development rights to be purchased,
15 including a legal description of the land from which the purchase
16 is to be made.

17 (ii) A description of the proposed special assessment district.

18 (iii) The signatures of the owners of a least 66% of the land
19 area in the proposed special assessment district.

20 (iv) The amount and duration of the proposed special
21 assessments.

22 (b) The requirement that the legislative body specify how the
23 proposed purchase of development rights will specially benefit the
24 land in the proposed special assessment district.

25 ARTICLE VI

26 ZONING BOARD OF APPEALS

27 Sec. 601. (1) In each local unit of government in which the

1 legislative body exercises the authority conferred by this act, the
2 legislative body shall appoint a zoning board of appeals.

3 (2) The legislative body of a city or village may act as a
4 zoning board of appeals and may establish rules to govern its
5 procedure as a zoning board of appeals.

6 (3) In appointing a zoning board of appeals, membership of
7 that board shall be composed of not fewer than 5 members if the
8 local unit of government has a population of 5,000 or more and not
9 fewer than 3 members if the local unit of government has a
10 population of less than 5,000. The number of members of the zoning
11 board of appeals shall be specified in the zoning ordinance. One of
12 the regular members of the zoning board of appeals shall be a
13 member of the zoning commission or of the planning commission if
14 the duties and responsibilities of the zoning commission have been
15 transferred to the planning commission.

16 (4) The remaining regular members, and any alternate members,
17 shall be selected from the electors of the local unit of government
18 residing within the zoning jurisdiction of that local unit of
19 government. The members selected shall be representative of the
20 population distribution and of the various interests present in the
21 local unit of government.

22 (5) One regular member may be a member of the legislative body
23 but shall not serve as chairperson of the zoning board of appeals.
24 An employee or contractor of the legislative body may not serve as
25 a member of the zoning board of appeals.

26 (6) The legislative body may appoint not more than 2 alternate
27 members for the same term as regular members to the zoning board of

1 appeals. An alternate member may be called as specified to serve as
2 a member of the zoning board of appeals in the absence of a regular
3 member if the regular member will be unable to attend 1 or more
4 meetings. An alternate member may also be called to serve as a
5 member for the purpose of reaching a decision on a case in which
6 the member has abstained for reasons of conflict of interest. The
7 alternate member appointed shall serve in the case until a final
8 decision is made. The alternate member has the same voting rights
9 as a regular member of the zoning board of appeals.

10 (7) A member of the zoning board of appeals may be paid a
11 reasonable per diem and reimbursed for expenses actually incurred
12 in the discharge of his or her duties.

13 (8) A member of the zoning board of appeals may be removed by
14 the legislative body for misfeasance, malfeasance, or nonfeasance
15 in office upon written charges and after public hearing. A member
16 shall disqualify himself or herself from a vote in which the member
17 has a conflict of interest. Failure of a member to disqualify
18 himself or herself from a vote in which the member has a conflict
19 of interest constitutes malfeasance in office.

20 (9) The terms of office for members appointed to the zoning
21 board of appeals shall be for 3 years, except for members serving
22 because of their membership on the zoning commission or legislative
23 body, whose terms shall be limited to the time they are members of
24 those bodies. When members are first appointed, the appointments
25 may be for less than 3 years to provide for staggered terms. A
26 successor shall be appointed not more than 1 month after the term
27 of the preceding member has expired. Vacancies for unexpired terms

1 shall be filled for the remainder of the term.

2 (10) A zoning board of appeals shall not conduct business
3 unless a majority of the regular members of the zoning board of
4 appeals are present.

5 Sec. 602. (1) Meetings of the zoning board of appeals shall be
6 held at the call of the chairperson and at other times as the
7 zoning board of appeals in its rules of procedure may specify. The
8 chairperson or, in his or her absence, the acting chairperson may
9 administer oaths and compel the attendance of witnesses.

10 (2) The zoning board of appeals shall maintain a record of its
11 proceedings which shall be filed in the office of the clerk of the
12 legislative body.

13 Sec. 603. (1) The zoning board of appeals shall hear and
14 decide questions that arise in the administration of the zoning
15 ordinance, including the interpretation of the zoning maps, and may
16 adopt rules to govern its procedures sitting as a zoning board of
17 appeals. The zoning board of appeals shall also hear and decide on
18 matters referred to the zoning board of appeals or upon which the
19 zoning board of appeals is required to pass under a zoning
20 ordinance adopted under this act. It shall hear and decide appeals
21 from and review any administrative order, requirement, decision, or
22 determination made by an administrative official or body charged
23 with enforcement of a zoning ordinance adopted under this act. For
24 special land use and planned unit development decisions, an appeal
25 may be taken to the zoning board of appeals only if provided for in
26 the zoning ordinance.

27 (2) The concurring vote of a majority of the members of the

1 zoning board of appeals is necessary to reverse an order,
2 requirement, decision, or determination of the administrative
3 official or body, to decide in favor of the applicant on a matter
4 upon which the zoning board of appeals is required to pass under
5 the zoning ordinance, or to grant a variance in the zoning
6 ordinance, except that a concurring vote of 2/3 of the members of
7 the zoning board of appeals is necessary to grant a variance from
8 uses of land permitted in the zoning ordinance. Each local unit of
9 government shall establish under what circumstances, if any, the
10 zoning board of appeals is permitted to grant variances from uses
11 of land and also establish procedures for the review and standards
12 for approval of all types of variances permitted in the zoning
13 ordinance.

14 Sec. 604. (1) An appeal to the zoning board of appeals may be
15 taken by a person aggrieved or by an officer, department, board, or
16 bureau of the state or local unit of government. In addition, a
17 variance in the zoning ordinance may be applied for and granted
18 under section 4 of the uniform condemnation procedures act, 1980 PA
19 87, MCL 213.54, and as provided under this act. The zoning board of
20 appeals shall state the grounds of any determination made by the
21 board.

22 (2) An appeal under this section shall be taken within such
23 time as shall be prescribed by the zoning board of appeals by
24 general rule, by the filing with the officer from whom the appeal
25 is taken and with the zoning board of appeals of a notice of appeal
26 specifying the grounds for the appeal. The body or officer from
27 whom the appeal is taken shall immediately transmit to the zoning

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board of appeals all of the papers constituting the record upon which the action appealed from was taken.

(3) An appeal to the zoning board of appeals stays all proceedings in furtherance of the action appealed from unless the body or officer from whom the appeal is taken certifies to the zoning board of appeals after the notice of appeal is filed that, by reason of facts stated in the certificate, a stay would in the opinion of the body or officer cause imminent peril to life or property, in which case proceedings may be stayed by a restraining order issued by the zoning board of appeals or a circuit court.

(4) If an appeal applies to a parcel of land, the zoning board of appeals shall fix a reasonable time for the hearing of the appeal and give notice in the same manner as required under section 103.

(5) At the hearing, a party may appear in person or by agent or attorney. The zoning board of appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit.

(6) [For a city or village, if] there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the zoning ordinance, the zoning board of appeals, in passing upon appeals, may grant a variance relating to the construction, or structural changes in, equipment, or alteration of buildings or structures, or the use of land, buildings, or structures, so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done. The zoning board of appeals may impose conditions as is otherwise allowed under this act.

[(7) For a township or county, if there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the zoning ordinance, the zoning board of appeals, in passing upon appeals, may grant a variance so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done. The zoning

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board of appeals may impose conditions as is otherwise allowed under this
act.]

1 Sec. 605. The decision of the zoning board of appeals shall be
2 final. A person aggrieved by the zoning ordinance may appeal to the
3 circuit court for the county in which the property is located as
4 provided under section 606.

5 Sec. 606. (1) Any party aggrieved by any order, determination,
6 or decision of any officer, agency, board, commission, zoning board
7 of appeals, or legislative body of any local unit of government
8 under this act may obtain a review in the circuit court for the
9 county in which the property is located. The circuit court shall
10 review the record and decision to ensure that the decision meets
11 all of the following requirements:

12 (a) Complies with the constitution and laws of the state.

13 (b) Is based upon proper procedure.

14 (c) Is supported by competent, material, and substantial
15 evidence on the record.

16 (d) Represents the reasonable exercise of discretion granted
17 by law. If the court finds the record inadequate to make the review
18 required by this section or finds that additional material evidence
19 exists that with good reason was not presented, the court shall
20 order further proceedings on conditions that the court considers
21 proper. The decision-making body may modify its findings and
22 decision as a result of the new proceedings or may affirm the
23 original decision. The supplementary record and decision shall be
24 filed with the court. The court may affirm, reverse, or modify the
25 decision.

26 (2) An application under this section shall be filed within 30
27 days after delivery of a copy of the order, determination, or

1 decision. The court shall have jurisdiction to make such further
2 orders as justice may require. An appeal may be had from the
3 decision of any circuit court to the court of appeals.

4 Sec. 607. Any person required to be given notice under section
5 604(4) shall be a proper and necessary party to any action for
6 review instituted under section 605 and shall be given notice as
7 required under section 103. If any person receiving notice under
8 this section fails within 20 days of receiving that notice to enter
9 an appearance in the court in which the proceedings were
10 instituted, further notice to that person of subsequent proceedings
11 is not required and the court may proceed to determine the issues.

12 ARTICLE VII

13 STATUTORY COMPLIANCE AND REPEALER

14 Sec. 701. (1) All meetings subject to this act shall be
15 conducted in compliance with the open meetings act, 1976 PA 267,
16 MCL 15.261 to 15.275.

17 (2) A writing prepared, owned, used, in the possession of, or
18 retained as required by this act shall be made available to the
19 public in compliance with the freedom of information act, 1976 PA
20 442, MCL 15.231 to 15.246.

21 Sec. 702. (1) The following acts and parts of acts are
22 repealed:

23 (a) The city and village zoning act, 1921 PA 207, MCL 125.581
24 to 125.600.

25 (b) The county zoning act, 1943 PA 183, MCL 125.201 to
26 125.240.

27 (c) The township zoning act, 1943 PA 184, MCL 125.271 to

1 125.310.

2 (2) This section shall not be construed to alter, limit, void,
3 affect, or abate any pending litigation, administrative proceeding,
4 or appeal that existed on the effective date of this act or any
5 ordinance, order, permit, or decision that was based on the acts
6 repealed by this section.