

HOUSE BILL NO. 6365

November 12, 2020, Introduced by Rep. Steven Johnson and referred to the Committee on Government Operations.

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

1 this act, the local unit of government shall ~~publish~~**give** notice of
 2 the hearing **as follows:**

3 **(a) If the hearing is conducted before January 1, 2022, by**
 4 **publication** in a newspaper of general circulation in the local unit
 5 of government not less than 15 days before the date of the hearing.

6 **(b) If the hearing is conducted on or after January 1, 2022,**
 7 **by posting as provided in the local government public notice act.**

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

24 (3) The notice under subsection (2) is considered to be given
 25 when personally delivered or when deposited during normal business
 26 hours for delivery with the United States ~~postal service~~**Postal**
 27 **Service** or other public or private delivery service. The notice
 28 shall be given not less than 15 days before the date the request
 29 will be considered. If the name of the occupant is not known, the

1 term "occupant" may be used for the intended recipient of the
2 notice.

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

4 (a) Describe the nature of the request.

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

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

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

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

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

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

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

28 (4) An amendment to a zoning ordinance by a city or village is
29 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
28 the requirements of section 103, except that notice of the hearing
29 shall be given to the interested property owner in the manner

1 required in section 103(3) and (4).

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

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

12 (7) Following adoption of a zoning ordinance or any subsequent
13 amendments by the legislative body, the zoning ordinance or
14 subsequent amendments shall be filed with the clerk of the
15 legislative body. ~~, and a notice of ordinance adoption shall be~~
16 ~~published~~ **The clerk shall give notice of the adoption of the**
17 **ordinance as follows:**

18 (a) **If the ordinance is adopted before January 1, 2022, by**
19 **publication of the notice** in a newspaper of general circulation in
20 the local unit of government within 15 days after adoption.

21 (b) **If the ordinance is adopted on or after January 1, 2022,**
22 **by posting as provided in the local government public notice act.**

23 (8) A copy of the notice required under subsection (7) shall
24 be mailed to the airport manager of an airport entitled to notice
25 under section 306.

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

28 (a) In the case of a newly adopted zoning ordinance, the
29 following statement: "A zoning ordinance regulating the development

1 and use of land has been adopted by the legislative body of the
2 [county, township, city, or village] of _____.".

3 (b) In the case of an amendment to an existing zoning
4 ordinance, ~~either a summary of the regulatory effect of the~~
5 ~~amendment, including the geographic area affected. , or the text of~~
6 ~~the amendment.~~

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

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

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

14 Sec. 402. (1) Within 7 days after ~~publication~~ **notice of the**
15 **adoption** of a zoning ordinance **is given** under section 401, a
16 registered elector residing in the zoning jurisdiction of a county
17 or township may file with the clerk of the legislative body a
18 notice of intent to file a petition under this section.

19 (2) If a notice of intent is filed under subsection (1), the
20 petitioner shall have 30 days ~~following the publication~~ **after**
21 **notice of adoption** of the zoning ordinance **is given** to file ~~a~~ **with**
22 **the clerk of the legislative body a petition requesting the**
23 **submission of a zoning ordinance or part of a zoning ordinance to**
24 **the electors residing in the zoning jurisdiction for their**
25 **approval. The** petition **shall be** signed by a number of registered
26 electors residing in the zoning jurisdiction not less than 15% of
27 the total vote cast within the zoning jurisdiction for all
28 candidates for governor at the last preceding general election at
29 which a governor was elected. ~~, with the clerk of the legislative~~

~~body requesting the submission of a zoning ordinance or part of a zoning ordinance to the electors residing in the zoning jurisdiction for their approval.~~

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

(a) The expiration of 30 days after ~~publication~~ **notice of adoption** of the ordinance **is given**, if a petition is not filed within that time.

(b) If a petition is filed within 30 days after ~~publication~~ **notice of adoption** of the ordinance **is given**, the clerk of the legislative body determines that the petition is inadequate.

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

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

Sec. 404. (1) To protect the public health, safety, and general welfare of the inhabitants and the lands and resources of a local unit of government during the period required for the preparation and enactment of an initial zoning ordinance under this

1 act, the legislative body of a local unit of government may direct
2 the zoning commission to submit, within a specified period of time,
3 recommendations as to the provisions of an interim zoning
4 ordinance.

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

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

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

23 Sec. 604. (1) An appeal to the zoning board of appeals may be
24 taken by a person aggrieved or by an officer, department, board, or
25 bureau of this state or the local unit of government. In addition,
26 a variance in the zoning ordinance may be applied for and granted
27 under section 4 of the uniform condemnation procedures act, 1980 PA
28 87, MCL 213.54, and as provided under this act. The zoning board of
29 appeals shall state the grounds of any determination made by the

1 board.

2 (2) An appeal under this section shall be taken within ~~such~~
3 ~~the~~ time ~~as~~-prescribed by the zoning board of appeals by general
4 rule, by filing with the body or officer from whom the appeal is
5 taken and with the zoning board of appeals a notice of appeal
6 specifying the grounds for the appeal. The body or officer from
7 whom the appeal is taken shall immediately transmit to the zoning
8 board of appeals all of the papers constituting the record upon
9 which the action appealed from was taken.

10 (3) An appeal to the zoning board of appeals stays all
11 proceedings in furtherance of the action appealed. However, if the
12 body or officer from whom the appeal is taken certifies to the
13 zoning board of appeals after the notice of appeal is filed that,
14 by reason of facts stated in the certificate, a stay would in the
15 opinion of the body or officer cause imminent peril to life or
16 property, proceedings may be stayed only by a restraining order
17 issued by the zoning board of appeals or a circuit court.

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

21 (5) If the zoning board of appeals receives a written request
22 seeking an interpretation of the zoning ordinance or an appeal of
23 an administrative decision, the zoning board of appeals shall
24 conduct a public hearing on the request. Notice shall be given as
25 required under section 103. However, if the request does not
26 involve a specific parcel of property, notice need only be
27 ~~published-given~~ as provided in section 103(1) and given to the
28 person making the request as provided in section 103(3).

29 (6) At a hearing under subsection (5), a party may appear

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

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

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

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

23 (a) Cities and villages.

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

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

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

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

10 Enacting section 1. This amendatory act does not take effect
11 unless Senate Bill No.____ or House Bill No. 6440 (request no.
12 02449'19) of the 100th Legislature is enacted into law.