

HOUSE BILL No. 6024

December 2, 2014, Introduced by Rep. VerHeulen and referred to the Committee on Local Government.

A bill to amend 2006 PA 110, entitled "Michigan zoning enabling act," by amending sections 103, 202, 304, 401, 402, 404, and 604 (MCL 125.3103, 125.3202, 125.3304, 125.3401, 125.3402, 125.3404, and 125.3604), sections 103, 202, 401, and 604 as amended by 2008 PA 12.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 103. (1) Except as otherwise provided under this act, if
2 a local unit of government conducts a public hearing required under
3 this act, the local unit of government shall ~~publish~~**GIVE** notice of
4 the hearing **AS FOLLOWS:**

5 **(A) IF THE HEARING IS CONDUCTED BEFORE JANUARY 1, 2015, BY**
6 **PUBLICATION** in a newspaper of general circulation in the local unit
7 of government not less than 15 days before the date of the hearing.

1 **(B) IF THE HEARING IS CONDUCTED AFTER DECEMBER 31, 2014, BY**
2 **GIVING TIER B PUBLIC NOTICE WITH A LINK UNDER THE LOCAL GOVERNMENT**
3 **PUBLIC NOTICE ACT. IF WEBSITE POSTING IS REQUIRED, THE POSTING**
4 **PERIOD SHALL INCLUDE THE 14 DAYS IMMEDIATELY BEFORE THE HEARING.**

5 (2) Notice required under this act shall be given as provided
6 under subsection (3) to the owners of property that is the subject
7 of the request. Notice shall also be given as provided under
8 subsection (3) to all persons to whom real property is assessed
9 within 300 feet of the property that is the subject of the request
10 and to the occupants of all structures within 300 feet of the
11 subject property regardless of whether the property or structure is
12 located in the zoning jurisdiction. Notification need not be given
13 to more than 1 occupant of a structure, except that if a structure
14 contains more than 1 dwelling unit or spatial area owned or leased
15 by different persons, 1 occupant of each unit or spatial area shall
16 be given notice. If a single structure contains more than 4
17 dwelling units or other distinct spatial areas owned or leased by
18 different persons, notice may be given to the manager or owner of
19 the structure, who shall be requested to post the notice at the
20 primary entrance to the structure.

21 (3) The notice under subsection (2) is considered to be given
22 when personally delivered or when deposited during normal business
23 hours for delivery with the United States postal service or other
24 public or private delivery service. The notice shall be given not
25 less than 15 days before the date the request will be considered.
26 If the name of the occupant is not known, the term "occupant" may
27 be used for the intended recipient of the notice.

1 (4) A notice under this section shall do all of the following:

2 (a) Describe the nature of the request.

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

4 The notice shall include a listing of all existing street addresses
5 within the property. Street addresses do not need to be created and
6 listed if no such addresses currently exist within the property. If
7 there are no street addresses, other means of identification ~~may~~
8 **SHALL** be used.

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

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

12 Sec. 202. (1) The legislative body of a local unit of
13 government may provide by ordinance for the manner in which the
14 regulations and boundaries of districts or zones shall be
15 determined and enforced or amended or supplemented. Amendments or
16 supplements to the zoning ordinance shall be adopted in the same
17 manner as provided under this act for the adoption of the original
18 ordinance.

19 (2) Except as provided in subsection (3), the zoning
20 commission shall give a notice of a proposed rezoning in the same
21 manner as required under section 103.

22 (3) For any group of adjacent properties numbering 11 or more
23 that is proposed for rezoning, the requirements of section 103(2)
24 and the requirement of section 103(4)(b) that street addresses be
25 listed do not apply to that group of adjacent properties.

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

1 (5) An amendment to conform a provision of the zoning
2 ordinance to the decree of a court of competent jurisdiction as to
3 any specific lands may be adopted by the legislative body and the
4 notice of the adopted amendment ~~published~~**GIVEN** without referring
5 the amendment to any other board or agency provided for under this
6 act.

7 Sec. 304. The zoning commission shall hold a minimum of 2
8 regular meetings annually. ~~, giving notice of the time and place by~~
9 ~~publication in a newspaper of general circulation in the zoning~~
10 ~~jurisdiction. Notice shall be given not less than 15 days before~~
11 ~~the meeting.~~ The zoning commission is subject to the open meetings
12 act, 1976 PA 267, MCL 15.261 to 15.275.

13 Sec. 401. (1) After receiving a zoning ordinance under section
14 308(1) or an amendment under sections 202 and 308(1), the
15 legislative body may hold a public hearing if it considers it
16 necessary or if otherwise required.

17 (2) Notice of a public hearing to be held by the legislative
18 body shall be given in the same manner as required under section
19 103(1) for the initial adoption of a zoning ordinance or section
20 202 for any zoning text or map amendments.

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

24 (4) The legislative body shall grant a hearing on a proposed
25 ordinance provision to an interested property owner who requests a
26 hearing by certified mail, addressed to the clerk of the
27 legislative body. A hearing under this subsection is not subject to

1 the requirements of section 103, except that notice of the hearing
2 shall be given to the interested property owner in the manner
3 required in section 103(3) and (4).

4 (5) After any proceedings under subsections (1) to (4), the
5 legislative body shall consider and vote upon the adoption of a
6 zoning ordinance, with or without amendments. A zoning ordinance
7 and any amendments shall be approved by a majority vote of the
8 members of the legislative body.

9 (6) Except as otherwise provided under section 402, a zoning
10 ordinance shall take effect upon the expiration of 7 days after
11 ~~publication~~**NOTICE IS GIVEN** as required by subsection (7) or at
12 such later date ~~after publication~~ as may be specified by the
13 legislative body or charter.

14 (7) Following adoption of a zoning ordinance or any subsequent
15 amendments by the legislative body, the zoning ordinance or
16 subsequent amendments shall be filed with the clerk of the
17 legislative body. ~~, and a notice of ordinance adoption shall be~~
18 ~~published~~**THE CLERK SHALL GIVE NOTICE OF THE ADOPTION OF THE**
19 **ORDINANCE AS FOLLOWS:**

20 (A) IF THE ORDINANCE IS ADOPTED BEFORE JANUARY 1, 2015, BY
21 **PUBLICATION OF THE NOTICE** in a newspaper of general circulation in
22 the local unit of government within 15 days after adoption.

23 (B) IF THE ORDINANCE IS ADOPTED AFTER DECEMBER 31, 2014, BY
24 **GIVING TIER B PUBLIC NOTICE WITH A LINK UNDER THE LOCAL GOVERNMENT**
25 **PUBLIC NOTICE ACT. IF WEBSITE POSTING IS REQUIRED, THE POSTING**
26 **PERIOD SHALL INCLUDE THE 14 DAYS IMMEDIATELY BEFORE THE HEARING.**

27 (8) A copy of the notice required under subsection (7) shall

1 be mailed to the airport manager of an airport entitled to notice
2 under section 306.

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

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

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

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

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

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

20 Sec. 402. (1) Within 7 days after ~~publication~~ **NOTICE OF THE**
21 **ADOPTION** of a zoning ordinance **IS GIVEN** under section 401, a
22 registered elector residing in the zoning jurisdiction of a county
23 or township may file with the clerk of the legislative body a
24 notice of intent to file a petition under this section.

25 (2) If a notice of intent is filed under subsection (1), the
26 petitioner shall have 30 days ~~following the publication~~ **AFTER**
27 **NOTICE OF ADOPTION** of the zoning ordinance **IS GIVEN** to file a ~~WITH~~

1 THE CLERK OF THE LEGISLATIVE BODY A PETITION REQUESTING THE
2 SUBMISSION OF A ZONING ORDINANCE OR PART OF A ZONING ORDINANCE TO
3 THE ELECTORS RESIDING IN THE ZONING JURISDICTION FOR THEIR
4 APPROVAL. THE petition SHALL BE signed by a number of registered
5 electors residing in the zoning jurisdiction not less than 15% of
6 the total vote cast within the zoning jurisdiction for all
7 candidates for governor at the last preceding general election at
8 which a governor was elected. ~~, with the clerk of the legislative~~
9 ~~body requesting the submission of a zoning ordinance or part of a~~
10 ~~zoning ordinance to the electors residing in the zoning~~
11 ~~jurisdiction for their approval.~~

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

16 (a) The expiration of 30 days after ~~publication~~ **NOTICE OF**
17 **ADOPTION** of the ordinance **IS GIVEN**, if a petition is not filed
18 within that time.

19 (b) If a petition is filed within 30 days after ~~publication~~
20 **NOTICE OF ADOPTION** of the ordinance **IS GIVEN**, the clerk of the
21 legislative body determines that the petition is inadequate.

22 (c) If a petition is filed within 30 days after ~~publication~~
23 **NOTICE OF ADOPTION** of the ordinance **IS GIVEN**, the clerk of the
24 legislative body determines that the petition is adequate and the
25 ordinance or part of the ordinance is approved by a majority of the
26 registered electors residing in the zoning jurisdiction voting on
27 the petition at the next regular election or at any special

1 election called for that purpose. The legislative body shall
2 provide the manner of submitting the zoning ordinance or part of
3 the zoning ordinance to the electors for their approval or
4 rejection and determining the result of the election.

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

7 Sec. 404. (1) To protect the public health, safety, and
8 general welfare of the inhabitants and the lands and resources of a
9 local unit of government during the period required for the
10 preparation and enactment of an initial zoning ordinance under this
11 act, the legislative body of a local unit of government may direct
12 the zoning commission to submit, within a specified period of time,
13 recommendations as to the provisions of an interim zoning
14 ordinance.

15 (2) Before presenting its recommendations to the legislative
16 body, the zoning commission of a township shall submit the interim
17 zoning ordinance, or an amendment to the ordinance, to the county
18 zoning commission or the coordinating zoning committee, for the
19 purpose of coordinating the zoning ordinance with the zoning
20 ordinances of a township, city, or village having a common boundary
21 with the township. The ordinance shall be considered approved 15
22 days from the date the zoning ordinance is submitted to the
23 legislative body.

24 (3) After approval, the legislative body, by majority vote of
25 its members, may give the interim ordinance or amendments to the
26 interim ordinance immediate effect. An interim ordinance and
27 subsequent amendments shall be filed and ~~published~~ **NOTICE SHALL BE**

1 **GIVEN** as required under section 401.

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

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

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

22 (3) An appeal to the zoning board of appeals stays all
23 proceedings in furtherance of the action appealed. However, if the
24 body or officer from whom the appeal is taken certifies to the
25 zoning board of appeals after the notice of appeal is filed that,
26 by reason of facts stated in the certificate, a stay would in the
27 opinion of the body or officer cause imminent peril to life or

1 property, proceedings may be stayed only by a restraining order
2 issued by the zoning board of appeals or a circuit court.

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

6 (5) If the zoning board of appeals receives a written request
7 seeking an interpretation of the zoning ordinance or an appeal of
8 an administrative decision, the zoning board of appeals shall
9 conduct a public hearing on the request. Notice shall be given as
10 required under section 103. However, if the request does not
11 involve a specific parcel of property, notice need only be
12 ~~published~~**GIVEN** as provided in section 103(1) and given to the
13 person making the request as provided in section 103(3).

14 (6) At a hearing under subsection (5), a party may appear
15 personally or by agent or attorney. The zoning board of appeals may
16 reverse or affirm, wholly or partly, or modify the order,
17 requirement, decision, or determination and may issue or direct the
18 issuance of a permit.

19 (7) If there are practical difficulties for nonuse variances
20 as provided in subsection (8) or unnecessary hardship for use
21 variances as provided in subsection (9) in the way of carrying out
22 the strict letter of the zoning ordinance, the zoning board of
23 appeals may grant a variance in accordance with this section, so
24 that the spirit of the zoning ordinance is observed, public safety
25 secured, and substantial justice done. The ordinance shall
26 establish procedures for the review and standards for approval of
27 all types of variances. The zoning board of appeals may impose

1 conditions as otherwise allowed under this act.

2 (8) The zoning board of appeals of all local units of
3 government shall have the authority to grant nonuse variances
4 relating to the construction, structural changes, or alteration of
5 buildings or structures related to dimensional requirements of the
6 zoning ordinance or to any other nonuse-related standard in the
7 ordinance.

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

10 (a) Cities and villages.

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

15 (c) Townships and counties that granted a use variance before
16 February 15, 2006.

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

22 (11) The authority to grant use variances under subsection (9)
23 is permissive, and this section does not require a local unit of
24 government to adopt ordinance provisions to allow for the granting
25 of use variances.

26 Enacting section 1. This amendatory act does not take effect
27 unless House Bill No. 5560 of the 97th Legislature is enacted into

1 law.