

HOUSE BILL No. 4398

February 23, 2005, Introduced by Reps. Elsenheimer, Walker, Gaffney, Moore, Stakoe, Booher, Hildenbrand, Garfield, Baxter and Kahn and referred to the Committee on Local Government and Urban Policy.

A bill to regulate the development and use of land; to provide for the establishment in counties, townships, cities, and villages of zoning districts; to provide for the adoption of zoning ordinances; to provide for the assessment, levy, and collection of taxes and fees; to authorize the issuance of bonds and notes; to provide for special assessments; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "zoning enabling act".

3 Sec. 2. As used in this act:

4 (a) "Agricultural land" means substantially undeveloped land
5 devoted to the production of plants and animals, including, but not
6 limited to, forage and sod crops, grains, feed crops, dairy

1 products, poultry and poultry products, livestock, herbs, flowers,
2 seeds, grasses, nursery stock, fruits, vegetables, trees, and other
3 similar uses and activities.

4 (b) "Airport" means an airport licensed by the Michigan
5 department of transportation, bureau of aeronautics under section
6 86 of the aeronautics code of the state of Michigan, 1945 PA 327,
7 MCL 259.86.

8 (c) "Airport approach plan" means a plan, or an amendment to a
9 plan, adopted under section 12 of the airport zoning act, 1950 (Ex
10 Sess) PA 23, MCL 259.442, and filed with the zoning commission
11 under section 151 of the aeronautics code of the state of Michigan,
12 1945 PA 327, MCL 259.151.

13 (d) "Airport layout plan" means a plan, or an amendment to a
14 plan, that is approved by the Michigan aeronautics commission and
15 that is filed with the zoning commission under section 151 of the
16 aeronautics code of the state of Michigan, 1945 PA 327, MCL
17 259.151.

18 (e) "Airport manager" means that term as defined in section 10
19 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL
20 259.10.

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

26 (g) "Conservation easement" means that term as defined in
27 section 2140 of the natural resources and environmental protection

1 act, 1994 PA 451, MCL 324.2140.

2 (h) "Coordinating zoning committee" means a coordinating
3 zoning committee as described under section 12.

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

6 (j) "Development rights ordinance" means an ordinance, which
7 may comprise part of a zoning ordinance, adopted under section 24.

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

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

16 (m) "Intensity of development" means the height, bulk, area,
17 density, setback, use, and other similar characteristics of
18 development.

19 (n) "Legislative body" refers to the county board of
20 commissioners of a county, the board of trustees of a township, the
21 council of a city or village, or other similar duly elected
22 representative body of a county, township, city, or village.

23 (p) "Local unit of government" means a county, township, city,
24 or village.

25 (q) "Other eligible land" means land that has a common
26 property line with agricultural land from which development rights
27 have been purchased and is not divided from that agricultural land

1 by a state or federal limited access highway.

2 (r) "Population" means the population according to the most
3 recent federal decennial census or according to a special census
4 conducted under section 7 of the Glenn Steil state revenue sharing
5 act of 1971, 1971 PA 140, MCL 141.907, whichever is the more
6 recent.

7 (s) "State licensed residential facility" means a structure
8 constructed for residential purposes that is licensed by the state
9 under the adult foster care facility licensing act, 1978 PA 218,
10 MCL 400.701 to 400.737, or 1973 PA 116, MCL 722.111 to 722.128,
11 that provides resident services for 6 or fewer persons under 24-
12 hour supervision or care.

13 (t) "Undeveloped state" means a natural state preserving
14 natural resources, natural features, scenic or wooded conditions,
15 agricultural use, open space, or a similar use or condition. Land
16 in an undeveloped state does not include a golf course but may
17 include a recreational trail, picnic area, children's play area,
18 greenway, or linear park. Land in an undeveloped state may be, but
19 is not required to be, dedicated to the use of the public.

20 (u) "Zoning commission" means a zoning commission as described
21 under section 6.

22 (v) "Zoning jurisdiction" refers to the area encompassed by
23 the legal boundaries of a city or village or to the area
24 encompassed by the legal boundaries of a county or township outside
25 the limits of incorporated cities and villages. The zoning
26 jurisdiction of a county does not include the areas subject to
27 township zoning by a township that has adopted a zoning ordinance

1 under this act.

2 Sec. 3. (1) A local unit of government may provide by zoning
3 ordinance for the regulation of land development and the
4 establishment of 1 or more districts within its zoning jurisdiction
5 which regulate the use of land and structures as provided under
6 this act.

7 (2) A local unit of government may provide by ordinance for
8 the regulation of land development and the establishment of
9 districts which apply only to land areas and activities involved in
10 a special program to achieve specific land management objectives
11 and avert or solve specific land use problems.

12 (3) Ordinances regulating land development may also be adopted
13 designating or limiting the location, height, bulk, number of
14 stories, uses, and size of dwellings, buildings, and structures
15 that may be erected or altered, including tents and recreational
16 vehicles.

17 (4) The regulations shall be uniform for each class of land or
18 buildings, dwellings, and structures within a district.

19 (5) A zoning ordinance adopted under this act shall provide
20 for the use of a single-family residence by an occupant of that
21 residence for a home occupation to give instruction in a craft or
22 fine art within the residence. This subsection does not prohibit
23 the regulation of noise, advertising, traffic, hours of operation,
24 or other conditions that may accompany the use of a residence
25 described under this subsection.

26 (6) An ordinance adopted under this act is subject to the
27 electric transmission line certification act, 1995 PA 30, MCL

1 460.561 to 460.575.

2 (7) A county or township shall not regulate or control the
3 drilling, completion, or operation of oil or gas wells or other
4 wells drilled for oil or gas exploration purposes and shall not
5 have jurisdiction with reference to the issuance of permits for the
6 location, drilling, completion, operation, or abandonment of such
7 wells.

8 (8) A state licensed residential facility shall be considered
9 a residential use of property for the purposes of zoning and a
10 permitted use in all residential zones and is not subject to a
11 special use or conditional use permit or procedure different from
12 those required for other dwellings of similar density in the same
13 zone.

14 (9) Subsection (8) does not apply to adult foster care
15 facilities licensed by a state agency for care and treatment of
16 persons released from or assigned to adult correctional
17 institutions.

18 (10) A family day-care home is considered a residential use of
19 property for the purposes of zoning and a permitted use in all
20 residential zones and is not subject to a special use or
21 conditional use permit or procedure different from those required
22 for other dwellings of similar density in the same zone.

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

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

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

2 (ii) Another adult foster care small group home or large group
3 home licensed under the adult foster care facility licensing act,
4 1979 PA 218, MCL 400.701 to 400.737.

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

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

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

14 (c) Maintains the property consistent with the visible
15 characteristics of the neighborhood.

16 (d) Does not exceed 16 hours of operation during a 24-hour
17 period. The local unit of government may limit but not prohibit the
18 operation of a group day-care home between the hours of 10 p.m. and
19 6 a.m.

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

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

25 (12) A licensed or registered family or group day-care home
26 that operated before March 20, 1989 is not required to comply with
27 the requirements of this section.

1 (13) The requirements of this section shall not prevent a
2 local unit of government from inspecting and enforcing a family or
3 group day-care home for the home's compliance with the local unit
4 of government's zoning ordinance, if the ordinance is not more
5 restrictive for that home than 1973 PA 116, MCL 722.111 to 722.128.

6 (14) The subsequent establishment of any of the facilities
7 listed in subsection (11)(a)(i) to (iv) will not affect any
8 subsequent special use permit renewal, conditional use permit
9 renewal, or other similar permit renewal pertaining to the group
10 day-care home.

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

16 (16) The distances specified in subsections (11)(a) and (14)
17 shall be measured along a road, street, or place maintained by this
18 state or a local unit of government and generally open to use by
19 the public as a matter of right for the purpose of vehicular
20 traffic, not including an alley.

21 Sec. 4. (1) The legislative body may proceed with the adoption
22 of a zoning ordinance containing land development regulations and
23 establishing zoning districts under this act upon appointment of a
24 zoning commission as provided in section 6.

25 (2) The legislative body may appoint a zoning commission for
26 purposes of formulating a zoning ordinance on its own initiative or
27 upon receipt of a petition requesting that action.

1 (3) Upon receipt of a petition signed by 8% of the persons who
2 are residents and property owners in the zoning jurisdiction filed
3 with the clerk of the local unit of government requesting the
4 legislative body to appoint a zoning commission for purposes of
5 formulating a zoning ordinance, the legislative body, at the next
6 regular meeting, shall vote upon whether to initiate action under
7 this act. Upon a majority vote of its membership, the legislative
8 body shall proceed to formulate a zoning ordinance under this act.

9 Sec. 5. (1) The zoning ordinance shall be based upon a plan
10 designed to promote the public health, safety, and general welfare,
11 to encourage the use of lands in accordance with their character
12 and adaptability, to limit the improper use of land, to conserve
13 natural resources and energy, to meet the needs of the state's
14 residents for food, fiber, and other natural resources, places of
15 residence, recreation, industry, trade, service, and other uses of
16 land, to insure that uses of the land shall be situated in
17 appropriate locations and relationships, to avoid the overcrowding
18 of population, to provide adequate light and air, to lessen
19 congestion on the public roads and streets, to reduce hazards to
20 life and property, to facilitate adequate provision for a system of
21 transportation, sewage disposal, safe and adequate water supply,
22 education, recreation, and other public requirements, and to
23 conserve the expenditure of funds for public improvements and
24 services to conform with the most advantageous uses of land,
25 resources, and properties. The zoning ordinance shall be made with
26 reasonable consideration to the character of each district, its
27 peculiar suitability for particular uses, the conservation of

1 property values and natural resources, and the general and
2 appropriate trend and character of land, building, and population
3 development.

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

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

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

14 (b) Comments received at or before a public hearing under
15 section 11 or 13 from the airport manager of any airport.

16 (4) If a zoning ordinance was adopted before March 28, 2001,
17 the zoning ordinance is not required to be consistent with any
18 airport zoning regulations, airport layout plan, or airport
19 approach plan. A zoning ordinance amendment adopted or variance
20 granted after March 28, 2001 shall not increase any inconsistency
21 that may exist between the zoning ordinance or structures or uses
22 and any airport zoning regulations, airport layout plan, or airport
23 approach plan. This section does not limit the right to petition
24 for submission of a zoning ordinance amendment to the electors
25 under section 14 within a county or township or the right to file a
26 protest petition concerning a zoning ordinance amendment under
27 section 16(2) within a city or village.

1 Sec. 6. (1) In each local unit of government in which the
2 legislative body exercises the authority conferred by this act,
3 there shall be a permanent zoning commission.

4 (2) The zoning commission shall be the planning commission of
5 the local unit of government if any of the following apply:

6 (a) For a county, the legislative body has transferred the
7 powers of the zoning commission to the planning commission under
8 section 6(2) of 1945 PA 282, MCL 125.106.

9 (b) For a township, the legislative body has transferred the
10 powers of the zoning commission to the planning commission under
11 section 11 of 1959 PA 168, MCL 125.331.

12 (c) For a city or village, the legislative body has
13 transferred the powers of the zoning commission to the planning
14 commission under section 12 of 1931 PA 285, MCL 125.42.

15 (3) If subsection (2) does not apply, the zoning commission
16 shall be composed of the following:

17 (a) For a county, the zoning commission shall be composed of
18 not fewer than 5 members appointed by the legislative body. Two of
19 the members of the zoning commission shall be recommended for
20 membership by the legislative bodies of townships that are, or
21 shall be, subject to the county zoning ordinance. This requirement
22 may be met as vacancies occur on zoning commissions that exist on
23 the effective date of this act. The legislative body of the county
24 may provide by resolution for a zoning commission composed of not
25 more than 11 members.

26 (b) For a township, the zoning commission shall be composed of
27 not fewer than 4 members appointed by the legislative body. The

1 legislative body may provide by resolution for a zoning commission
2 composed of not more than 7 members.

3 (c) For a city or village, the zoning commission shall be
4 composed of not fewer than 5 members appointed by the legislative
5 body. The legislative body may provide by resolution for a zoning
6 commission composed of not more than 7 members.

7 (4) The members of the zoning commission shall be selected
8 upon the basis of the members' qualifications and fitness to serve
9 as members of a zoning commission and without consideration of
10 their political activities.

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

14 (a) One group for 1 year.

15 (b) One group for 2 years.

16 (c) One group for 3 years.

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

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

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

1 body.

2 (9) The legislative body shall provide for the removal of a
3 member of the zoning commission for misfeasance, malfeasance or
4 nonfeasance in office upon written charges and after public
5 hearing.

6 Sec. 7. (1) The zoning commission shall hold a minimum of 2
7 regular meetings annually, giving notice of the time and place by
8 publication in a newspaper of general circulation in the county,
9 township, city, or village. Notice shall be given not less than 15
10 days before the meeting. Any person having interests in the county,
11 township, city, or village, or his or her duly appointed
12 representative, shall be heard at the meetings relative to any
13 matters that should properly come before the zoning commission.

14 (2) The zoning commission shall elect from its members a
15 chairperson, a secretary, and other officers or committees it
16 considers necessary and may engage any employees, including for
17 technical assistance, it requires. The election of officers shall
18 be held not less than once in every 2-year period.

19 Sec. 8. Members of the zoning commission shall be reimbursed
20 for reasonable expenses actually incurred in the discharge of their
21 duties and may receive compensation as fixed by the legislative
22 body.

23 Sec. 9. The zoning commission shall adopt and file with the
24 legislative body the following recommendations:

25 (a) A zone plan for the unincorporated areas of the local unit
26 of government.

27 (b) The establishment of zoning districts, including the

1 boundaries of those districts.

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

5 (d) The manner of administering and enforcing the zoning
6 ordinance.

7 Sec. 10. (1) With the approval of the legislative body, the
8 zoning commission may engage the services of a planning expert.
9 Compensation for the planning expert shall be paid by the
10 legislative body.

11 (2) The zoning commission shall consider any information and
12 recommendations furnished by appropriate public officials,
13 departments, or agencies.

14 Sec. 11. (1) Before submitting its recommendations for a
15 proposed zoning ordinance to the legislative body, the zoning
16 commission shall hold at least 1 public hearing. Notice of the time
17 and place of the public hearing shall be given by publication in a
18 newspaper of general circulation not less than 15 days before the
19 date of the hearing.

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

27 (3) The notices required under this section shall include the

1 places and times at which the proposed text and any maps of the
2 zoning ordinance may be examined.

3 Sec. 12. (1) Following the hearing required in section 9, a
4 township shall submit for review and recommendation the proposed
5 zoning ordinance, including any zoning maps, to the zoning
6 commission of the county in which the township is situated if a
7 county zoning commission has been appointed under section 4 or to
8 the county planning commission appointed under 1945 PA 282, MCL
9 125.101 to 125.115.

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

18 (3) The county will have waived its right for review and
19 recommendation of an ordinance if the recommendation of the county
20 zoning commission, planning commission, or coordinating zoning
21 committee has not been received by the township within 30 days
22 after receipt of the ordinance by the county.

23 (4) The legislative body of a county by resolution may waive
24 the county review of township ordinances and amendments required by
25 this section.

26 Sec. 13. (1) Following the required public hearing, the zoning
27 commission shall transmit a summary of comments received at the

1 hearing and its proposed zoning ordinance, including any zoning
2 maps, to the legislative body of the local unit of government. The
3 legislative body may hold additional public hearings if it
4 considers it necessary or as may otherwise be required.

5 (2) Not less than 15 days before the public hearing, notice of
6 a hearing to be held by the legislative body shall be published in
7 a newspaper that circulates within the area to be affected by the
8 proposed ordinance.

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

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

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

20 (6) Subject to section 14, a zoning ordinance for a county or
21 township shall take effect upon the expiration of 7 days after
22 publication as required by this section or at such later date after
23 publication as may be specified by the legislative body.

24 (7) Following adoption of a zoning ordinance and any
25 subsequent amendments by the legislative body and, for a county,
26 following the approval by the department of labor and economic
27 growth, the zoning ordinance or subsequent amendments shall be

1 filed with the clerk of the legislative body, and a notice of
2 ordinance adoption shall be published in a newspaper of general
3 circulation in the local unit of government within 15 days after
4 adoption.

5 (8) A copy of the notice required under subsection (7) shall
6 be mailed to the airport manager of an airport entitled to notice
7 under section 11(2).

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

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

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

18 (c) The effective date of the ordinance.

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

21 (10) The filing and publication requirements in this section
22 supersede any other statutory requirements relating to the filing
23 and publication of county, township, city, or village ordinances.

24 (11) After the adoption of a zoning ordinance by the
25 legislative body of a county, the ordinance, including zoning maps,
26 signed by the chairperson of the legislative body and certified by
27 the county clerk, shall be submitted to the department of labor and

1 economic growth for approval. Unless the department notifies the
2 county clerk of its disapproval within 30 days from the date it
3 receives the zoning ordinance, the ordinance shall be considered
4 approved. Disapproval of a county zoning ordinance shall be based
5 upon noncompliance or conflict with either state or federal law or
6 administrative rule or regulation or a decision of a state or
7 federal court.

8 Sec. 14. (1) Within 7 days after publication of a zoning
9 ordinance by a county or township under section 13, a registered
10 elector residing in the zoning jurisdiction of the county or
11 township may file with the clerk of the legislative body a notice
12 of intent to file a petition under this section.

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

23 (3) Upon the filing of a notice of intent under subsection
24 (1), the zoning ordinance or part of the zoning ordinance adopted
25 by the legislative body shall not take effect until 1 of the
26 following occurs:

27 (a) The expiration of 30 days after publication of the

1 ordinance, if a petition is not filed within that time.

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

5 (c) If a petition is filed within 30 days after publication of
6 the ordinance, the clerk of the legislative body determines that
7 the petition is adequate and the ordinance or part of the ordinance
8 is approved by a majority of the registered electors residing in
9 the zoning jurisdiction voting at the next regular election or at
10 any special election called for that purpose. The legislative body
11 shall provide the manner of submitting the zoning ordinance or part
12 of the zoning ordinance to the electors for their approval or
13 rejection and determining the result of the election.

14 (4) A petition under this section is subject to section 488 of
15 the Michigan election law, 1954 PA 116, MCL 168.488.

16 Sec. 15. Following the enactment of the zoning ordinance, the
17 zoning commission shall at least once per year prepare for the
18 legislative body a report on the administration and enforcement of
19 the zoning ordinance and recommendations for amendments or
20 supplements to the ordinance.

21 Sec. 16. (1) Amendments or supplements to the zoning ordinance
22 shall be made in the same manner as provided under this act for the
23 enactment of the original ordinance.

24 (2) If an individual property or several adjacent properties
25 are proposed for rezoning, the zoning commission shall give a
26 notice of the proposed rezoning to the owner of the property in
27 question, to all persons owning real property within 300 feet of

1 the property in question, and to the occupants of single- and 2-
2 family dwellings within 300 feet of the property in question.

3 (3) The notice required under this section shall be delivered
4 personally or by mail to the respective owners and tenants at the
5 address given in the last assessment roll. If the tenant's name is
6 not known, the term "occupant" may be used. If the notice is
7 delivered by mail, an affidavit of mailing shall be filed with the
8 zoning commission before the hearing. The notice shall be made not
9 less than 15 days before the hearing and shall state the time,
10 place, date, and purpose of the hearing.

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

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

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

25 (5) Publicly owned land shall be excluded in calculating the
26 20% land area requirement under subsection (4).

27 Sec. 17. (1) To protect the public health, safety, and general

1 welfare of the inhabitants of a county or township and the lands
2 and resources of the county or township during the period required
3 for the preparation and enactment of a zoning ordinance under this
4 act, the legislative body of a county or township may direct the
5 zoning commission to submit, within a specified period of time,
6 recommendations as to the provisions of an interim zoning
7 ordinance.

8 (2) Before presenting its recommendations to the legislative
9 body, the zoning commission of a county shall submit the interim
10 zoning ordinance, or an amendment to the interim zoning ordinance,
11 to the department of labor and economic growth for approval. Unless
12 the department notifies the county clerk of its disapproval within
13 30 days from the date it receives the zoning ordinance, the
14 ordinance shall be considered approved. Disapproval of a county
15 zoning ordinance shall be based upon noncompliance or conflict with
16 either state or federal law or administrative rule or regulation or
17 a decision of a state or federal court.

18 (3) Before presenting its recommendations to the legislative
19 body, the zoning commission of a township shall submit the interim
20 zoning ordinance, or an amendment to the ordinance, to the county
21 zoning commission or the coordinating zoning committee, for the
22 purpose of coordinating the zoning ordinance with the zoning
23 ordinances of a township, city, or village having a common boundary
24 with the township. Unless the township clerk is notified of a
25 disapproval within 30 days from the date the zoning ordinance is
26 submitted, the ordinance shall be considered approved.

27 (4) After approval, the legislative body, by majority vote of

1 its members, may give the interim ordinance or amendments to the
2 ordinance immediate effect. An interim ordinance and subsequent
3 amendments shall be filed and published as required under section
4 13. The interim ordinance, including any amendments, shall be
5 limited to 1 year from the effective date. The legislative body may
6 by resolution extend the interim ordinance, and any amendments, for
7 up to 1 additional year. Any extensions under this subsection shall
8 not exceed 3 years from the original effective date.

9 (5) The interim ordinance adopted by a county, including any
10 amendments, shall be filed with the county clerk and the department
11 of labor and economic growth.

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

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

26 (3) The legislative body may acquire, by purchase,
27 condemnation, or otherwise, private property or an interest in

1 private property for the removal of nonconforming uses and
2 structures. The legislative body may provide that the cost and
3 expense of acquiring private property may be paid from general
4 funds or assessed to a special district in accordance with the
5 applicable statutory provisions relating to the creation and
6 operation of special assessment districts for public improvements
7 in local units of government.

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

13 Sec. 19. (1) Subject to subsection (4) and section 14, each
14 qualified local unit of government shall provide in its zoning
15 ordinance that land zoned for residential development may be
16 developed, at the option of the land owner, with the same number of
17 dwelling units on a portion of the land specified in the zoning
18 ordinance, but not more than 50%, that, as determined by the local
19 unit of government, could otherwise be developed, under existing
20 ordinances, laws, and rules, on the entire land area, if all of the
21 following apply:

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

25 (b) A percentage of the land area specified in the zoning
26 ordinance, but not less than 50%, will remain perpetually in an
27 undeveloped state by means of a conservation easement, plat

1 dedication, restrictive covenant, or other legal means that runs
2 with the land, as prescribed by the zoning ordinance.

3 (c) The development does not depend upon the extension of a
4 public sewer or public water supply system, unless development of
5 the land without the exercise of the option provided by this
6 subsection would also depend upon the extension.

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

9 (2) After a land owner exercises the option provided under
10 subsection (1), the land may be rezoned accordingly.

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

17 (4) Subsection (1) does not apply to a qualified local unit of
18 government if both of the following requirements are met:

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

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

27 (ii) If the land owner exercises the option provided by

1 subparagraph (i), the portion of the land not developed will remain
2 perpetually in an undeveloped state by means of a conservation
3 easement, plat dedication, restrictive covenant, or other legal
4 means that runs with the land.

5 (b) On or before December 15, 2001, a land owner exercised the
6 option provided under the zoning ordinance provision referred to in
7 subdivision (a) with at least 50% of the land area remaining
8 perpetually in an undeveloped state.

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

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

15 (a) Has adopted a zoning ordinance.

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

17 (c) Has land that is not developed and that is zoned for
18 residential development at a density described in subsection
19 (1)(a).

20 Sec. 20. (1) The legislative body may provide in a zoning
21 ordinance for special land uses in a zoning district after review
22 and approval by the zoning commission, the planning commission, an
23 official charged with administering the zoning ordinance, or the
24 legislative body. In allowing special land uses, the zoning
25 ordinance shall specify all of the following:

26 (a) The special land uses and activities eligible for approval
27 and the entity or individual responsible for reviewing and granting

1 approval.

2 (b) The requirements and standards for approving a request for
3 a special land use.

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

6 (2) Upon receipt of an application for a special land use, the
7 local unit of government shall publish notice of the request in a
8 newspaper of general circulation in the local unit of government.
9 Notice shall also be sent by mail or personal delivery to the
10 owners of property for which approval is being considered, to all
11 persons to whom real property is assessed within 300 feet of the
12 property, and to the occupants of all structures within 300 feet of
13 the property. The notice shall be given not less than 15 days
14 before the date the application will be considered for approval. If
15 the name of the occupant is not known, the term "occupant" may be
16 used in making notification under this subsection. The notice shall
17 do all of the following:

18 (a) Describe the nature of the special land use request.

19 (b) Indicate the property that is the subject of the special
20 land use request.

21 (c) State when and where the special land use report will be
22 considered.

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

25 (e) Indicate that a public hearing on the special land use
26 request may be requested by any property owner or the occupant of
27 any structure located within 300 feet of the property being

1 considered for a special land use.

2 (3) At the initiative of the entity or individual responsible
3 for approving the special land use or upon the request of the
4 applicant, a property owner, or the occupant of a structure located
5 within 300 feet of the property, a public hearing shall be held
6 before a decision is made on the special land use request.

7 (4) The entity or individual designated in the zoning
8 ordinance to review and approve special land uses may deny,
9 approve, or approve with conditions a request for special land use.
10 The decision on a special land use shall be incorporated in a
11 statement of conclusions relative to the special land use which
12 specifies the basis for the decision and any conditions imposed.

13 Sec. 21. (1) As used in this section, "planned unit
14 development" includes such terms as cluster zoning, planned
15 development, community unit plan, and planned residential
16 development and other terminology denoting zoning requirements
17 designed to accomplish the objectives of the zoning ordinance
18 through a land development project review process based on the
19 application of site planning criteria to achieve integration of the
20 proposed land development project with the characteristics of the
21 project area.

22 (2) The legislative body may establish planned unit
23 development requirements in a zoning ordinance that permit
24 flexibility in the regulation of land development, encourage
25 innovation in land use and variety in design, layout, and type of
26 structures constructed, achieve economy and efficiency in the use
27 of land, natural resources, energy, and the provision of public

1 services and utilities, encourage useful open space, and provide
2 better housing, employment, and shopping opportunities particularly
3 suited to the needs of the residents of this state. The review and
4 approval of planned unit developments shall be by the zoning
5 commission, an individual charged with administration of the zoning
6 ordinance, or the legislative body, as specified in the zoning
7 ordinance.

8 (3) Within a land development project designated as a planned
9 unit development, regulations relating to the use of land,
10 including, but not limited to, permitted uses, lot sizes, setbacks,
11 height limits, required facilities, buffers, open space areas, and
12 land use density, shall be determined in accordance with the
13 planned unit development regulations specified in the zoning
14 ordinance. The planned unit development regulations need not be
15 uniform with regard to each type of land use if equitable
16 procedures recognizing due process principles and avoiding
17 arbitrary decisions are followed in making regulatory decisions.

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

20 (a) The entity or individual responsible for the review and
21 approval of planned unit development requests.

22 (b) The conditions that create planned unit development
23 eligibility, the participants in the review process, and the
24 requirements and standards upon which applicants will be reviewed
25 and approval granted.

26 (c) The procedures required for application, review, and
27 approval.

1 (5) Following receipt of a request to approve a planned unit
2 development, the entity or individual responsible for the review
3 and approval of planned unit developments shall hold at least 1
4 public hearing on the request. A zoning ordinance may provide for
5 preapplication conferences before submission of a planned unit
6 development request and the submission of preliminary site plans
7 before the public hearing. Notification of the public hearing shall
8 be given in the same manner as required under section 20 for public
9 hearings on a request for a special land use. Within a reasonable
10 time following the public hearing, the entity or individual
11 responsible for approving planned unit developments shall meet for
12 final consideration of the request and deny, approve, or approve
13 with conditions the request. The entity or individual shall prepare
14 a report stating its decision and the basis for its decision. If
15 amendment of a zoning ordinance is required by the planned unit
16 development regulations of a zoning ordinance, the requirements of
17 this act for amendment of a zoning ordinance shall be followed,
18 except that the hearing and notice required by this subsection
19 shall be regarded as fulfilling the public hearing and notice
20 requirements of section 11.

21 (6) If the planned unit development regulations of a zoning
22 ordinance do not require amendment of the zoning ordinance to
23 authorize a planned unit development, the entity or individual
24 responsible for review and approval may approve, approve with
25 conditions, or deny a request.

26 (7) Final approval may be granted on each phase of a
27 multiphased planned unit development if each phase contains the

1 necessary components to insure protection of natural resources and
2 the health, safety, and welfare of the users of the planned unit
3 development and the residents of the surrounding area.

4 (8) In establishing planned unit development requirements, a
5 local unit of government may incorporate by reference other
6 ordinances or statutes which regulate land development. The planned
7 unit development regulations contained in zoning ordinances shall
8 encourage complementary relationships between zoning regulations
9 and other regulations affecting the development of land.

10 Sec. 22. (1) As used in this section and sections 23 and 24,
11 "PDR" means a purchase of development rights program.

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

19 (3) A PDR shall not acquire development rights by
20 condemnation. This section and sections 23 and 24 do not limit any
21 authority that may otherwise be provided by law for a local unit of
22 government to protect natural resources, preserve open space,
23 provide for historic preservation, or accomplish similar purposes.

24 (4) A legislative body shall not establish, finance, or
25 administer a PDR unless the legislative body adopts a development
26 rights ordinance. If the local unit of government has a zoning
27 ordinance, the development rights ordinance may be adopted as part

1 of the zoning ordinance under the procedures for a zoning ordinance
2 under this act. A local unit of government may adopt a development
3 rights ordinance in the same manner as required for a zoning
4 ordinance.

5 (5) A legislative body may enter into PDR agreements with
6 other local units of government subject to applicable development
7 rights ordinances and similar ordinances of the contracting local
8 units of government.

9 Sec. 23. (1) A development rights ordinance shall provide for
10 a PDR. Under a PDR, the local unit of government purchases
11 development rights, but only from a willing landowner. A
12 development rights ordinance providing for a PDR shall specify all
13 of the following:

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

16 (b) The procedure by which the local unit of government or a
17 landowner may by application initiate purchase of development
18 rights.

19 (c) The development rights authorized to be purchased subject
20 to a determination under standards and procedures required by
21 subdivision (d).

22 (d) The standards and procedures to be followed by the
23 legislative body for approving, modifying, or rejecting an
24 application to purchase development rights, including the
25 determination of all the following:

26 (i) Whether to purchase development rights.

27 (ii) Which development rights to purchase.

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

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

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

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

11 (2) If the local unit of government has a zoning ordinance,
12 the purchase of development rights shall be consistent with the
13 plan referred to in section 5 upon which the zoning ordinance is
14 based.

15 (3) Development rights acquired under a PDR may be conveyed
16 only as provided under subsection (1)(e).

17 (4) A county shall notify each township, city, or village, and
18 a township shall notify each village, in which is located land from
19 which development rights are proposed to be purchased of the
20 receipt of an application for the purchase of development rights
21 and shall notify each such township, city, or village of the
22 disposition of that application.

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

27 (a) The development rights ordinance provisions for the PDR

1 are consistent with the plan upon which the township, city, or
2 village zoning is based.

3 (b) The legislative body of the township, city, or village
4 adopts a resolution authorizing the PDR to apply in the township,
5 city, or village.

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

9 Sec. 24. (1) A PDR may be financed through 1 or more of the
10 following sources:

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

12 (b) Proceeds from the sale of development rights by the local
13 unit of government subject to section 23(3).

14 (c) Grants.

15 (d) Donations.

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

17 (f) General fund revenue.

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

19 (h) Other sources approved by the legislative body and
20 permitted by law.

21 (2) The legislative body may borrow money and issue bonds or
22 notes under the revised municipal finance act, 2001 PA 34, MCL
23 141.2101 to 141.2821, subject to the general debt limit applicable
24 to the local unit of government. The bonds or notes may be revenue
25 bonds or notes; general obligation limited tax bonds or notes; or,
26 subject to section 6 of article IX of the state constitution of
27 1963, general obligation unlimited tax bonds or notes.

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

13 (4) Bonds or notes issued under this section are exempt from
14 all taxation in this state except inheritance and transfer taxes,
15 and the interest on the bonds or notes is exempt from all taxation
16 in this state.

17 (5) The bonds and notes issued under this section may be
18 invested in by the state treasurer and all other public officers,
19 state agencies, and political subdivisions, insurance companies,
20 financial institutions, investment companies, and fiduciaries and
21 trustees and may be deposited with and received by the state
22 treasurer and all other public officers and the agencies and
23 political subdivisions of this state for all purposes for which the
24 deposit of bonds or notes is authorized. The authority granted by
25 this section is in addition to all other authority granted by law.

26 (6) A development rights ordinance may authorize the
27 legislative body to finance a PDR by special assessments. In

1 addition to meeting the requirements of section 23, the development
2 rights ordinance shall include in the procedure to approve and
3 establish a special assessment district both of the following:

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

6 (i) A description of the development rights to be purchased,
7 including a legal description of the land from which the purchase
8 is to be made.

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

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

12 (iv) The amount and duration of the proposed special
13 assessments.

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

17 Sec. 25. (1) Within a local unit of government exercising the
18 authority granted by this act, an owner of land may voluntarily
19 offer in writing, and the local unit of government may approve,
20 certain use and development of the land as a condition to a
21 rezoning of the 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. 26. (1) If the zoning ordinance authorizes the
13 consideration and approval of special land uses or planned unit
14 developments under section 20 or 21 or otherwise provides for
15 discretionary decisions, the regulations and standards upon which
16 those decisions are made shall be specified in the zoning
17 ordinance.

18 (2) The standards shall be consistent with and promote the
19 intent and purpose of the zoning ordinance and shall insure that
20 the land use or activity authorized shall be compatible with
21 adjacent uses of land, the natural environment, and the capacities
22 of public services and facilities affected by the land use. The
23 standards shall also insure that the land use or activity is
24 consistent with the public health, safety, and welfare of the local
25 unit of government.

26 (3) A request for approval of a land use or activity shall be
27 approved if the request is in compliance with the standards stated

1 in the zoning ordinance, the conditions imposed under the zoning
2 ordinance, other applicable ordinances, and state and federal
3 statutes.

4 (4) Reasonable conditions may be required with the approval of
5 a special land use, planned unit development, or other land uses or
6 activities permitted by discretionary decision. The conditions may
7 include conditions necessary to insure that public services and
8 facilities affected by a proposed land use or activity will be
9 capable of accommodating increased service and facility loads
10 caused by the land use or activity, to protect the natural
11 environment and conserve natural resources and energy, to insure
12 compatibility with adjacent uses of land, and to promote the use of
13 land in a socially and economically desirable manner. Conditions
14 imposed shall meet all of the following requirements:

15 (a) Be designed to protect natural resources, the health,
16 safety, and welfare, as well as the social and economic well-being,
17 of those who will use the land use or activity under consideration,
18 residents and landowners immediately adjacent to the proposed land
19 use or activity, and the community as a whole.

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

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

26 (5) The conditions imposed with respect to the approval of a
27 land use or activity shall be recorded in the record of the

1 approval action and remain unchanged except upon the mutual consent
2 of the approving authority and the landowner.

3 The approving authority shall maintain a record of conditions which
4 are changed.

5 Sec. 27. (1) As used in this section, "site plan" includes the
6 documents and drawings required by the zoning ordinance to insure
7 that a proposed land use or activity is in compliance with local
8 ordinances and state and federal statutes.

9 (2) The local unit of government may require the submission
10 and approval of a site plan before authorization of a land use or
11 activity regulated by a zoning ordinance. The zoning ordinance
12 shall specify the entity or individual responsible for reviewing
13 site plans and granting approval.

14 (3) If a zoning ordinance requires site plan approval, the
15 site plan, as approved, shall become part of the record of
16 approval, and subsequent actions relating to the activity
17 authorized shall be consistent with the approved site plan, unless
18 a change conforming to the zoning ordinance receives the mutual
19 agreement of the landowner and the entity or individual that
20 initially approved the site plan.

21 (4) The procedures and requirements for the submission and
22 approval of site plans shall be specified in the zoning ordinance.
23 Site plan submission, review, and approval shall be required for
24 special land uses and planned unit developments. Decisions
25 rejecting, approving, or conditionally approving a site plan shall
26 be based upon requirements and standards contained in the zoning
27 ordinance, other planning documents, other applicable ordinances,

1 and state and federal statutes.

2 (5) A site plan shall be approved if it contains the
3 information required by the zoning ordinance and the conditions
4 imposed under the zoning ordinance, other local unit of government
5 planning documents, other applicable ordinances, and state and
6 federal statutes.

7 Sec. 28. (1) As used in this section, "improvements" means
8 those features and actions associated with a project that are
9 considered necessary by the entity or individual granting zoning
10 approval to protect natural resources or the health, safety, and
11 welfare of the residents of a local unit of government and future
12 users or inhabitants of the proposed project or project area,
13 including roadways, lighting, utilities, sidewalks, screening, and
14 drainage. Improvements do not include the entire project that is
15 the subject of zoning approval.

16 (2) To insure compliance with a zoning ordinance and any
17 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 (3) 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 1967 PA 288, MCL
6 560.101 to 560.293.

7 Sec. 29. (1) The legislative body may require the payment of
8 reasonable fees for zoning permits as a condition to the granting
9 of authority to use, erect, alter, or locate dwellings, buildings,
10 and structures, including tents and recreational vehicles, within a
11 zoning district established under this act.

12 (2) A county or township may levy a sufficient tax, in
13 addition to other taxes authorized by law, upon the real and
14 personal property subject to taxation in the county or township.
15 When the taxes or fees are collected, they shall be applied to the
16 payment of any indebtedness incurred by the county or township
17 subject to this act and to no other purpose. The taxes assessed,
18 levied, and collected under this act shall not cause the limit of
19 taxes established by law to be exceeded.

20 Sec. 30. (1) In each local unit of government in which the
21 legislative body exercises the authority conferred by this act, the
22 legislative body shall appoint a zoning board of appeals.

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

26 (3) In appointing a zoning board of appeals, membership of
27 that board shall be composed of not fewer than 5 members if the

1 local unit of government has a population of 5,000 or more and not
2 fewer than 3 members if the local unit of government has a
3 population of less than 5,000. The number of members of the zoning
4 board of appeals shall be specified in the zoning ordinance. One of
5 the appointed members of the zoning board of appeals shall be a
6 member of the zoning commission or of the planning commission if
7 the duties and responsibilities of the zoning commission have been
8 transferred to the planning commission.

9 (4) The remaining members, and any alternate members, shall be
10 selected from the electors of the local unit of government residing
11 within the zoning jurisdiction of that government. The members
12 selected shall be representative of the population distribution and
13 of the various interests present in the local unit of government.

14 (5) One member may be a member of the legislative body. An
15 elected officer of the local unit of government shall not serve as
16 chairperson of the zoning board of appeals. An employee or
17 contractor of the legislative body may not serve as a member of the
18 zoning board of appeals.

19 (6) The legislative body may appoint not more than 2 alternate
20 members for the same term as regular members to the zoning board of
21 appeals. An alternate member may be called as specified to serve as
22 a member of the zoning board of appeals in the absence of a regular
23 member if the regular member is absent from or will be unable to
24 attend 2 or more consecutive meetings or for a period of more than
25 30 consecutive days. An alternate member may also be called to
26 serve as a member for the purpose of reaching a decision on a case
27 in which the member has abstained for reasons of conflict of

1 interest. The alternate member appointed shall serve in the case
2 until a final decision is made. The alternate member has the same
3 voting rights as a regular member of the zoning board of appeals.

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

7 (8) A member of the zoning board of appeals may be removed by
8 the legislative body for misfeasance, malfeasance, or nonfeasance
9 in office upon written charges and after public hearing. A member
10 shall disqualify himself or herself from a vote in which the member
11 has a conflict of interest. Failure of a member to disqualify
12 himself or herself from a vote in which the member has a conflict
13 of interest constitutes misconduct in office.

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

23 (10) A zoning board of appeals shall not conduct business
24 unless a majority of the regular members of the zoning board of
25 appeals are present.

26 Sec. 31. (1) Meetings of the zoning board of appeals shall be
27 held at the call of the chairperson and at other times as the

1 zoning board of appeals in its rules of procedure may specify. The
2 chairperson or, in his or her absence, the acting chairperson may
3 administer oaths and compel the attendance of witnesses.

4 (2) All meetings of the zoning board of appeals and all
5 business that the zoning board of appeals may perform shall be
6 conducted at a public hearing held in compliance with the open
7 meetings act, 1976 PA 267, MCL 15.261 to 15.275.

8 (3) A writing prepared, owned, used, in the possession of, or
9 retained by the zoning board of appeals in the performance of an
10 official function shall be made available to the public in
11 compliance with the freedom of information act, 1976 PA 442, MCL
12 15.231 to 15.246. The zoning board of appeals shall maintain a
13 record of its proceedings which shall be filed in the office of the
14 clerk of the legislative body and shall be available to the public.

15 Sec. 32. (1) The zoning board of appeals shall hear and decide
16 questions that arise in the administration of the zoning ordinance,
17 including the interpretation of the zoning maps, and may adopt
18 rules to govern its procedures sitting as a zoning board of
19 appeals. The zoning board of appeals shall also hear and decide on
20 matters referred to the zoning board of appeals or upon which the
21 zoning board of appeals is required to pass under a zoning
22 ordinance adopted under this act. It shall hear and decide appeals
23 from and review any administrative order, requirement, decision, or
24 determination made by an administrative official or body charged
25 with enforcement of a zoning ordinance adopted under this act. For
26 special land use and planned unit development decisions, an appeal
27 may be taken to the zoning board of appeals only if provided for in

1 the zoning ordinance.

2 (2) Decisions by the zoning board of appeals under this
3 section shall be made as follows:

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

11 (b) In a city or village having a population of less than
12 750,000, the concurring vote of a majority of the members of the
13 zoning board of appeals is necessary to reverse an order,
14 requirement, decision, or determination of an administrative
15 official or body in favor of the applicant on a matter upon which
16 the zoning board of appeals is required to pass under a zoning
17 ordinance or to grant a variance in a zoning ordinance, except that
18 a concurring vote of 2/3 of the members of the zoning board of
19 appeals is necessary to grant a variance from uses of land
20 permitted in the zoning ordinance.

21 (c) In a city having a population of 750,000 or more, the
22 concurring vote of 2/3 of the members of the zoning board of
23 appeals is necessary to reverse an order, requirement, decision, or
24 determination of an administrative official or body, to decide in
25 favor of the applicant on a matter upon which the zoning board of
26 appeals is required to pass under a zoning ordinance, or to grant a
27 variance in a zoning ordinance.

1 Sec. 33. (1) An appeal to the zoning board of appeals may be
2 taken by a person aggrieved or by an officer, department, board, or
3 bureau of the state or local unit of government. In addition, a
4 variance in the zoning ordinance may be applied for and granted
5 under section 4 of the uniform condemnation procedures act, 1980 PA
6 87, MCL 213.54, and as provided under this act. The zoning board of
7 appeals shall state the grounds of any determination made by the
8 board.

9 (2) An appeal under this section shall be taken within such
10 time as shall be prescribed by the zoning board of appeals by
11 general rule, by the filing with the officer from whom the appeal
12 is taken and with the zoning board of appeals of a notice of appeal
13 specifying the grounds for the appeal. The officer or body from
14 whom the appeal is taken shall immediately transmit to the zoning
15 board of appeals all of the papers constituting the record upon
16 which the action appealed from was taken.

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

25 (4) The zoning board of appeals shall fix a reasonable time
26 for the hearing of the appeal and give notice to all parties
27 involved in the original decision and to all property owners and

1 the occupants of single- and 2-family dwellings within 300 feet of
2 the property at issue. The notice shall be delivered personally or
3 by mail addressed to the respective owners and occupants at the
4 address given in the last assessment roll.

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

9 (6) If there are practical difficulties or unnecessary
10 hardship in the way of carrying out the strict letter of the zoning
11 ordinance, the zoning board of appeals, in passing upon appeals,
12 may grant a variance relating to the construction, or structural
13 changes in, equipment, or alteration of buildings or structures, or
14 the use of land, buildings, or structures, so that the spirit of
15 the zoning ordinance is observed, public safety secured, and
16 substantial justice done. The zoning board of appeals may impose
17 conditions with an affirmative decision under section 26(2).

18 Sec. 34. The decision of the zoning board of appeals shall be
19 final. A person aggrieved by the zoning ordinance may appeal to the
20 circuit court for the county in which the property is located. Upon
21 appeal, the circuit court shall review the record and decision of
22 the zoning board of appeals to ensure that the decision meets all
23 of the following requirements:

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

25 (b) Is based upon proper procedure.

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

1 (d) Represents the reasonable exercise of discretion granted
2 by law to the zoning board of appeals. If the court finds the
3 record of the zoning board of appeals inadequate to make the review
4 required by this section or finds that additional material evidence
5 exists that with good reason was not presented to the zoning board
6 of appeals, the court shall order further proceedings before the
7 zoning board of appeals on conditions that the court considers
8 proper. The zoning board of appeals may modify its findings and
9 decision as a result of the new proceedings or may affirm the
10 original decision. The supplementary record and decision shall be
11 filed with the court. The court may affirm, reverse, or modify the
12 decision of the zoning board of appeals.

13 Sec. 35. (1) Any party aggrieved by any order, determination,
14 or decision of any officer, agency, board, commission, zoning board
15 of appeals, or legislative body of any local unit of government
16 made under section 18 may obtain a review in the circuit court for
17 the county in which the property is located.

18 (2) An application under this section shall be filed within 30
19 days after delivery of a copy of the order, determination, or
20 decision. The court shall have jurisdiction to make such further
21 orders as justice may require. An appeal may be had from the
22 decision of any circuit court to the court of appeals.

23 Sec. 36. Any person required to be given notice under section
24 33(4) shall be a proper and necessary party to any action for
25 review instituted under section 35 and shall be given notice
26 personally or by registered or certified mail of proceedings under
27 section 12 in the same manner as provided in section 35. If any

1 person receiving notice under this section fails within 20 days of
2 receiving that notice to enter an appearance in the court in which
3 the proceedings were instituted, further notice to that person of
4 subsequent proceedings is not required and the court may proceed to
5 determine the issues.

6 Sec. 37. Except as otherwise provided by law, a use of land or
7 a dwelling, building, or structure, including a tent or
8 recreational vehicle, used, erected, altered, razed, or converted
9 in violation of a zoning ordinance or regulation adopted under this
10 act is a nuisance per se. The court shall order the nuisance
11 abated, and the owner or agent in charge of the dwelling, building,
12 structure, tent, recreational vehicle, or land is liable for
13 maintaining a nuisance per se. The legislative body shall in the
14 zoning ordinance enacted under this act designate the proper
15 official or officials who shall administer and enforce the zoning
16 ordinance and do either of the following for each violation of the
17 zoning ordinance:

18 (a) Impose a penalty for the violation.

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

21 Sec. 38. 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. 39. Except as otherwise provided under this act, an
2 ordinance adopted under this act shall be controlling in the case
3 of any inconsistencies between the ordinance and an ordinance
4 adopted under any other law.

5 Sec. 40. Except as otherwise provided under this act, a
6 township ordinance enacted under this act is not subject to an
7 ordinance, rule, or regulation adopted by a county under this act.

8 Enacting section 1. The following acts and part of acts are
9 repealed:

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

12 (b) The county zoning act, 1943 PA 183, MCL 125.201 to
13 125.240.

14 (c) The township zoning act, 1943 PA 184, MCL 125.271 to
15 125.310.