

SENATE 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 and collection of 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:

1

ARTICLE I

2

GENERAL PROVISIONS

3

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 useful to humans,
5 including, but not limited to, forage and sod crops, grains, feed
6 crops, field crops, dairy products, poultry and poultry products,
7 livestock, herbs, flowers, seeds, grasses, nursery stock, fruits,
8 vegetables, Christmas trees, and other 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 board" means a county zoning commission created
5 under the county zoning act, 1943 PA 185, MCL 125.201 to 125.240,
6 or a township zoning board created under the township zoning act,
7 1943 PA 184, MCL 125.271 to 125.310, that existed on the effective
8 date of this act.

9 (v) "Zoning commission" means a zoning commission as described
10 under section 301.

11 (w) "Zoning jurisdiction" refers to the area encompassed by
12 the legal boundaries of a city or village or to the area
13 encompassed by the legal boundaries of a county or township outside
14 the limits of incorporated cities and villages. The zoning
15 jurisdiction of a county does not include the areas subject to
16 township zoning by a township that has adopted a zoning ordinance
17 under this act.

18 Sec. 103. (1) Except as otherwise provided under this act, if
19 a local unit of government is required to provide notice and
20 hearing under this act, the local unit of government shall publish
21 notice of the request in a newspaper of general circulation in the
22 local unit of government.

23 (2) Notice shall also be sent by mail or personal delivery to
24 the owners of property for which approval is being considered.
25 Notice shall also be sent to all persons to whom real property is
26 assessed within 300 feet of the property and to the occupants of
27 all structures within 300 feet of the property regardless of

1 whether the property or occupant is located in the zoning
2 jurisdiction.

3 (3) The notice shall be given not less than 15 days before the
4 date the application will be considered for approval. If the name
5 of the occupant is not known, the term "occupant" may be used in
6 making notification under this subsection. The notice shall do all
7 of the following:

8 (a) Describe the nature of the request.

9 (b) Indicate the property that is the subject of the request.
10 The notice shall include a listing of all existing street addresses
11 within the property. Street addresses do not need to be created and
12 listed if no such addresses currently exist within the property. If
13 there are no street addresses, other means of identification may be
14 used.

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

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

18 ARTICLE II

19 ZONING AUTHORIZATION AND INITIATION

20 Sec. 201. (1) A local unit of government may provide by zoning
21 ordinance for the regulation of land development and the
22 establishment of 1 or more districts within its zoning jurisdiction
23 which regulate the use of land and structures to meet the needs of
24 the state's citizens for food, fiber, energy, and other natural
25 resources, places of residence, recreation, industry, trade,
26 service, and other uses of land, to ensure that use of the land is
27 situated in appropriate locations and relationships, to limit the

1 inappropriate overcrowding of land and congestion of population,
2 transportation systems, and other public facilities, to facilitate
3 adequate and efficient provision for transportation systems, sewage
4 disposal, water, energy, education, recreation, and other public
5 service and facility requirements, and to promote public health,
6 safety, and welfare.

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

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

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

23 Sec. 202. (1) The legislative body of a local government may
24 provide by ordinance for the manner in which the regulations and
25 boundaries of districts or zones shall be determined and enforced
26 or amended, supplemented, or changed. Amendments or supplements to
27 the zoning ordinance shall be made in the same manner as provided

1 under this act for the enactment of the original ordinance.

2 (2) If an individual property or 10 or fewer adjacent
3 properties are proposed for rezoning, the zoning commission shall
4 give a notice of the proposed rezoning in the same manner as
5 required under section 103.

6 (3) If 11 or more adjacent properties are proposed for
7 rezoning, the zoning commission shall give a notice of the proposed
8 rezoning in the same manner as required under section 103, except
9 for the requirement of section 103(2) and except that no individual
10 addresses of properties are required to be listed under section
11 103(3)(b).

12 (4) An amendment to a zoning ordinance by a city or village is
13 subject to a protest petition under section 403.

14 (5) An amendment for the purpose of conforming a provision of
15 the zoning ordinance to the decree of a court of competent
16 jurisdiction as to any specific lands may be adopted by the
17 legislative body and the notice of the adopted amendment published
18 without referring the amendment to any other board or agency
19 provided for under this act.

20 Sec. 203. (1) The zoning ordinance shall be based upon a plan
21 designed to promote the public health, safety, and general welfare,
22 to encourage the use of lands in accordance with their character
23 and adaptability, to limit the improper use of land, to conserve
24 natural resources and energy, to meet the needs of the state's
25 residents for food, fiber, and other natural resources, places of
26 residence, recreation, industry, trade, service, and other uses of
27 land, to insure that uses of the land shall be situated in

1 appropriate locations and relationships, to avoid the overcrowding
2 of population, to provide adequate light and air, to lessen
3 congestion on the public roads and streets, to reduce hazards to
4 life and property, to facilitate adequate provision for a system of
5 transportation, sewage disposal, safe and adequate water supply,
6 education, recreation, and other public requirements, and to
7 conserve the expenditure of funds for public improvements and
8 services to conform with the most advantageous uses of land,
9 resources, and properties. The zoning ordinance shall be made with
10 reasonable consideration to the character of each district, its
11 peculiar suitability for particular uses, the conservation of
12 property values and natural resources, and the general and
13 appropriate trend and character of land, building, and population
14 development.

15 (2) If a local unit of government adopts or revises a plan
16 required under subsection (1) after an airport layout plan or
17 airport approach plan has been filed with the local unit of
18 government, the local unit of government shall incorporate the
19 airport layout plan or airport approach plan into the plan adopted
20 under subsection (1).

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

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

25 (b) Comments received at or before a public hearing under
26 section 306 or transmitted under section 308 from the airport
27 manager of any airport.

1 (4) If a zoning ordinance was adopted before March 28, 2001,
2 the zoning ordinance is not required to be consistent with any
3 airport zoning regulations, airport layout plan, or airport
4 approach plan. A zoning ordinance amendment adopted or variance
5 granted after March 28, 2001 shall not increase any inconsistency
6 that may exist between the zoning ordinance or structures or uses
7 and any airport zoning regulations, airport layout plan, or airport
8 approach plan. This section does not limit the right to petition
9 for submission of a zoning ordinance amendment to the electors
10 under section 402 or the right to file a protest petition under
11 section 403.

12 Sec. 204. A zoning ordinance adopted under this act shall
13 provide for the use of a single-family residence by an occupant of
14 that residence for a home occupation to give instruction in a craft
15 or fine art within the residence. This section does not prohibit
16 the regulation of noise, advertising, traffic, hours of operation,
17 or other conditions that may accompany the use of a residence under
18 this section.

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

22 (2) A county or township shall not regulate or control the
23 drilling, completion, or operation of oil or gas wells or other
24 wells drilled for oil or gas exploration purposes and shall not
25 have jurisdiction with reference to the issuance of permits for the
26 location, drilling, completion, operation, or abandonment of such
27 wells.

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

8 (2) Subsection (1) does not apply to adult foster care
9 facilities licensed by a state agency for care and treatment of
10 persons released from or assigned to adult correctional
11 institutions.

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

18 (4) For a county or township, a group day-care home shall be
19 issued a special use permit, conditional use permit, or other
20 similar permit if the group day-care home meets all of the
21 following standards:

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

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

25 (ii) Another adult foster care small group home or large group
26 home licensed under the adult foster care facility licensing act,
27 1979 PA 218, MCL 400.701 to 400.737.

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

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

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

10 (c) Maintains the property consistent with the visible
11 characteristics of the neighborhood.

12 (d) Does not exceed 16 hours of operation during a 24-hour
13 period. The local unit of government may limit but not prohibit the
14 operation of a group day-care home between the hours of 10 p.m. and
15 6 a.m.

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

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

21 (5) For a city or village, a group day-care home may be issued
22 a special use permit, conditional use permit, or other similar
23 permit.

24 (6) A licensed or registered family or group day-care home
25 that operated before March 30, 1989 is not required to comply with
26 the requirements of this section.

27 (7) The requirements of this section shall not prevent a local

1 unit of government from inspecting and enforcing a family or group
2 day-care home for the home's compliance with the local unit of
3 government's zoning ordinance. For a county or township, an
4 ordinance shall not be more restrictive for a family or group day-
5 care home than as provided under 1973 PA 116, MCL 722.111 to
6 722.128.

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

11 (9) The requirements of this section shall not prevent a local
12 unit of government from issuing a special use permit, conditional
13 use permit, or other similar permit to a licensed or registered
14 group day-care home that does not meet the standards listed under
15 subsection (4).

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

21 Sec. 207. A zoning ordinance or zoning decision shall not have
22 the effect of totally prohibiting the establishment of a land use
23 within a local unit of government in the presence of a demonstrated
24 need for that land use within either that local unit of government
25 or the surrounding area within the state, unless a location within
26 the local unit of government does not exist where the use may be
27 appropriately located or the use is unlawful.

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

6 (2) The legislative body may provide in a zoning ordinance for
7 the completion, resumption, restoration, reconstruction, extension,
8 or substitution of nonconforming uses or structures upon terms and
9 conditions provided in the zoning ordinance. In establishing terms
10 for the completion, resumption, restoration, reconstruction,
11 extension, or substitution of nonconforming uses or structures,
12 different classes of nonconforming uses may be established in the
13 zoning ordinance with different requirements applicable to each
14 class.

15 (3) The legislative body may acquire, by purchase,
16 condemnation, or otherwise, private property or an interest in
17 private property for the removal of nonconforming uses and
18 structures. The legislative body may provide that the cost and
19 expense of acquiring private property may be paid from general
20 funds or assessed to a special district in accordance with the
21 applicable statutory provisions relating to the creation and
22 operation of special assessment districts for public improvements
23 in local units of government. Property acquired under this
24 subsection by a city or village shall not be used for public
25 housing.

26 (4) The elimination of the nonconforming uses and structures
27 in a zoning district is declared to be for a public purpose and for

1 a public use. The legislative body may institute proceedings for
2 condemnation of nonconforming uses and structures under 1911 PA
3 149, MCL 213.21 to 213.25.

4 Sec. 209. Except as otherwise provided under this act, a
5 township that has enacted a zoning ordinance under this act is not
6 subject to an ordinance, rule, or regulation adopted by a county
7 under this act.

8 Sec. 210. Except as otherwise provided under this act, an
9 ordinance adopted under this act shall be controlling in the case
10 of any inconsistencies between the ordinance and an ordinance
11 adopted under any other law.

12 Sec. 211. (1) The legislative body may proceed with the
13 adoption of a zoning ordinance containing land development
14 regulations and establishing zoning districts under this act upon
15 appointment of a zoning commission as provided in section 301.

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

20 (3) Upon receipt of a petition signed by a number of qualified
21 and registered voters residing in the zoning jurisdiction equal to
22 not less than 8% of the total votes cast within the zoning
23 jurisdiction for all candidates for governor at the last preceding
24 general election at which a governor was elected, filed with the
25 clerk of the local unit of government requesting the legislative
26 body to appoint a zoning commission for purposes of formulating a
27 zoning ordinance, the legislative body, at the next regular

1 meeting, may initiate action to formulate a zoning commission and
2 zoning ordinance under this act.

3 ARTICLE III

4 ZONING COMMISSION

5 Sec. 301. (1) Each local unit of government in which the
6 legislative body exercises authority under this act shall create a
7 zoning commission. A zoning board in existence on the effective
8 date of this act may continue as a zoning commission subject to a
9 transfer of power under subsection (2) or until 5 years from the
10 effective date of this act, whichever is earlier. A planning
11 commission exercising the authority of a zoning board before the
12 effective date of this act may continue to exercise that authority
13 subject to this act.

14 (2) Except as otherwise provided under this subsection, if the
15 legislative body has transferred the powers of the zoning
16 commission to the planning commission as provided by law, the
17 zoning commission shall be the planning commission of the local
18 unit of government. The legislative body shall have 5 years from
19 the effective date of this act to transfer the powers of the zoning
20 commission to the planning commission. Except as provided under
21 this subsection, 5 years after the effective date of this act, the
22 zoning commission shall not have any authority under this act or an
23 ordinance adopted under this act.

24 (3) If a zoning commission is created after the effective date
25 of this act, the zoning commission shall be created by resolution
26 and be composed of not fewer than 5 or more than 11 members
27 appointed by the legislative body. Not less than 2 of the members

1 of a county zoning commission shall be recommended for membership
2 by the legislative bodies of townships that are, or shall be,
3 subject to the county zoning ordinance. This requirement may be met
4 as vacancies occur on a county zoning commission that existed on
5 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 may 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. The zoning commission is subject to the open meetings
25 act, 1976 PA 267, MCL 15.261 to 15.275.

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

1 (a) A zoning plan for the areas subject to zoning of the local
2 unit of government.

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

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

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

10 Sec. 306. (1) Before submitting its recommendations for a
11 proposed zoning ordinance to the legislative body, the zoning
12 commission shall hold at least 1 public hearing. Notice of the time
13 and place of the public hearing shall be given in the same manner
14 as required under section 103(1) for the initial adoption of a
15 zoning ordinance or section 202 for any other subsequent zoning
16 text or map amendments.

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

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

27 Sec. 307. (1) Following the hearing required in section 306, a

1 township shall submit for review and recommendation the proposed
2 zoning ordinance, including any zoning maps, to the zoning
3 commission of the county in which the township is situated if a
4 county zoning commission has been appointed as provided under this
5 act.

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

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

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

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

27 (2) Following the enactment of the zoning ordinance, the

1 zoning commission shall at least once per year prepare for the
2 legislative body a report on the administration and enforcement of
3 the zoning ordinance and recommendations for amendments or
4 supplements to the ordinance.

5 ARTICLE IV

6 ZONING ADOPTION AND ENFORCEMENT

7 Sec. 401. (1) After receiving a zoning ordinance under section
8 308(1) or an amendment under section 202, the legislative body may
9 hold a public hearing if it considers it necessary or as may
10 otherwise be required.

11 (2) Notice of the hearing to be held by the legislative body
12 shall be given in the same manner as required under section 103(1)
13 for the initial adoption of a zoning ordinance or section 202 for
14 any other zoning text or map amendments.

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

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

21 (5) After the public hearing held as allowed under this
22 section, the legislative body shall consider and vote upon the
23 adoption of a zoning ordinance, with or without amendments. A
24 zoning ordinance and any amendments shall be approved by a majority
25 vote of the members of the legislative body.

26 (6) Except as otherwise provided under section 402, a zoning
27 ordinance shall take effect upon the expiration of 7 days after

1 publication as required by this section or at such later date after
2 publication as may be specified by the legislative body.

3 (7) Following adoption of a zoning ordinance and any
4 subsequent amendments by the legislative body, the zoning ordinance
5 or subsequent amendments shall be filed with the clerk of the
6 legislative body, and a notice of ordinance adoption shall be
7 published in a newspaper of general circulation in the local unit
8 of government within 15 days after adoption.

9 (8) A copy of the notice required under subsection (7) shall
10 be mailed to the airport manager of an airport entitled to notice
11 under section 306.

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

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

18 (b) In the case of an amendment to an existing zoning
19 ordinance, either a summary of the regulatory effect of the
20 amendment, including the geographic area affected, or the text of
21 the amendment.

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

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

25 (10) The filing and publication requirements under this
26 section supersede any other statutory requirements relating to the
27 filing and publication of county, township, city, or village

1 ordinances.

2 Sec. 402. (1) Within 7 days after publication of a zoning
3 ordinance under section 401, a registered elector residing in the
4 zoning jurisdiction of a county or township may file with the clerk
5 of the legislative body a notice of intent to file a petition under
6 this section.

7 (2) If a notice of intent is filed under subsection (1), the
8 petitioner shall have 30 days following the publication of the
9 zoning ordinance to file a petition signed by a number of
10 registered electors residing in the zoning jurisdiction not less
11 than 15% of the total vote cast within the zoning jurisdiction for
12 all candidates for governor at the last preceding general election
13 at which a governor was elected, with the clerk of the legislative
14 body requesting the submission of a zoning ordinance or part of a
15 zoning ordinance to the electors residing in the zoning
16 jurisdiction for their approval.

17 (3) Upon the filing of a notice of intent under subsection
18 (1), the zoning ordinance or part of the zoning ordinance adopted
19 by the legislative body shall not take effect until 1 of the
20 following occurs:

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

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

26 (c) If a petition is filed within 30 days after publication of
27 the ordinance, the clerk of the legislative body determines that

1 the petition is adequate and the ordinance or part of the ordinance
2 is approved by a majority of the registered electors residing in
3 the zoning jurisdiction voting on the petition at the next regular
4 election or at any special election called for that purpose. The
5 legislative body shall provide the manner of submitting the zoning
6 ordinance or part of the zoning ordinance to the electors for their
7 approval or rejection and determining the result of the election.

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

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

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

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

24 (2) Publicly owned land shall be excluded in calculating the
25 20% land area requirement under subsection (1).

26 Sec. 404. (1) To protect the public health, safety, and
27 general welfare of the inhabitants and the lands and resources of a

1 local unit of government during the period required for the
2 preparation and enactment of an initial zoning ordinance under this
3 act, the legislative body of a local unit of government may direct
4 the zoning commission to submit, within a specified period of time,
5 recommendations as to the provisions of an interim zoning
6 ordinance.

7 (2) Before presenting its recommendations to the legislative
8 body, the zoning commission of a township shall submit the interim
9 zoning ordinance, or an amendment to the ordinance, to the county
10 zoning commission or the coordinating zoning committee, for the
11 purpose of coordinating the zoning ordinance with the zoning
12 ordinances of a township, city, or village having a common boundary
13 with the township. The ordinance shall be considered approved 15
14 days from the date the zoning ordinance is submitted to the
15 legislative body.

16 (3) After approval, the legislative body, by majority vote of
17 its members, may give the interim ordinance or amendments to the
18 interim ordinance immediate effect. An interim ordinance and
19 subsequent amendments shall be filed and published as required
20 under section 401.

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

25 Sec. 405. (1) An owner of land may voluntarily offer in
26 writing, and the local unit of government may approve, certain use
27 and development of the land as a condition to a rezoning of the

1 land or an amendment to a zoning map.

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

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

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

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

19 Sec. 406. The legislative body may require the payment of
20 reasonable fees for zoning permits as a condition to the granting
21 of authority to use, erect, alter, or locate dwellings, buildings,
22 and structures, including tents and recreational vehicles, within a
23 zoning district established under this act.

24 Sec. 407. Except as otherwise provided by law, a use of land
25 or a dwelling, building, or structure, including a tent or
26 recreational vehicle, used, erected, altered, razed, or converted
27 in violation of a zoning ordinance or regulation adopted under this

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

9 (a) Impose a penalty for the violation.

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

12 ARTICLE V

13 SPECIAL ZONING PROVISIONS

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

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

26 (3) The procedures and requirements for the submission and
27 approval of site plans shall be specified in the zoning ordinance.

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

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

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

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

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

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

26 (2) Upon receipt of an application for a special land use
27 which requires a discretionary decision, the local unit of

1 government shall provide notice of the request as required under
2 section 103. The notice shall indicate that a public hearing on the
3 special land use request may be requested by any property owner or
4 the occupant of any structure located within 300 feet of the
5 property being considered for a special land use regardless of
6 whether the property or occupant is located in the zoning
7 jurisdiction.

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

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

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

1 proposed land development project with the characteristics of the
2 project area.

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

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

1 government may approve a planned unit development with open space
2 that is not contiguous with the rest of the planned unit
3 development.

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

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

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

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

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

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

1 an affirmative decision.

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

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

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

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

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

1 those decisions are made shall be specified in the zoning
2 ordinance.

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

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

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

27 (a) Be designed to protect natural resources, the health,

1 safety, and welfare, as well as the social and economic well-being,
2 of those who will use the land use or activity under consideration,
3 residents and landowners immediately adjacent to the proposed land
4 use or activity, and the community as a whole.

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

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

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

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

1 deposits in reasonable proportion to the ratio of work completed on
2 the required improvements shall be made as work progresses.

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

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

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

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

26 (c) The development does not depend upon the extension of a
27 public sewer or public water supply system, unless development of

1 the land without the exercise of the option provided by this
2 subsection would also depend upon the extension.

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

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

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

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

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

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

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

1 (b) On or before December 15, 2001, a landowner exercised the
2 option provided under the zoning ordinance provision referred to in
3 subdivision (a) with at least 50% of the land area for a county or
4 township or 20% of the land area for a city or village, remaining
5 perpetually in an undeveloped state.

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

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

12 (a) Has adopted a zoning ordinance.

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

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

17 Sec. 507. (1) As used in this section and sections 508 and
18 509, "PDR program" means a purchase of development rights program.

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

26 (3) A PDR program shall not acquire development rights by
27 condemnation. This section and sections 508 and 509 do not limit

1 any authority that may otherwise be provided by law for a local
2 unit of government to protect natural resources, preserve open
3 space, provide for historic preservation, or accomplish similar
4 purposes.

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

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

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

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

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

27 (c) The development rights authorized to be purchased subject

1 to a determination under standards and procedures required by
2 subdivision (d).

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

7 (i) Whether to purchase development rights.

8 (ii) Which development rights to purchase.

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

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

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

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

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

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

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

1 receipt of an application for the purchase of development rights
2 and shall notify each township, city, or village of the disposition
3 of that application.

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

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

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

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

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

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

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

22 (c) Grants.

23 (d) Donations.

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

25 (f) General fund revenue.

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

27 (h) Other sources approved by the legislative body and

1 permitted by law.

2 (2) The legislative body may borrow money and issue bonds or
3 notes under the revised municipal finance act, 2001 PA 34, MCL
4 141.2101 to 141.2821, subject to the general debt limit applicable
5 to the local unit of government. The bonds or notes may be revenue
6 bonds or notes, general obligation limited tax bonds or notes, or,
7 subject to section 6 of article IX of the state constitution of
8 1963, general obligation unlimited tax bonds or notes.

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

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

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

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

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

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

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

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

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

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

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

26 ARTICLE VI

27 ZONING BOARD OF APPEALS

1 Sec. 601. (1) In each local unit of government in which the
2 legislative body exercises the authority conferred by this act, the
3 legislative body shall appoint a zoning board of appeals. A zoning
4 board of appeals in existence on the effective date of this act may
5 continue to act as the zoning board of appeals subject to this act.

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

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

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

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

1 a member of the zoning board of appeals.

2 (6) The legislative body may appoint not more than 2 alternate
3 members for the same term as regular members to the zoning board of
4 appeals. An alternate member may be called as specified to serve as
5 a member of the zoning board of appeals in the absence of a regular
6 member if the regular member will be unable to attend 1 or more
7 meetings. An alternate member may also be called to serve as a
8 member for the purpose of reaching a decision on a case in which
9 the member has abstained for reasons of conflict of interest. The
10 alternate member appointed shall serve in the case until a final
11 decision is made. The alternate member has the same voting rights
12 as a regular member of the zoning board of appeals.

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

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

23 (9) The terms of office for members appointed to the zoning
24 board of appeals shall be for 3 years, except for members serving
25 because of their membership on the zoning commission or legislative
26 body, whose terms shall be limited to the time they are members of
27 those bodies. When members are first appointed, the appointments

1 may be for less than 3 years to provide for staggered terms. A
2 successor shall be appointed not more than 1 month after the term
3 of the preceding member has expired. Vacancies for unexpired terms
4 shall be filled for the remainder of the term.

5 (10) A zoning board of appeals shall not conduct business
6 unless a majority of the regular members of the zoning board of
7 appeals are present.

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

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

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

1 may be taken to the zoning board of appeals only if provided for in
2 the zoning ordinance.

3 (2) The concurring vote of a majority of the members of the
4 zoning board of appeals is necessary to reverse an order,
5 requirement, decision, or determination of the administrative
6 official or body, to decide in favor of the applicant on a matter
7 upon which the zoning board of appeals is required to pass under
8 the zoning ordinance, or to grant a variance in the zoning
9 ordinance.

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

18 (2) An appeal under this section shall be taken within such
19 time as shall be prescribed by the zoning board of appeals by
20 general rule, by the filing with the officer from whom the appeal
21 is taken and with the zoning board of appeals of a notice of appeal
22 specifying the grounds for the appeal. The body or officer from
23 whom the appeal is taken shall immediately transmit to the zoning
24 board of appeals all of the papers constituting the record upon
25 which the action appealed from was taken.

26 (3) An appeal to the zoning board of appeals stays all
27 proceedings in furtherance of the action appealed from unless the

1 body or officer from whom the appeal is taken certifies to the
2 zoning board of appeals after the notice of appeal is filed that,
3 by reason of facts stated in the certificate, a stay would in the
4 opinion of the body or officer cause imminent peril to life or
5 property, in which case proceedings may be stayed by a restraining
6 order issued by the zoning board of appeals or a circuit court.

7 (4) Following receipt of a written request concerning a
8 request for a variance, the zoning board of appeals shall fix a
9 reasonable time for the hearing of the request and give notice as
10 provided in section 103.

11 (5) Upon receipt of a written request seeking an
12 interpretation of the zoning ordinance or an appeal of an
13 administrative decision, a notice stating the time, date, and place
14 of the public hearing shall be published in a newspaper of general
15 circulation within the township and shall be sent to the person
16 requesting the interpretation not less than 15 days before the
17 public hearing. In addition, if the request for an interpretation
18 or appeal of an administrative decision involves a specific parcel,
19 written notice stating the nature of the interpretation request and
20 the time, date, and place of the public hearing on the
21 interpretation request shall be sent by first-class mail or
22 personal delivery to all persons to whom real property is assessed
23 within 300 feet of the boundary of the property in question and to
24 the occupants of all structures within 300 feet of the boundary of
25 the property in question. If a tenant's name is not known, the term
26 "occupant" may be used.

27 (6) At the hearing, a party may appear in person or by agent

1 or attorney. The zoning board of appeals may reverse or affirm,
2 wholly or partly, or modify the order, requirement, decision, or
3 determination and may issue or direct the issuance of a permit.

4 (7) If there are practical difficulties for nonuse variances
5 as provided in subsection (8) or unnecessary hardship for use
6 variances as provided in subsection (9) in the way of carrying out
7 the strict letter of the zoning ordinance, the zoning board of
8 appeals may grant a variance in accordance with this section, so
9 that the spirit of the zoning ordinance is observed, public safety
10 secured, and substantial justice done. The ordinance shall
11 establish procedures for the review and standards for approval of
12 all types of variances. The zoning board of appeals may impose
13 conditions as is otherwise allowed under this act.

14 (8) The zoning board of appeals of all local units of
15 government shall have the authority to grant nonuse variances
16 relating to the construction, structural changes, or alteration of
17 buildings or structures related to dimensional requirements of the
18 zoning ordinance or to any other nonuse-related standard in the
19 ordinance.

20 (9) The authority to grant variances from uses of land is
21 limited to the following:

22 (a) Cities and villages.

23 (b) Townships and counties that as of February 15, 2006 had an
24 ordinance that uses the phrase "use variance" or "variances from
25 uses of land" to expressly authorize the granting of use variances
26 by the zoning board of appeals.

27 (c) Townships and counties that granted a use variance before

1 February 15, 2006.

2 (10) The authority granted under subsection (9) is subject to
3 the zoning ordinance of the local unit of government otherwise
4 being in compliance with subsection (7) and having an ordinance
5 provision that requires a vote of 2/3 of the members of the zoning
6 board of appeals to approve a use variance.

7 (11) The authority to grant use variances under subsection (9)
8 is permissive, and this section shall not be construed to require a
9 local unit of government to adopt ordinance provisions to allow for
10 the granting of use variances.

11 Sec. 605. The decision of the zoning board of appeals shall be
12 final. A party aggrieved by the decision may appeal to the circuit
13 court for the county in which the property is located as provided
14 under section 606.

15 Sec. 606. (1) Any party aggrieved by a decision of the zoning
16 board of appeals may appeal to the circuit court for the county in
17 which the property is located. The circuit court shall review the
18 record and decision to ensure that the decision meets all of the
19 following requirements:

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

21 (b) Is based upon proper procedure.

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

24 (d) Represents the reasonable exercise of discretion granted
25 by law to the zoning board of appeals.

26 (2) If the court finds the record inadequate to make the
27 review required by this section or finds that additional material

1 evidence exists that with good reason was not presented, the court
2 shall order further proceedings on conditions that the court
3 considers proper. The zoning board of appeals may modify its
4 findings and decision as a result of the new proceedings or may
5 affirm the original decision. The supplementary record and decision
6 shall be filed with the court. The court may affirm, reverse, or
7 modify the decision.

8 (3) An appeal under this section shall be filed within 30 days
9 after the zoning board of appeals certifies its decision in writing
10 or approves the minutes of its decision. The court shall have
11 jurisdiction to make such further orders as justice may require. An
12 appeal may be had from the decision of any circuit court to the
13 court of appeals.

14 Sec. 607. (1) Any party aggrieved by any order, determination,
15 or decision of any officer, agency, board, commission, zoning board
16 of appeals, or legislative body of any local unit of government
17 made under section 208 may obtain a review in the circuit court for
18 the county in which the property is located. The review shall be in
19 accordance with section 606.

20 (2) Any person required to be given notice under section
21 604(4) of the appeal of any order, determination, or decision made
22 under section 208 shall be a proper party to any action for review
23 under this section.

24 ARTICLE VII

25 STATUTORY COMPLIANCE AND REPEALER

26 Sec. 701. (1) All meetings subject to this act shall be
27 conducted in compliance with the open meetings act, 1976 PA 267,

1 MCL 15.261 to 15.275.

2 (2) A writing prepared, owned, used, in the possession of, or
3 retained as required by this act shall be made available to the
4 public in compliance with the freedom of information act, 1976 PA
5 442, MCL 15.231 to 15.246.

6 Sec. 702. (1) The following acts and parts of acts are
7 repealed:

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

10 (b) The county zoning act, 1943 PA 183, MCL 125.201 to
11 125.240.

12 (c) The township zoning act, 1943 PA 184, MCL 125.271 to
13 125.310.

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

19 Enacting section 1. This act takes effect July 1, 2006.