

TOWNSHIP ZONING ACT

Act 184 of 1943

AN ACT to provide for the establishment in townships of zoning districts within which the proper use of land and natural resources may be encouraged or regulated by ordinance, and for which districts provisions may also be adopted designating the location of, the size of, the uses that may be made of, the minimum open spaces, sanitary, safety, and protective measures that shall be required for, and the maximum number of families that may be housed in dwellings, buildings, and structures, including tents and trailer coaches, that are erected or altered; to designate the use of certain state licensed residential facilities; to provide for a method for the adoption of ordinances and amendments to ordinances; to provide for emergency interim ordinances; to provide for the acquisition by purchase, condemnation, or otherwise of nonconforming property; to provide for the administering of ordinances adopted; to provide for conflicts with other acts, ordinances, or regulations; to provide sanctions for violations; to provide for the assessment, levy, and collection of taxes; to provide for the collection of fees for building permits; to provide for petitions, public hearings, and referenda; to provide for appeals; to authorize the purchase of development rights; to authorize the issuance of bonds and notes; to provide for special assessments; and to prescribe penalties and provide remedies.

History: 1943, Act 184, Eff. July 30, 1943;—Am. 1976, Act 395, Eff. Mar. 31, 1977;—Am. 1978, Act 637, Eff. Mar. 1, 1979;—Am. 1994, Act 24, Eff. May 1, 1994;—Am. 1996, Act 570, Eff. Mar. 31, 1997;—Am. 1998, Act 152, Eff. Mar. 23, 1999.

The People of the State of Michigan enact:

125.271 Zoning ordinance for regulation of land development and establishment of districts; division of township into districts; purposes; uniform provisions; jurisdiction relative to wells; ordinance subject to electric transmission line certification act.

Sec. 1. (1) The township board of an organized township in this state may provide by zoning ordinance for the regulation of land development and the establishment of districts in the portions of the township outside the limits of cities and villages which regulate the use of land and structures; to meet the needs of the state's citizens for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land; to insure that use of the land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities; to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility requirements; and to promote public health, safety, and welfare. For these purposes, the township board may divide the township into districts of such number, shape, and area as it considers best suited to carry out this act. The township board of an organized township may use this act to provide by ordinance for the regulation of land development and the establishment of districts which apply only to land areas and activities which are involved in a special program to achieve specific land management objectives and avert or solve specific land use problems, including the regulation of land development and the establishment of districts in areas subject to damage from flooding or beach erosion, and for that purpose may divide the township into districts of a number, shape, and area considered best suited to accomplish those objectives. Ordinances regulating land development may also be adopted designating or limiting the location, the height, number of stories, and size of dwellings, buildings, and structures that may be erected or altered, including tents and trailer coaches, and the specific uses for which dwellings, buildings, and structures, including tents and trailer coaches, may be erected or altered; the area of yards, courts, and other open spaces, and the sanitary, safety, and protective measures that shall be required for the dwellings, buildings, and structures, including tents and trailer coaches; and the maximum number of families which may be housed in buildings, dwellings, and structures, including tents and trailer coaches, erected or altered. The provisions shall be uniform for each class of land or buildings, dwellings, and structures, including tents and trailer coaches, throughout each district, but the provisions in 1 district may differ from those in other districts. A township board shall not regulate or control the drilling, completion, or operation of oil or gas wells, or other wells drilled for oil or gas exploration purposes and shall not have jurisdiction with reference to the issuance of permits for the location, drilling, completion, operation, or abandonment of those wells. The jurisdiction relative to wells shall be vested exclusively in the supervisor of wells of this state, as provided in part 615 (supervisor of wells) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.61501 to 324.61527 of the Michigan Compiled Laws.

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(2) An ordinance adopted pursuant to this act is subject to the electric transmission line certification act.

History: 1943, Act 184, Eff. July 30, 1943;—CL 1948, 125.271;—Am. 1978, Act 637, Eff. Mar. 1, 1979;—Am. 1995, Act 35, Imd. Eff. May 17, 1995;—Am. 1996, Act 47, Imd. Eff. Feb. 26, 1996.

125.271a Residence used to give instruction in craft or fine art; regulations not prohibited.

Sec. 1a. (1) A zoning ordinance adopted under this act shall provide for the use of a single family residence by an occupant of that residence for a home occupation to give instruction in a craft or fine art within the residence.

(2) This section does not prohibit the regulation of noise, advertising, traffic, hours of operation, or other conditions that may accompany the use of a residence described in subsection (1).

History: Add. 1994, Act 377, Eff. Mar. 30, 1995.

125.272 Formulation of zoning ordinance on initiative of township board or on receipt of petition; vote.

Sec. 2. The township board of an organized township may proceed with the adoption of a zoning ordinance containing land development regulations and establishing land development districts in accordance with this act upon appointment of a township zoning board as provided in section 4. The township board may appoint a township zoning board for purposes of formulating a zoning ordinance on its own initiative, or upon receipt of a petition requesting that action. Upon receipt of a petition signed by 8% of the persons who are residents and property owners in the portion of the township outside cities and villages, filed with the township clerk requesting the township board to appoint a zoning board for purposes of formulating a zoning ordinance, the township board, at the next regular meeting, shall vote upon whether to initiate action under this act. Upon a majority vote of the membership of the board, the township board shall proceed to formulate a zoning ordinance in accord with this act.

History: 1943, Act 184, Eff. July 30, 1943;—CL 1948, 125.272;—Am. 1955, Act 204, Eff. Oct. 14, 1955;—Am. 1961, Act 225, Eff. Sept. 8, 1961;—Am. 1978, Act 637, Eff. Mar. 1, 1979.

125.273 Zoning ordinance; basis; considerations.

Sec. 3. The zoning ordinance shall be based upon a plan designed to promote the public health, safety, and general welfare; to encourage the use of lands in accordance with their character and adaptability, and to limit the improper use of land; to conserve natural resources and energy; to meet the needs of the state's residents for food, fiber, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land; to insure that uses of the land shall be situated in appropriate locations and relationships; to avoid the overcrowding of population; to provide adequate light and air; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements; and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources, and properties. The zoning ordinance shall be made with reasonable consideration, among other things, to the character of each district; its peculiar suitability for particular uses; the conservation of property values and natural resources; and the general and appropriate trend and character of land, building, and population development.

History: 1943, Act 184, Eff. July 30, 1943;—CL 1948, 125.273;—Am. 1978, Act 637, Eff. Mar. 1, 1979.

125.273a Airport layout plan or airport approach plan; incorporation into plan required under § 125.273; adoption of zoning plan; ordinance; consistency.

Sec. 3a. (1) If, after an airport layout plan or airport approach plan is filed with the township zoning board, a plan required under section 3 is adopted or revised, the township shall incorporate the airport layout plan or airport approach plan into the plan required under section 3.

(2) In addition to the requirements of section 3, a zoning ordinance adopted after the effective date of the amendatory act that added this section shall be adopted after reasonable consideration of both of the following:

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

(b) Comments received at or before a public hearing under section 9 or 11 from the airport manager of any airport.

(3) If a zoning ordinance was adopted before the effective date of the amendatory act that added this section, the zoning ordinance is not required to be consistent with any airport zoning regulations, airport layout plan, or airport approach plan. However, a zoning ordinance amendment adopted or variance granted after the effective date of the amendatory act that added this section shall not increase any inconsistency that may exist between the zoning ordinance or structures or uses and any airport zoning regulations, airport layout plan, or airport approach plan. This

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section does not limit the right to petition for submission of a zoning ordinance amendment to the electors under section 12.

(4) If a zoning ordinance is adopted after the effective date of the amendatory act that added this section, the zoning ordinance shall be consistent with any airport zoning regulations, airport layout plan, and airport approach plan. This section does not limit the right to petition for submission of a zoning ordinance to the electors under section 12.

History: Add. 2000, Act 384, Eff. Mar. 28, 2001.

125.274 Township zoning board; appointment, qualifications, and terms of members; vacancy; removal.

Sec. 4. In a township in which this act becomes operative, there shall be a permanent township zoning board composed of 4 members. The township board may provide by resolution for a zoning board composed of not to exceed 7 members, each to be appointed by the township board. The members of the zoning board shall be selected upon the basis of their respective qualifications and fitness to serve as members of a zoning board and without consideration for their political activities. Of the members first appointed, 2 shall be appointed for terms of 2 years each. The other 2 members shall be appointed for terms of 4 years each; or in case of a township zoning board of more than 4 members, 3 shall be first appointed for 2 years each and the others first appointed for 4 years each. A member of the zoning board shall serve until a successor is appointed and has qualified. Upon the expiration of the terms of the members first appointed, successors shall be appointed, in like manner, for terms of 4 years each. A vacancy shall be filled in the same manner as is provided for the appointment in the first instance for the remainder of the unexpired term. An elected officer of the township or an employee of the township board shall not serve simultaneously as a member or an employee of the zoning board. Members of the zoning board shall be removable for misfeasance, malfeasance, or nonfeasance in office by the township board upon written charges and after public hearing.

History: 1943, Act 184, Eff. July 30, 1943;—Am. 1947, Act 137, Eff. Oct. 11, 1947;—CL 1948, 125.274 ;—Am. 1949, Act 310, Eff. Sept. 23, 1949;—Am. 1955, Act 204, Eff. Oct. 14, 1955;—Am. 1960, Act 146, Eff. Aug. 17, 1960;—Am. 1978, Act 637, Eff. Mar. 1, 1979.

125.275 Township zoning board; meetings; hearings; officers and employees.

Sec. 5. The township zoning board shall hold a minimum of 2 regular meetings annually, at which meetings any person having interests in the township, or their duly appointed representatives, shall be heard relative to any matters that should properly come before the zoning board. The zoning board shall elect from its members a chairperson, a secretary, and other officers or committees it considers necessary, and may engage employees, including technical assistance, it requires. The election of officers shall be held not less than once in every 2-year period.

History: 1943, Act 184, Eff. July 30, 1943;—CL 1948, 125.275;—Am. 1978, Act 637, Eff. Mar. 1, 1979.

125.276 Township zoning board; compensation and expenses of members.

Sec. 6. Members of the township zoning board may receive such compensation as may be fixed by the township board. The total annual amount to be allowed as expenses of all members of such board, including any compensation paid its employees, shall be appropriated annually in advance by the township board.

History: 1943, Act 184, Eff. July 30, 1943;—CL 1948, 125.276;—Am. 1949, Act 310, Eff. Sept. 23, 1949;—Am. 1954, Act 29, Eff. Aug. 13, 1954;—Am. 1961, Act 225, Eff. Sept. 8, 1961;—Am. 1969, Act 323, Imd. Eff. Aug. 20, 1969;—Am. 1974, Act 15, Eff. Apr. 1, 1975.

125.277 Township zoning board; recommendations.

Sec. 7. The township zoning board shall adopt and file with the township board recommendations as to:

- (a) A zone plan for the unincorporated portions of the township as a whole which plan shall be based upon an inventory of conditions pertinent to zoning in the township and section 3.
- (b) The establishment of zoning districts including the boundaries thereof.
- (c) The text of a zoning ordinance with the necessary maps and zoning regulations to be adopted for a zoning district or the township as a whole.
- (d) The manner of administering and enforcing the zoning ordinance.

History: 1943, Act 184, Eff. July 30, 1943;—CL 1948, 125.277;—Am. 1978, Act 637, Eff. Mar. 1, 1979.

125.277a Township zoning board; planning expert, compensation.

Sec. 7a. The township zoning board may engage the services of a township planning expert with the consent of

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the township board, and the compensation for the services shall be paid from appropriations made by the township board.

History: Add. 1956, Act 63, Imd. Eff. Apr. 2, 1956.

125.278 Township zoning board; information and counsel furnished.

Sec. 8. The township zoning board is directed to make use of such information and counsel which may be furnished by appropriate public officials, departments or agencies, and all public officials, departments and agencies having information, maps and data pertinent to township zoning are hereby directed to make the same available for the use of the township zoning board.

History: 1943, Act 184, Eff. July 30, 1943;—CL 1948, 125.278.

125.279 Public hearing; notice; affidavit of mailing.

Sec. 9. (1) Before submitting its recommendations of a tentative zoning ordinance to the township, the township zoning board shall hold at least 1 public hearing. Notice of the hearing shall be given by 2 publications in a newspaper of general circulation in the township. The first publication shall be printed not more than 30 days and not less than 20 days and the second not more than 8 days before the date of the hearing.

(2) Not less than 20 days' notice of the time and place of the hearing shall also be given by mail to each electric, gas, pipeline, and telephone public utility company, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the township zoning commission for the purpose of receiving the notice.

(3) An affidavit of mailing shall be maintained. The notices shall include the places and times at which the tentative text and any maps of the zoning ordinance may be examined.

History: 1943, Act 184, Eff. July 30, 1943;—CL 1948, 125.279;—Am. 1960, Act 146, Eff. Aug. 17, 1960;—Am. 1961, Act 225, Eff. Sept. 8, 1961;—Am. 1978, Act 637, Eff. Mar. 1, 1979;—Am. 2000, Act 384, Eff. Mar. 28, 2001.

125.280 Submission of proposed zoning ordinance for approval; composition and purpose of coordinating zoning committee; presumption; waiver.

Sec. 10. Following the hearing, the township zoning board shall submit the proposed zoning ordinance including any zoning maps to the county zoning commission of the county in which the township is situated for review and recommendation if a commission has been appointed, as provided by Act No. 183 of the Public Acts of 1943, as amended, being sections 125.201 to 125.232 of the Michigan Compiled Laws, and is functioning in the county, or to the county planning commission appointed as provided by Act No. 282 of the Public Acts of 1945, as amended, being sections 125.101 to 125.107 of the Michigan Compiled Laws, or, by resolution of the county board of commissioners, to the coordinating zoning committee of the county. If there is not a county zoning commission or county planning commission, the proposed zoning ordinance, including any zoning maps, shall be submitted to the coordinating zoning committee. The coordinating zoning committee shall be composed of either 3 or 5 members appointed by the county board of commissioners for the purpose of coordinating the zoning ordinances proposed for adoption under this act with the zoning ordinances of a township, city, or incorporated village having a common boundary with the township. If the recommendation of the county zoning commission, planning commission, or coordinating zoning committee has not been received by the township within 30 days after receipt of the ordinance by the county, it shall be conclusively presumed that the county has waived its right for review and recommendation of the ordinance. The county board of commissioners of a county by resolution may waive the county review of township ordinances and amendments required by this section.

History: 1943, Act 184, Eff. July 30, 1943;—CL 1948, 125.280;—Am. 1961, Act 225, Eff. Sept. 8, 1961;—Am. 1967, Act 190, Eff. Nov. 2, 1967;—Am. 1968, Act 100, Eff. Nov. 15, 1968;—Am. 1974, Act 102, Imd. Eff. May 14, 1974;—Am. 1978, Act 637, Eff. Mar. 1, 1979;—Am. 1980, Act 416, Imd. Eff. Jan. 11, 1981.

125.281 Transmitting summary of comments and proposed zoning plan and text to township board; additional hearings; notice; report on amendments; adoption and effective date of zoning ordinance.

Sec. 11. The township zoning board shall transmit a summary of comments received at the public hearing and its proposed zoning plan and text to the township board. The township board may hold additional hearings if the township board considers it necessary. Notice of a public hearing held by the township board shall be published in a newspaper which circulates in the township. The notice shall be published not more than 15 days nor less than 5 days before the hearing. If the township board considers amendments to the proposed text, or a zoning ordinance,

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advisable, the township board shall refer the amendments to the zoning board for a report thereon within a time specified by the township board. After receiving the report, the township board shall grant a hearing on a proposed ordinance provision to a property owner who by certified mail addressed to the clerk of the township board requests a hearing and the township board shall request the zoning board to attend the hearing. After a hearing at a regular meeting or at a special meeting called for that purpose, the township board may adopt, by majority vote of its membership, pursuant to this act, a zoning ordinance for the portions of the township outside the limits of cities and villages, with or without amendments that have been previously considered by the zoning board or at a hearing. Subject to section 12, the ordinance shall take effect upon the expiration of 7 days after publication under section 11a or at such later date after publication as may be specified by the township board.

History: 1943, Act 184, Eff. July 30, 1943;—CL 1948, 125.281;—Am. 1949, Act 310, Eff. Sept. 23, 1949;—Am. 1959, Act 204, Eff. Mar. 19, 1960;—Am. 1960, Act 146, Eff. Aug. 17, 1960;—Am. 1978, Act 637, Eff. Mar. 1, 1979;—Am. 1980, Act 43, Imd. Eff. Mar. 19, 1980;—Am. 1980, Act 416, Imd. Eff. Jan. 11, 1981;—Am. 1996, Act 297, Imd. Eff. June 19, 1996.

125.281a Filing zoning ordinance with amendments or supplements; publication and contents of notice of ordinance adoption.

Sec. 11a. (1) The zoning ordinance or subsequent amendments or supplements shall be filed with the township clerk, and 1 notice of ordinance adoption shall be published in a newspaper of general circulation in the township within 15 days after adoption. Promptly following adoption of a zoning ordinance or subsequent amendment by the township board, a copy of the notice of adoption shall also be mailed to the airport manager of an airport entitled to notice under section 9(2).

(2) The notice of ordinance adoption under subsection (1) shall include the following information:

(a) In the case of a newly adopted zoning ordinance, the following statement: “A zoning ordinance regulating the development and use of land has been adopted by the township board of the township of _____”.

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

(c) The effective date of the ordinance.

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

History: Add. 1978, Act 637, Eff. Mar. 1, 1979;—Am. 2000, Act 384, Eff. Mar. 28, 2001.

125.282 Filing petition for submission of ordinance to electors.

Sec. 12. Within 7 days after publication of a zoning ordinance under section 11a, a registered elector residing in the portion of the township outside the limits of cities and villages may file with the township clerk a notice of intent to file a petition under this section. If a notice of intent is filed, then within 30 days following the publication of the zoning ordinance, a petition signed by a number of registered electors residing in the portion of the township outside the limits of cities and villages equal to not less than 15% of the total vote cast for all candidates for governor, at the last preceding general election at which a governor was elected, in the township may be filed with the township clerk requesting the submission of an ordinance or part of an ordinance to the electors residing in the portion of the township outside the limits of cities and villages for their approval. Upon the filing of a notice of intent, the ordinance or part of the ordinance adopted by the township board shall not take effect until 1 of the following occurs:

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

(b) If a petition is filed within 30 days after publication of the ordinance, the township clerk determines that the petition is inadequate.

(c) If a petition is filed within 30 days after publication of the ordinance, the township clerk 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 portion of the township outside the limits of cities and villages voting thereon at the next regular election which supplies reasonable time for proper notices and printing of ballots, or at any special election called for that purpose. The township board shall provide the manner of submitting an ordinance or part of an ordinance to the electors for their approval or rejection, and determining the result of the election.

History: 1943, Act 184, Eff. July 30, 1943;—CL 1948, 125.282;—Am. 1955, Act 204, Eff. Oct. 14, 1955;—Am. 1960, Act 146, Eff. Aug. 17, 1960;—Am. 1961, Act 225, Eff. Sept. 8, 1961;—Am. 1972, Act 107, Imd. Eff. Apr. 7, 1972;—Am. 1978, Act 637, Eff. Mar. 1, 1979;—Am. 1996, Act 297, Imd. Eff. June 19, 1996;—Am. 2001, Act 177, Imd. Eff. Dec. 15, 2001.

125.282a Violation of §§ 168.1 to 168.992 applicable to petitions; penalties.

Sec. 12a. A petition under section 12, including the circulation and signing of the petition, is subject to section

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488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 152, Eff. Mar. 23, 1999.

125.283 Report on operations of zoning ordinance.

Sec. 13. Following the enactment of the zoning ordinance, the township zoning board periodically shall prepare for the township board a report on the operations of the zoning ordinance including recommendations as to the enactment of amendments or supplements to the ordinance.

History: 1943, Act 184, Eff. July 30, 1943;—Am. 1947, Act 165, Eff. Oct. 11, 1947;—CL 1948, 125.283 ;—Am. 1978, Act 637, Eff. Mar. 1, 1979.

125.284 Amendments or supplements to zoning ordinance; notice of proposed rezoning; adoption of amendment conforming to court decree; notice of adopted amendment.

Sec. 14. Amendments or supplements to the zoning ordinance may be made in the same manner as provided in this act for the enactment of the original ordinance. If an individual property or several adjacent properties are proposed for rezoning, the township zoning board shall give a notice of the proposed rezoning to the owner of the property in question, to all persons to whom any real property within 300 feet of the premises in question is assessed, and to the occupants of all single and 2-family dwellings within 300 feet. The notice shall be delivered personally or by mail to the respective owners and tenants at the address given in the last assessment roll. If the tenant's name is not known, the term "occupant" may be used. If the notice is delivered by mail, an affidavit of mailing shall be filed with the zoning board before the hearing. The notice shall be made not less than 8 days before the hearing provided by section 9 stating the time, place, date, and purpose of the hearing. An amendment for the purpose of conforming a provision of the zoning ordinance to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the township board and the notice of the adopted amendment published without referring the amendment to any other board or agency provided for in this act.

History: 1943, Act 184, Eff. July 30, 1943;—Am. 1947, Act 137, Eff. Oct. 11, 1947;—CL 1948, 125.284 ;—Am. 1949, Act 310, Eff. Sept. 23, 1949;—Am. 1960, Act 26, Eff. Aug. 17, 1960;—Am. 1961, Act 225, Eff. Sept. 8, 1961;—Am. 1972, Act 55, Eff. Mar. 30, 1973;—Am. 1978, Act 637, Eff. Mar. 1, 1979.

125.285 Interim zoning ordinance.

Sec. 15. To protect the public health, safety, and general welfare of the inhabitants of the township, and the lands and resources of the township, during the period required for the preparation and enactment of an ordinance authorized by this act as provided by sections 7 to 12, the township board may direct the township zoning board to submit, within a specified period of time, recommendations as to the provisions of an interim zoning ordinance and to submit those recommendations without consideration for sections 7, 8, 9, 11, and 12. Before presenting its recommendations to the township board, the zoning board shall submit the interim zoning plan, or an amendment thereto, to the county zoning commission or the coordinating zoning committee, as provided by section 10, for the purpose of coordinating the zoning plan with the zoning ordinances of a township, city, or village having a common boundary with the township. Approval shall be conclusively presumed unless the commission or committee, within 15 days after receipt of the interim plan or amendment notifies the township clerk of its disapproval. Following approval the township board, by majority vote of its members, may give the interim ordinance or amendments thereto immediate effect. An interim ordinance and subsequent amendments shall be filed and published in accordance with section 11a. The interim ordinance, including any amendments thereto, shall be limited to 1 year from the date the same becomes effective and to only 2 years of renewal thereafter by resolution of the township board.

History: 1943, Act 184, Eff. July 30, 1943;—Am. 1947, Act 137, Eff. Oct. 11, 1947;—CL 1948, 125.285 ;—Am. 1952, Act 248, Eff. Sept. 18, 1952;—Am. 1960, Act 146, Eff. Aug. 17, 1960;—Am. 1961, Act 225, Eff. Sept. 8, 1961;—Am. 1978, Act 637, Eff. Mar. 1, 1979.

125.286 Nonconforming uses.

Sec. 16. (1) The lawful use of a dwelling, building, or structure and of land or a premise as existing and lawful at the time of enactment of a zoning ordinance, or, in the case of an amendment of an ordinance, then at the time of the amendment, may be continued although the use does not conform with the ordinance or amendment.

(2) The township board shall provide in a zoning ordinance for the completion, restoration, reconstruction, extension, or substitution of nonconforming uses upon reasonable terms set forth in the zoning ordinance. In

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establishing terms for the completion, restoration, reconstruction, extension, or substitution of nonconforming uses different classes of nonconforming uses may be established in the ordinance with different requirements applicable to each class.

(3) A township may acquire, by purchase, condemnation, or otherwise private property or an interest in private property for the removal of nonconforming uses. The cost and expense, or a portion thereof, of acquiring the private property may be paid from general funds or assessed to a special district in accordance with the applicable statutory provisions relating to the creation and operation of special assessment districts for public improvements in townships. The elimination of the nonconforming uses and structures in a zoning district is declared to be for a public purpose and for a public use. The township board may institute and prosecute proceedings for condemnation of nonconforming uses and structures under the power of eminent domain in accordance with Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Michigan Compiled Laws or other applicable statute.

History: 1943, Act 184, Eff. July 30, 1943;—CL 1948, 125.286;—Am. 1978, Act 637, Eff. Mar. 1, 1979.

125.286a “State licensed residential facility” defined; state licensed residential facility considered residential use and permitted use; provisions inapplicable to adult foster care facilities; review by board of trustees; notice to residents; denial of license; exceptions.

Sec. 16a. (1) As used in this section, “state licensed residential facility” means a structure constructed for residential purposes that is licensed by the state pursuant to Act No. 287 of the Public Acts of 1972, as amended, being sections 331.681 to 331.694 of the Michigan Compiled Laws, or Act No. 116 of the Public Acts of 1973, as amended, being sections 722.111 to 722.128 of the Michigan Compiled Laws, which provides resident services for 6 or less persons under 24-hour supervision or care for persons in need of that supervision or care.

(2) In order to implement the policy of this state that persons in need of community residential care shall not be excluded by zoning from the benefits of normal residential surroundings, a state licensed residential facility providing supervision or care, or both, to 6 or less persons shall be considered a residential use of property for the purposes of zoning and a permitted use in all residential zones, including those zoned for single family dwellings, and shall not be subject to a special use or conditional use permit or procedure different from those required for other dwellings of similar density in the same zone.

(3) This section shall not apply to adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.

(4) At least 45 days before licensing a residential facility described in subsection (1), the state licensing agency shall notify the board of trustees or its designated agency of the township where the proposed facility would be located to review the number of existing or proposed similar state licensed residential facilities whose property lines are within a 1,500 foot radius of the property lines of the location of the applicant. The board of trustees or an agency of the township to which the authority is delegated shall, when a proposed facility is to be located within the township, give appropriate notification of the proposal to license the facility to those residents whose property lines are within a 1,500 foot radius of the property lines of the proposed facility. A state licensing agency shall not license a proposed residential facility when another state licensed residential facility exists within the 1,500 foot radius, unless permitted by local zoning ordinances, of the proposed location or when the issuance of the license would substantially contribute to an excessive concentration of state licensed residential facilities within the township. This subsection shall not apply to state licensed residential facilities caring for 4 or less minors.

(5) This section shall not apply to a state licensed residential facility licensed before March 31, 1977, or to a residential facility which was in the process of being developed and licensed before March 31, 1977, if approval had been granted by the appropriate local governing body.

History: Add. 1976, Act 395, Eff. Mar. 31, 1977;—Am. 1977, Act 29, Imd. Eff. June 15, 1977.

125.286b Special land uses.

Sec. 16b. (1) A township may provide in a zoning ordinance for special land uses which shall be permitted in a zoning district only after review and approval by either the zoning board, an official charged with administering the ordinance, or the township board, as specified in the ordinance. The ordinance shall specify:

(a) The special land uses and activities eligible for approval consideration and the body or official charged with reviewing special land uses and granting approval.

(b) The requirements and standards upon which decisions on requests for special land use approval shall be based.

(c) The procedures and supporting materials required for application, review, and approval.

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(2) Upon receipt of an application for a special land use which requires a decision on discretionary grounds, 1 notice that a request for special land use approval has been received shall be published in a newspaper which circulates in the township, and sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. The notice shall be given not less than 5 nor more than 15 days before the date the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than 1 occupant of a structure, except that if a structure contains more than 1 dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, 1 occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than 4 dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall:

- (a) Describe the nature of the special land use request.
- (b) Indicate the property which is the subject of the special land use request.
- (c) State when and where the special land use request will be considered.
- (d) Indicate when and where written comments will be received concerning the request.
- (e) Indicate that a public hearing on the special land use request may be requested by any property owner or the occupant of any structure located within 300 feet of the boundary of the property being considered for a special use.

(3) At the initiative of the body or official responsible for approving special land uses, or upon the request of the applicant for special land use authorization or a property owner or the occupant of a structure located within 300 feet of the boundary of the property being considered for a special land use, a public hearing with notification as required for a notice of a request for special land use approval, as provided in subsection (2), shall be held before a decision is made on the special land use request which is based on discretionary grounds. If the applicant or the body or official responsible for approving special land uses requests a public hearing, only notification of the public hearing need be made. A decision on a special land use which is based on discretionary grounds, shall not be made unless notification of the request for special land use approval, or notification of a public hearing on a special land use request has been made as required by this section.

(4) The body or official designated in the zoning ordinance to review and approve special land uses may deny, approve, or approve with conditions, a request for special land use approval. The decision on a special land use shall be incorporated in a statement containing the conclusions relative to the special land use under consideration which specifies the basis for the decision, and any conditions imposed.

History: Add. 1978, Act 637, Eff. Mar. 1, 1979.

125.286c Planned unit development.

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

(2) A township may establish in a zoning ordinance planned unit development requirements which permit flexibility in the regulation of land development; encourage innovation in land use and variety in design, layout, and type of structures constructed; achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; encourage useful open space; and provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of this state. The review and approval of planned unit developments shall be by the zoning board, an official charged with administration of the ordinance, or the township board.

(3) Within a land development project designated as a planned unit development, regulations relating to the use of land, including permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas and how they are to be preserved, and land use density, shall be determined in accordance with the planned unit development regulations specified in the zoning ordinance. The planned unit development regulations need not be uniform with regard to each type of land use if equitable procedures recognizing due process principles and avoiding arbitrary decisions have been followed in making regulatory decisions. Unless explicitly prohibited by the planned unit development regulations, if requested by the landowner, a township may approve a planned unit development with open space that is not contiguous with the rest of the planned unit development.

(4) The planned unit development regulations established by a township shall specify:

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- (a) The body or official which will review and approve planned unit development requests.
 - (b) The conditions which create planned unit development eligibility, the participants in the review process, and the requirements and standards upon which applications will be judged and approval granted.
 - (c) The procedures required for application, review, and approval.
- (5) Following receipt of a request to approve a planned unit development, the body or official charged in the ordinance with review and approval of planned unit developments shall hold at least 1 public hearing on the request. A zoning ordinance may provide for preapplication conferences before submission of a planned unit development request, and the submission of preliminary site plans before the public hearing. Notification of the public hearing shall be given in the same manner as required by section 16b(3) for public hearings on special land uses. Within a reasonable time following the public hearing, the body or official responsible for approving planned unit developments shall give final consideration to and shall deny, approve, or approve with conditions the request. The body or official shall prepare a report stating its conclusions on the request for a planned unit development, the basis for its decision, the decision, and any conditions relating to an affirmative decision. If the zoning ordinance requires that the township board amend the ordinance to approve the planned unit development request, the zoning board shall hold the hearing as required by section 9, and the report and documents related to the planned unit development request shall be transmitted to the township board for consideration in making a final decision. If amendment of a zoning ordinance is required by the planned unit development regulations of a township zoning ordinance, the requirements of this act for amendment of a zoning ordinance shall be followed, except that the hearing and notice required by this subsection shall be regarded as fulfilling the public hearing and notice requirements of section 9.
- (6) If the planned unit development regulations of a township zoning ordinance do not require amendment of the ordinance to authorize a planned unit development, the body or official charged in the zoning ordinance with review and approval of planned unit developments shall approve, approve with conditions, or deny a request.
- (7) Final approvals may be granted on each phase of a multiphased planned unit development if each phase contains the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the planned unit development and the residents of the surrounding area.
- (8) In establishing planned unit development requirements, a township may incorporate by reference other applicable ordinances or statutes which regulate land development. The planned unit development regulations contained in a zoning ordinance shall encourage complementary relationships between zoning regulations and other regulations affecting the development of land.

History: Add. 1978, Act 637, Eff. Mar. 1, 1979;—Am. 2003, Act 228, Imd. Eff. Dec. 18, 2003.

125.286d Discretionary decisions; requirements, standards, and conditions.

Sec. 16d. (1) If a township zoning ordinance authorizes the consideration and approval of special land uses or planned unit developments pursuant to section 16b or 16c, or otherwise provides for discretionary decisions, the requirements and standards upon which the decisions are made shall be specified in the ordinance. The standards shall be consistent with, and promote the intent and purpose of the zoning ordinance, and shall insure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. The standards shall also insure that the land use or activity is consistent with the public health, safety, and welfare of the township. A request for approval of a land use or activity which is in compliance with the standards stated in the zoning ordinance, the conditions imposed pursuant to the ordinance, other applicable ordinances, and state and federal statutes, shall be approved.

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

- (a) Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- (b) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- (c) Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in

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the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

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

History: Add. 1978, Act 637, Eff. Mar. 1, 1979.

125.286e Site plan.

Sec. 16e. (1) As used in this section, "site plan" includes the documents and drawings required by the zoning ordinance to insure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

(2) A township may require the submission and approval of a site plan before authorization of a land use or activity regulated by a zoning ordinance. The zoning ordinance shall specify the body, board, or official charged with reviewing site plans and granting approval.

(3) If a zoning ordinance requires site plan approval, the site plan, as approved, shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan, unless a change conforming to the zoning ordinance receives the mutual agreement of the landowner and the individual or body which initially approved the site plan.

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

(5) A site plan shall be approved if it contains the information required by the zoning ordinance and is in compliance with the zoning ordinance and the conditions imposed pursuant to the ordinance, other township planning documents, other applicable ordinances, and state and federal statutes.

(6) The purpose of this amendatory act is to clarify the authority of the township body, board, or official charged with reviewing site plans and granting approval of site plans, which is implied from the language of this act, but which is not specifically set forth in this act.

History: Add. 1978, Act 637, Eff. Mar. 1, 1979;—Am. 1987, Act 74, Imd. Eff. June 29, 1987.

125.286f Improvements; deposit of performance guarantee.

Sec. 16f. (1) As used in this section, "improvements" means those features and actions associated with a project which are considered necessary by the body or official granting zoning approval, to protect natural resources, or the health, safety, and welfare of the residents of a township and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. Improvements does not include the entire project which is the subject of zoning approval.

(2) To insure compliance with a zoning ordinance and any conditions imposed thereunder, a township may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the township covering the estimated cost of improvements associated with a project for which site plan approval is sought be deposited with the clerk of the township to insure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The township may not require the deposit of the performance guarantee prior to the time when the township is prepared to issue the permit. The township shall establish procedures whereby a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements will be made as work progresses.

(3) This section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited pursuant to Act No. 288 of the Public Acts of 1967, as amended, being sections 560.101 to 560.293 of the Michigan Compiled Laws.

History: Add. 1978, Act 637, Eff. Mar. 1, 1979.

125.286g "Family day-care home" and "group day-care home" defined; family day-care home as residential use of property; permit for group day-care home meeting certain standards; compliance not required for certain homes; inspection; subsequent establishment of certain facilities; issuing permit to group day-care home not meeting certain standards; measurement

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of distances.

Sec. 16g. (1) As used in this section, “family day-care home” and “group day-care home” mean those terms as defined in section 1 of Act No. 116 of the Public Acts of 1973, being section 722.111 of the Michigan Compiled Laws, and only apply to the bona fide private residence of the operator of the family or group day-care home.

(2) A family day-care home licensed or registered under Act No. 116 of the Public Acts of 1973, being sections 722.111 to 722.128 of the Michigan Compiled Laws, shall be considered a residential use of property for the purposes of zoning and a permitted use in all residential zones, including those zoned for single family dwellings, and shall not be subject to a special use or conditional use permit or procedure different from those required for other dwellings of similar density in the same zone.

(3) A group day-care home licensed or registered under Act No. 116 of the Public Acts of 1973 shall be issued a special use permit, conditional use permit, or other similar permit if the group day-care home meets the following standards:

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

(i) Another licensed group day-care home.

(ii) Another adult foster care small group home or large group home licensed under the adult foster care facility licensing act, Act No. 218 of the Public Acts of 1979, being sections 400.701 to 400.737 of the Michigan Compiled Laws.

(iii) A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under article 6 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.6101 to 333.6523 of the Michigan Compiled Laws.

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

(b) Has appropriate fencing for the safety of the children in the group day-care home as determined by the township.

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

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

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

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

(4) A licensed or registered family or group day-care home that has operated prior to the effective date of the amendatory act that added this section is not required to comply with the requirements of this section.

(5) This section shall not prevent a township from inspecting a family or group day-care home for the home's compliance with the township's ordinance and enforcing the township's ordinance, if the ordinance is not more restrictive for that home than Act No. 116 of the Public Acts of 1973, being sections 722.111 to 722.128 of the Michigan Compiled Laws, or rules promulgated pursuant to Act No. 116 of the Public Acts of 1973.

(6) The subsequent establishment of any of the facilities listed in subsection (3)(a)(i) to (iv) of this section, within 1,500 feet of the licensed or registered group day-care home will not affect any subsequent special use permit renewal, conditional use permit renewal, or other similar permit renewal pertaining to the group day-care home.

(7) This section shall not prevent a township from issuing a special use permit, conditional use permit, or other similar permit to a licensed or registered group day-care home that does not meet the standards listed in subsection (3)(a) to (f).

(8) The distances specified in subsections (3)(a) and (6) shall be measured along a road, street, or place maintained by this state or a political subdivision of this state and generally open to use by the public as a matter of right for the purpose of vehicular traffic, not including an alley.

History: Add. 1988, Act 448, Eff. Mar. 30, 1989.

Administrative rules: R 400.1301 et seq. of the Michigan Administrative Code.

125.286h Qualified township zoning ordinances; option of landowner to develop land zoned for residential development; requirements; limitations; “qualified township” defined; zoning ordinance provisions cited as “open space preservation.”

Sec. 16h. (1) Subject to subsection (4) and section 12, beginning 1 year after the effective date of the amendatory act that added this section, each qualified township shall provide in its zoning ordinance that land zoned for residential development may be developed, at the option of the land owner, with the same number of dwelling units on a portion of the land specified in the zoning ordinance, but not more than 50%, that, as determined by the

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township, could otherwise be developed, under existing ordinances, laws, and rules, on the entire land area, if all of the following apply:

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

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

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

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

(2) After a land owner exercises the option provided pursuant to subsection (1), the land may be rezoned accordingly.

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

(4) Subsection (1) does not apply to a qualified township if both of the following requirements are met:

(a) Since on or before October 1, 2001, the township has had in effect a zoning ordinance provision providing for both of the following:

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

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

(b) On or before the enactment date of the amendatory act that added this section, a land owner exercised the option provided under the zoning ordinance provision referred to in subdivision (a) with at least 50% of the land area remaining perpetually in an undeveloped state.

(5) As used in this section, "qualified township" means a township that meets all of the following requirements:

(a) Has adopted a zoning ordinance.

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

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

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

History: Add. 2001, Act 177, Imd. Eff. Dec. 15, 2001.

125.288 Township board of appeals; selection, qualifications, and terms of members; chairperson; per diem or expenses; removal; conflict of interest; misconduct in office; vacancies; majority required to conduct business.

Sec. 18. (1) In each township in which the township board exercises the authority conferred by this act, it shall appoint a township board of appeals. In a township having a population of 5,000 or more persons, the board of appeals shall be composed of not less than 5 regular members. In a township having a population of less than 5,000 persons, the board of appeals shall be composed of not less than 3 regular members. The precise number of regular members comprising the board of appeals shall be specified by the township board in the zoning ordinance. The first regular member of the board of appeals shall be a member of the township zoning board. In a township where the powers, duties, and responsibilities of the zoning board are transferred to the planning commission pursuant to section 11 of Act No. 168 of the Public Acts of 1959, as amended, being section 125.331 of the Michigan Compiled Laws, the first regular member of the board of appeals shall be a member of the township planning commission. The remaining regular members and any alternate members of the board of appeals shall be selected from the electors of the township residing outside of incorporated cities and villages. The members selected shall be representative of the population distribution and of the various interests present in the township. One regular member may be a member of the township board. An elected officer of the township shall not serve as chairperson of the board of appeals. An employee or contractor of the township board may not serve as a member of the township board of appeals.

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(2) A township board may appoint not more than 2 alternate members for the same term as regular members to the zoning board of appeals. An alternate member may be called as specified in the zoning ordinance to serve as a regular member of the zoning board of appeals in the absence of a regular member if the regular member is absent from or will be unable to attend 2 or more consecutive meetings of the zoning board of appeals or is absent from or will be unable to attend meetings for a period of more than 30 consecutive days. An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the zoning board of appeals.

(3) The total amount annually allowed the board of appeals as per diem or as expenses actually incurred in the discharge of duties shall not exceed a reasonable sum, which shall be appropriated annually in advance by the township board.

(4) A member of the board of appeals may be removed by the township board for nonperformance of duty or misconduct in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes misconduct in office.

(5) Terms shall be for 3 years, except for members serving because of their membership on the zoning board, planning commission, or township board, whose terms shall be limited to the time they are members of the zoning board, planning commission, or township board, respectively, and the period stated in the resolution appointing them. When members are first appointed, the appointments may be for less than 3 years to provide for staggered terms. A successor shall be appointed not more than 1 month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.

(6) A township board of appeals shall not conduct business unless a majority of the regular members of the board is present.

History: 1943, Act 184, Eff. July 30, 1943;—CL 1948, 125.288;—Am. 1966, Act 106, Imd. Eff. June 22, 1966;—Am. 1973, Act 146, Imd. Eff. Nov. 21, 1973;—Am. 1976, Act 131, Imd. Eff. May 27, 1976;—Am. 1978, Act 637, Eff. Mar. 1, 1979;—Am. 1990, Act 141, Imd. Eff. June 27, 1990.

125.289 Board of appeals; meetings, open to public, record of proceedings.

Sec. 19. Meetings of the township board of appeals shall be held at the call of the chairman and at such other times as the board in its rules of procedure may specify. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board of appeals shall be open to the public. The board shall maintain a record of its proceedings which shall be filed in the office of the township clerk and shall be a public record.

History: 1943, Act 184, Eff. July 30, 1943;—CL 1948, 125.289.

125.290 Township board of appeals; duties; variance.

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

(2) The concurring vote of a majority of the members of the township board of appeals is necessary to reverse an order, requirement, decision, or determination of the administrative official or body, or to decide in favor of the applicant any matter upon which the board is required to pass under the ordinance, or to grant a variance in the ordinance. An appeal may be taken by a person aggrieved or by an officer, department, board, or bureau of the township, county, or state. In addition, a variance in the ordinance may be applied for and granted pursuant to section 4 of the uniform condemnation procedures act, 1980 PA 87, MCL 213.54, and this act. The township zoning board of appeals shall state the grounds of each determination.

History: 1943, Act 184, Eff. July 30, 1943;—CL 1948, 125.290;—Am. 1978, Act 637, Eff. Mar. 1, 1979;—Am. 2000, Act 19, Imd. Eff. Mar. 8, 2000.

125.291 Board of appeals; appeals.

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Sec. 21. Such appeal shall be taken within such time as shall be prescribed by the township board of appeals by general rule, by the filing with the officer from whom the appeal is taken and with the board of appeals of a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

History: 1943, Act 184, Eff. July 30, 1943;—CL 1948, 125.291.

125.292 Board of appeals; restraining order.

Sec. 22. An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the township board of appeals after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of appeals or by the circuit court, on application, on notice to the officer from whom the appeal is taken and on due cause shown.

History: 1943, Act 184, Eff. July 30, 1943;—CL 1948, 125.292.

125.293 Township board of appeals; appeals.

Sec. 23. The township board of appeals shall fix a reasonable time for the hearing of the appeal, give due notice thereof to the parties, and decide the appeal within a reasonable time. At the hearing, a party may appear in person or by agent or by attorney. The board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer or body from whom the appeal was taken and may issue or direct the issuance of a permit. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the zoning ordinance, the board of appeals in passing upon appeals may vary or modify any of its rules or provisions so that the spirit of the ordinance is observed, public safety secured, and substantial justice done. The board of appeals may impose conditions with an affirmative decision pursuant to section 16d(2).

History: 1943, Act 184, Eff. July 30, 1943;—CL 1948, 125.293;—Am. 1978, Act 637, Eff. Mar. 1, 1979.

125.293a Township board of appeals; decision final; judicial review.

Sec. 23a. (1) The decision of the board of appeals rendered pursuant to section 23 shall be final. However, a person having an interest affected by the zoning ordinance may appeal to the circuit court. Upon appeal the circuit court shall review the record and decision of the board of appeals to insure that the decision:

- (a) Complies with the constitution and laws of the state.
- (b) Is based upon proper procedure.
- (c) Is supported by competent, material, and substantial evidence on the record.
- (d) Represents the reasonable exercise of discretion granted by law to the board of appeals.

(2) If the court finds the record of the board of appeals inadequate to make the review required by this section, or that there is additional evidence which is material and with good reason was not presented to the board of appeals, the court shall order further proceedings before the board of appeals on conditions which the court considers proper. The board of appeals may modify its findings and decision as a result of the new proceedings, or may affirm its original decision. The supplementary record and decision shall be filed with the court.

(3) As a result of the review required by this section, the court may affirm, reverse, or modify the decision of the board of appeals.

History: Add. 1978, Act 637, Eff. Mar. 1, 1979.

125.294 Violation as nuisance per se; abatement; liability; administration and enforcement of ordinance; penalties.

Sec. 24. A use of land, or a dwelling, building, or structure including a tent or trailer coach, used, erected, altered, razed, or converted in violation of a local ordinance or regulation adopted pursuant to this act is a nuisance per se. The court shall order the nuisance abated and the owner or agent in charge of the dwelling, building, structure, tent, trailer coach, or land is liable for maintaining a nuisance per se. The township board shall in the ordinance enacted under this act designate the proper official or officials who shall administer and enforce that ordinance and do either of the following for each violation of the ordinance:

- (a) Impose a penalty for the violation.
- (b) Designate the violation as a municipal civil infraction and impose a civil fine for the violation.

History: 1943, Act 184, Eff. July 30, 1943;—CL 1948, 125.294;—Am. 1978, Act 637, Eff. Mar. 1, 1979;—Am. 1994, Act 24, Eff. May 1,

1994.

125.295 Fees for zoning permits; purpose; tax levy; application of fees or taxes.

Sec. 25. For the purpose of providing funds to carry out this act, the township board of an organized township may require the payment of reasonable fees for zoning permits as a condition to the granting of authority to erect, alter, or locate dwellings, buildings, and structures, including tents and trailer coaches, within a zoning district established under this act, both for the purpose of obtaining advance information as to building operations, locations, and proposed uses, and for the purpose of defraying the cost, in whole or in part, of the enforcement of this act in the township, and if the board has incurred or expects to incur any expense of public funds in carrying out this act, shall, for that purpose, in addition to the revenues of the fees, levy a sufficient tax, in addition to other taxes now authorized by law, upon the real and personal property subject to taxation in the township, and the taxes shall be collected as other taxes are collected. When the taxes or fees are collected, they shall be applied to the payment of any indebtedness incurred by the township subject to this act, and to no other purpose. However, the taxes assessed, levied, and collected shall not cause the limit of taxes established by law to be exceeded.

History: 1943, Act 184, Eff. July 30, 1943;—CL 1948, 125.295;—Am. 1978, Act 637, Eff. Mar. 1, 1979.

125.296 Prior ordinance effective until new ordinance adopted.

Sec. 26. In the event any township shall have an ordinance adopted and in effect or shall have had a referendum authorizing an ordinance under the provisions of Act No. 302 of the Public Acts of 1937, prior to the effective date of this act, such ordinance or any ordinance hereafter adopted by reason of such referendum under the provisions of said Act No. 302 of the Public Acts of 1937 shall remain in full force and effect until a new ordinance is adopted and in effect under the provisions of this act, and any such ordinance shall be deemed to have been adopted as an ordinance under the provisions of this act, and shall be governed thereby.

History: 1943, Act 184, Eff. July 30, 1943;—Am. 1947, Act 137, Eff. Oct. 11, 1947;—CL 1948, 125.296 .

Compiler's note: Act 302 of 1937, referred to this section, was repealed by Act 267 of 1945.

125.297 Repealed. 1996, Act 569, Eff. Mar. 31, 1997.

Compiler's note: The repealed section pertained to townships not subject to act.

125.297a Effect of zoning ordinance or decision in presence of demonstrated need.

Sec. 27a. A zoning ordinance or zoning decision shall not have the effect of totally prohibiting the establishment of a land use within a township in the presence of a demonstrated need for that land use within either the township or surrounding area within the state, unless there is no location within the township where the use may be appropriately located, or the use is unlawful.

History: Add. 1978, Act 637, Eff. Mar. 1, 1979.

125.298 Ordinances controlling.

Sec. 28. Insofar as the provisions of any ordinance lawfully adopted under the provisions of this act are inconsistent with the provisions of ordinances adopted under any other law, the provisions of ordinances adopted under the provisions of this act, unless otherwise provided in this act, shall be controlling.

History: 1943, Act 184, Eff. July 30, 1943;—CL 1948, 125.298;—Am. 1955, Act 204, Eff. Oct. 14, 1955.

125.301 Adoption of development rights ordinance; establishment, financing, and administration of purchase of development rights program; limitation; use; scope; separate ordinance; agreements between counties, cities, villages, and townships.

Sec. 31. (1) The township board of a township may adopt a development rights ordinance limited to the establishment, financing, and administration of a PDR program, as provided under this section and sections 32 and 33. The PDR program may be used only to protect agricultural land and other eligible land. This section and sections 32 and 33 do not expand the condemnation authority of a township as otherwise provided for in this act. A PDR program shall not acquire development rights by condemnation. This section and sections 32 and 33 do not limit any authority that may otherwise be provided by law for a township to protect natural resources, preserve open space, provide for historic preservation, or accomplish similar purposes.

(2) A township shall not establish, finance, or administer a PDR program unless the township board adopts a development rights ordinance. If the township has a zoning ordinance, the development rights ordinance may be adopted as part of the zoning ordinance pursuant to the procedures governing adoption of a zoning ordinance set

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forth in this act. Whether or not the township has a zoning ordinance, the development rights ordinance may be adopted as a separate ordinance pursuant to the procedures governing ordinance adoption in general.

(3) A township board may promote and enter into agreements between counties, cities, villages, and townships for the purchase of development rights, including cross-jurisdictional purchase, subject to applicable development rights ordinances of townships and similar ordinances of counties, cities, and villages.

History: 1943, Act 184, Eff. July 30, 1943;—CL 1948, 125.301;—Am. 1996, Act 570, Eff. Mar. 31, 1997.

125.302 Development rights ordinance providing for PDR program; specifications; consistency with plan; conveyance; notice of application for purchase of development rights.

Sec. 32. (1) A development rights ordinance shall provide for a PDR program. Under a PDR program, the township purchases development rights, but only from a willing landowner. A development rights ordinance providing for a PDR program shall specify all of the following:

- (a) The public benefits that the township may seek through the purchase of development rights.
- (b) The procedure by which the township or a landowner may by application initiate a purchase of development rights.
- (c) The development rights authorized to be purchased subject to a determination under standards and procedures required by subdivision (d).
- (d) The standards and procedure to be followed by the township board for approving, modifying, or rejecting an application to purchase development rights including the determination of all of the following:
 - (i) Whether to purchase development rights.
 - (ii) Which development rights to purchase.
 - (iii) The intensity of development permitted after the purchase on the land from which the development rights are purchased.
 - (iv) The price at which development rights will be purchased and the method of payment.
 - (v) The procedure for ensuring that the purchase or sale of development rights is legally fixed so as to run with the land.
- (e) The circumstances under which an owner of land from which development rights have been purchased under a PDR program may repurchase those development rights and how the proceeds of the purchase are to be used by the township.

(2) If the township has a zoning ordinance, the purchase of development rights shall be consistent with the plan referred to in section 3 upon which the zoning ordinance is based.

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

(4) The township shall notify each village in which is located land from which development rights are proposed to be purchased of the receipt of an application for the purchase of development rights and shall notify each such village of the disposition of that application.

History: Add. 1996, Act 570, Eff. Mar. 31, 1997.

125.303 Financing of PDR program; sources; borrowing money and issuing bonds or notes; pledge; lien; exemption from taxation; investment; disposition; special assessments.

Sec. 33. (1) A PDR program may be financed through 1 or more of the following sources:

- (a) General appropriations by the township.
- (b) Proceeds from the sale of development rights by the township subject to section 32(3).
- (c) Grants.
- (d) Donations.
- (e) Bonds or notes issued under subsections (2) to (5).
- (f) General fund revenue.
- (g) Special assessments under subsection (6).
- (h) Other sources approved by the township board and permitted by law.

(2) The township board may borrow money and issue bonds or notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, subject to the general debt limit applicable to the township. The bonds or notes may be revenue bonds or notes; general obligation limited tax bonds or notes; or, subject to section 6 of article IX of the state constitution of 1963, general obligation unlimited tax bonds or notes.

(3) The township board may secure bonds or notes issued under this section by mortgage, assignment, or pledge of property including, but not limited to, anticipated tax collections, revenue sharing payments, or special

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assessment revenues. A pledge made by the township board is valid and binding from the time the pledge is made. The pledge immediately shall be subject to the lien of the pledge without a filing or further act. The lien of the pledge shall be valid and binding as against parties having claims in tort, contract, or otherwise against the township, irrespective of whether the parties have notice of the lien. Filing of the resolution, the trust agreement, or another instrument by which a pledge is created is not required.

(4) Bonds or notes issued under this section are exempt from all taxation in this state except inheritance and transfer taxes, and the interest on the bonds or notes is exempt from all taxation in this state, notwithstanding that the interest may be subject to federal income tax.

(5) The bonds and notes issued under this section may be invested in by the state treasurer and all other public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by the state treasurer and all other public officers and the agencies and political subdivisions of this state for all purposes for which the deposit of bonds or notes is authorized. The authority granted by this section is in addition to all other authority granted by law.

(6) A development rights ordinance may authorize the township board to finance a PDR program by special assessments. In addition to meeting the requirements of section 32, the development rights ordinance shall include in the procedure to approve and establish a special assessment district both of the following:

- (a) The requirement that there be filed with the township board a petition containing all of the following:
 - (i) A description of the development rights to be purchased, including a legal description of the land from which the purchase is to be made.
 - (ii) A description of the proposed special assessment district.
 - (iii) The signatures of the owners of at least 66% of the land area in the proposed special assessment district.
 - (iv) The amount and duration of the proposed special assessments.
- (b) The requirement that the township board specify how the proposed purchase of development rights will specially benefit the land in the proposed special assessment district.

History: Add. 1996, Act 570, Eff. Mar. 31, 1997;—Am. 2002, Act 204, Imd. Eff. Apr. 29, 2002.

125.310 Definitions; short title.

Sec. 40. (1) As used in this act:

(a) “Agricultural land” means substantially undeveloped land devoted to the production of plants and animals useful to humans, including forage and sod crops; grains, feed crops, and field crops; dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities.

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

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

(d) “Airport layout plan” means a plan, or an amendment to a plan, that shows current or proposed layout of an airport, that is approved by the Michigan aeronautics commission, and that is filed with the township zoning board under section 151 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.151.

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

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

(g) “Conservation easement” means that term as defined in section 2140 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2140.

(h) “Development rights” means the rights to develop land to the maximum intensity of development authorized by law.

(i) “Development rights ordinance” means an ordinance, which may comprise part of a zoning ordinance, adopted under section 31.

(j) “Greenway” means a contiguous or linear open space, including habitats, wildlife corridors, and trails, that link parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes.

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(k) “Intensity of development” means the height, bulk, area, density, setback, use, and other similar characteristics of development.

(l) “Other eligible land” means land that has a common property line with agricultural land from which development rights have been purchased and that is not divided from that agricultural land by a state or federal limited access highway.

(m) “PDR program” means a program under section 32 for the purchase of development rights by a township.

(n) “Population of” a specified number means the population according to the most recent federal decennial census or according to a special census conducted pursuant to section 7 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.907, whichever is the more recent.

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

(2) This act shall be known and may be cited as the “township zoning act”.

History: Add. 1996, Act 570, Eff. Mar. 31, 1997;—Am. 2000, Act 384, Eff. Mar. 28, 2001;—Am. 2001, Act 177, Imd. Eff. Dec. 15, 2001.

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