ZONING

A. BASIC ZONING AUTHORITY & PUBLICATION REQUIREMENTS

TOWNSHIP ORDINANCES (EXCERPT)
Act 246 of 1945

41.184 Township ordinance; effective date; publication; adoption by reference.
Sec. 4. (1) A township ordinance shall contain a provision stating when the ordinance takes effect.

(2) Except as provided in section 22 of the charter township act, 1947 PA 359, MCL 42.22, and section 11 of the township zoning act, 1943 PA 184, MCL 125.281, a township ordinance shall take effect as follows:

(a) If an ordinance imposes a sanction for the violation of the ordinance, the ordinance shall take effect 30 days after the first publication of the ordinance.

(b) If an ordinance does not impose a sanction for the violation of the ordinance, the ordinance shall take effect the day following the date of the publication of the ordinance or any date following publication specified in the ordinance.

(3) Publication of the ordinance shall be made within 30 days after the passage of the ordinance by inserting either a true copy or a summary of the ordinance once in a newspaper circulating within the township. A summary of an ordinance may be drafted by the same person who drafted the ordinance or by the township board or township zoning board and shall be written in clear and nontechnical language. Each section of an ordinance or a summary of an ordinance shall be preceded by a catch line. If a summary of an ordinance is published, the township shall

designate in the publication the location in the township where a true copy of the ordinance can be inspected or obtained.

(4) If an ordinance adopts by reference a provision of any state statute for which the maximum period of imprisonment is 93 days or the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, a statement of the purpose of the statute shall be published with the adopting ordinance or with the summary of the adopting ordinance under subsection (3). Copies of the statute adopted by the township by reference shall be kept in the office of the township clerk, available for inspection by and distribution to the public. The township shall include in the publication the designation of a location in the township where a copy of the statute can be inspected or obtained. A township shall not enforce any provision adopted by reference for which the maximum period of imprisonment is greater than 93 days.

History: Add. 1989, Act 78, Imd. Eff. June 20, 1989 ;-- Am. 1994, Act 14, Eff. May 1, 1994 ;-- Am. 1999, Act 253, Imd. Eff. Dec. 28, 1999 ;-- Am. 1999, Act 257, Eff. Dec. 29, 1999
Compiler's Notes: Former section 4 of this act was not compiled.

THE CHARTER TOWNSHIP ACT (EXCERPT)
Act 359 of 1947

42.22 Ordinance; publication; effective date; publication of summary or true copy; catch lines required; drafting of summary.
Sec. 22. An ordinance passed by a township board shall be published at least once. An ordinance is effective immediately upon its publication, unless a date upon which the ordinance shall become effective, which is subsequent to the date of the publication of the ordinance, is specifically provided in the ordinance. The publication of a summary or a true copy of an ordinance after final passage, as a part of the published proceedings of the township board, shall constitute publication of the ordinance. If a summary of an ordinance is published, the township shall include in the publication the designation of a location in the township where a true copy of the ordinance can be inspected or obtained. Each section of an ordinance or a summary of an ordinance shall be preceded by a catch line. A summary of an ordinance may be drafted by the same person,

corporation, partnership, firm, association, or other legal entity who drafted the ordinance or by the township board or township zoning board and shall be written in clear and nontechnical language.

History: 1947, Act 359, Eff. Oct. 11, 1947 ;-- CL 1948, 42.22 ;-- Am. 1949, Act 70, Eff. Sept. 23, 1949 ;-- Am. 1982, Act 345, Eff. Mar. 30, 1983

THE HOME RULE CITY ACT (EXCERPT)
Act 279 of 1909

117.4i Permissible charter provisions.
Sec. 4i. Each city may provide in its charter for 1 or more of the following:

(a) Laying and collecting rents, tolls, and excises.

(b) Regulating and restricting the locations of oil and gasoline stations.

(c) The establishment of districts or zones within which the use of land and structures, the height, area, size, and location of buildings, the required open spaces for light and ventilation of buildings, and the density of population may be regulated by ordinance. The zoning ordinance provisions applicable to 1 or more districts may differ from those applicable to other districts. If a city is incorporated, or if territory is annexed to a city incorporated under this act, the zoning ordinance provisions applicable to the territory within the newly incorporated city or the annexed territory shall remain in effect for 2 years after the incorporation or annexation unless the legislative body of the city lawfully adopts other zoning ordinance provisions.

(d) The regulation of trades, occupations, and amusements within city boundaries, if the regulations are not inconsistent with state or federal law, and the prohibition of trades, occupations, and amusements that are detrimental to the health, morals, or welfare of the inhabitants of that city.

(e) The regulation or prohibition of public nudity within city boundaries. As used in this subdivision, “public nudity” means knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to, payment or promise of payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following:

(i) A woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.

(ii) Material as defined in section 2 of 1984 PA 343, MCL 752.362.

(iii) Sexually explicit visual material as defined in section 3 of 1978 PA 33, MCL 722.673.

(f) Licensing, regulating, restricting, and limiting the number and locations of billboards within the city.

(g) The initiative and referendum on all matters within the scope of the powers of that city and the recall of city officials.

(h) A system of civil service for city employees, including employees of that city's board of health, and employees of any jail operated or maintained by the city. Charter provisions providing for a system of civil service for employees of a local health board are valid and effective.

(i) A system of compensation for city employees and the dependents of city employees in the case of disability, injury, or death of city employees.

(j) The enforcement of police, sanitary, and other ordinances that are not in conflict with the general laws.

(k) The punishment of persons who violate city ordinances other than ordinances described in section 4l. The penalty for a violation of such a

city ordinance shall not exceed a fine of $500.00 or imprisonment for 90 days, or both. However, unless otherwise provided by law, the ordinance may provide that a violation of the ordinance is punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both, if the violation substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days.

History: Add. 1929, Act 126, Eff. Aug. 28, 1929 ;-- CL 1929, 2239 ;-- Am. 1937, Act 309, Eff. Oct. 29, 1937 ;-- Am. 1939, Act 175, Eff. Sept. 29, 1939 ;-- Am. 1941, Act 10, Imd. Eff. Mar. 5, 1941 ;-- Am. 1941, Act 283, Imd. Eff. June 17, 1941 ;-- CL 1948, 117.4i ;-- Am. 1957, Act 131, Imd. Eff. May 25, 1957 ;-- Am. 1963, Act 166, Eff. Sept. 6, 1963 ;-- Am. 1991, Act 175, Eff. Mar. 30, 1992 ;-- Am. 1994, Act 17, Eff. May 1, 1994 ;-- Am. 1994, Act 313, Imd. Eff. July 21, 1994 ;-- Am. 1996, Act 179, Imd. Eff. Apr. 19, 1996 ;-- Am. 1999, Act 55, Eff. Oct. 1, 1999 .

ZONING REGULATIONS (EXCERPT)
Act 171 of 1958

125.311 Annexed property to village; continuation of zoning regulation.

Sec. 1. Whenever any portion of any township becomes an incorporated village, or whenever any territory is annexed to any village, the then existing zoning regulations for the territory within the newly incorporated village or within the territory attached to a then existing village shall remain in full force and effect for a period of 2 years after incorporation or annexation unless the legislative body of the village shall lawfully adopt other zoning regulations or ordinances.

History: 1958, Act 171, Eff. Sept. 13, 1958 ;-- Am. 1964, Act 80, Eff. Aug. 28, 1964

MICHIGAN ZONING ENABLING ACT
Act 110 of 2006

AN ACT to codify the laws regarding local units of government regulating the development and use of land; to provide for the adoption of zoning ordinances; to provide for the establishment in counties, townships, cities, and villages of zoning districts; to prescribe the powers and duties of certain officials; to provide for the assessment and

collection of fees; to authorize the issuance of bonds and notes; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.

History: 2006, Act 110, Eff. July 1, 2006

The People of the State of Michigan enact:

ARTICLE I
GENERAL PROVISIONS

125.3101 Short title.
Sec. 101. This act shall be known and may be cited as the "Michigan zoning enabling act".

History: 2006, Act 110, Eff. July 1, 2006

125.3102 Definitions.
Sec. 102. As used in this act:

(a) "Agricultural land" means substantially undeveloped land devoted to the production of plants and animals useful to humans, including, but not limited to, forage and sod crops, grains, feed crops, field crops, dairy products, poultry and poultry products, livestock, 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" and "airport layout plan" mean a plan, or an amendment to a plan, filed with the zoning commission under section 151 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.151.

(d) "Airport manager" means that term as defined in section 2 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.2.

(e) "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.

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

(g) "Coordinating zoning committee" means a coordinating zoning committee as described under section 307.

(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 507.

(j) "Family child care home" and "group child care home" mean those terms as defined in section 1 of 1973 PA 116, MCL 722.111, and only apply to the bona fide private residence of the operator of the family or group child care home.

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

(l) "Improvements" means those features and actions associated with a project that 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 local unit of government and future users or inhabitants of the proposed project or project area, including roadways,

lighting, utilities, sidewalks, screening, and drainage. Improvements do not include the entire project that is the subject of zoning approval.

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

(n) "Legislative body" means the county board of commissioners of a county, the board of trustees of a township, or the council or other similar elected governing body of a city or village.

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

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

(q) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

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

(s) "Site plan" includes the documents and drawings required by the zoning ordinance to ensure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

(t) "State licensed residential facility" means a structure constructed for residential purposes that is licensed by the state under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, or 1973 PA 116, MCL 722.111 to 722.128, and provides residential services for 6 or fewer individuals under 24-hour supervision or care.

(u) "Undeveloped state" means a natural state preserving natural resources, natural features, 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.

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

(w) "Zoning jurisdiction" means the area encompassed by the legal boundaries of a city or village or the area encompassed by the legal boundaries of a county or township outside the limits of incorporated cities and villages. The zoning jurisdiction of a county does not include the areas subject to a township zoning ordinance.

History: 2006, Act 110, Eff. July 1, 2006 ;-- Am. 2007, Act 219, Imd. Eff. Dec. 28, 2007 ;-- Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008

125.3103 Notice; publication; mail or personal delivery; requirements.

Sec. 103. (1) Except as otherwise provided under this act, if a local unit of government conducts a public hearing required under this act, the local unit of government shall publish notice of the hearing in a newspaper of general circulation in the local unit of government not less than 15 days before the date of the hearing.

(2) Notice required under this act shall be given as provided under subsection (3) to the owners of property that is the subject of the request. Notice shall also be given as provided under subsection (3) to all persons to whom real property is assessed within 300 feet of the property that is the subject of the request and to the occupants of all structures within 300 feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction. 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 persons, 1 occupant of each unit or spatial area shall be given

notice. If a single structure contains more than 4 dwelling units or other distinct spatial areas owned or leased by different persons, 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.

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

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

(a) Describe the nature of the request.

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

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

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

History: 2006, Act 110, Eff. July 1, 2006 ;-- Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008

ARTICLE II
ZONING AUTHORIZATION AND INITIATION

125.3201 Regulation of land development and establishment of districts; provisions; uniformity of regulations; designations; limitations.

Sec. 201. (1) A local unit of government may provide by zoning ordinance for the regulation of land development and the establishment of 1 or more districts within its zoning jurisdiction 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 ensure that use of the land is 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.

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

(3) A local unit of government may provide under the zoning ordinance for the regulation of land development and the establishment of districts which apply only to land areas and activities 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.

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

History: 2006, Act 110, Eff. July 1, 2006

125.3202 Zoning ordinance; determination by local legislative body; amendments or supplements; notice of proposed rezoning.

Sec. 202. (1) The legislative body of a local unit of government may provide by ordinance for the manner in which the regulations and

boundaries of districts or zones shall be determined and enforced or amended or supplemented. Amendments or supplements to the zoning ordinance shall be adopted in the same manner as provided under this act for the adoption of the original ordinance.

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

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

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

(5) An amendment to conform 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 legislative body and the notice of the adopted amendment published without referring the amendment to any other board or agency provided for under this act.

History: 2006, Act 110, Eff. July 1, 2006 ;-- Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008

125.3203 Zoning ordinance; plan; incorporation of airport layout plan or airport approach plan; zoning ordinance adopted after March 28, 2001.

Sec. 203. (1) 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, 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 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.

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

(3) In addition to the requirements of subsection (1), a zoning ordinance adopted after March 28, 2001 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 306 or transmitted under section 308 from the airport manager of any airport.

(4) If a zoning ordinance was adopted before March 28, 2001, the zoning ordinance is not required to be consistent with any airport zoning regulations, airport layout plan, or airport approach plan. A zoning ordinance amendment adopted or variance granted after March 28, 2001 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 section does not limit the right to petition for submission of a zoning ordinance amendment to the electors under section 402 or the right to file a protest petition under section 403.

History: 2006, Act 110, Eff. July 1, 2006

125.3204 Single-family residence; instruction in craft or fine art as home occupation.

Sec. 204. 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. 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 under this section.

History: 2006, Act 110, Eff. July 1, 2006

125.3205 Ordinance subject to MCL 460.561 to 460.575; regulation or control of oil or gas wells; prohibition.

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

(2) A county or township 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 such wells.

History: 2006, Act 110, Eff. July 1, 2006

125.3206 Residential use of property; adult foster care facilities; family or group child care homes.

Sec. 206. (1) Except as otherwise provided in subsection (2), a state licensed residential facility shall be considered a residential use of property for the purposes of zoning and a permitted use in all residential zones and is not 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.

(2) Subsection (1) does 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.

(3) For a county or township, a family child care home is considered a residential use of property for the purposes of zoning and a permitted use in all residential zones and is not 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.

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

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

(i) Another licensed group child care home.

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

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

(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 child care home as determined by the local unit of government.

(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 local unit of government may limit but not prohibit the operation of a group child care home between the hours of 10 p.m. and 6 a.m.

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

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

(5) For a city or village, a group child care home may be issued a special use permit, conditional use permit, or other similar permit.

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

(7) The requirements of this section shall not prevent a local unit of government from inspecting and enforcing a family or group child care home for the home's compliance with the local unit of government's zoning ordinance. For a county or township, an ordinance shall not be more restrictive for a family or group child care home than as provided under 1973 PA 116, MCL 722.111 to 722.128.

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

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

(10) The distances required under subsection (4)(a) shall be measured along a road, street, or place maintained by this state or a local unit of

government and generally open to the public as a matter of right for the purpose of vehicular traffic, not including an alley.

History: 2006, Act 110, Eff. July 1, 2006 ;-- Am. 2007, Act 219, Imd. Eff. Dec. 28, 2007

125.3207 Zoning ordinance or decision; effect as prohibiting establishment of land use.

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

History: 2006, Act 110, Eff. July 1, 2006

125.3208 Nonconforming uses or structures.

Sec. 208. (1) If the use of a dwelling, building, or structure or of the land is lawful at the time of enactment of a zoning ordinance or an amendment to a zoning ordinance, then that use may be continued although the use does not conform to the zoning ordinance or amendment. This subsection is intended to codify the law as it existed before July 1, 2006 in section 216(1) of the former county zoning act, 1943 PA 183, section 286(1) of the former township zoning act, 1943 PA 184, and section 583a(1) of the former city and village zoning act, 1921 PA 207, as they applied to counties, townships, and cities and villages, respectively, and shall be construed as a continuation of those laws and not as new enactments.

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

(3) The legislative body may acquire, by purchase, condemnation, or otherwise, private property or an interest in private property for the removal of nonconforming uses and structures. The legislative body may provide that the cost and expense of acquiring 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 local units of government. Property acquired under this subsection by a city or village shall not be used for public housing.

(4) 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 legislative body may institute proceedings for condemnation of nonconforming uses and structures under 1911 PA 149, MCL 213.21 to 213.25.

History: 2006, Act 110, Eff. July 1, 2006 ;-- Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008

125.3209 Township zoning ordinance not subject to county ordinance, rule, or regulation.

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

History: 2006, Act 110, Eff. July 1, 2006

125.3210 Ordinance as controlling.

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

History: 2006, Act 110, Eff. July 1, 2006

125.3211 Appointment of zoning commission by legislative body; purposes; petition; initiation of action to formulate zoning commission and zoning ordinance.

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

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

(3) Upon receipt of a petition signed by a number of qualified and registered voters residing in the zoning jurisdiction equal to not less than 8% of the total votes cast within the zoning jurisdiction for all candidates for governor at the last preceding general election at which a governor was elected, filed with the clerk of the local unit of government requesting the legislative body to appoint a zoning commission for purposes of formulating a zoning ordinance, the legislative body, at the next regular meeting, may initiate action to formulate a zoning commission and zoning ordinance under this act.

History: 2006, Act 110, Eff. July 1, 2006

ARTICLE III
ZONING COMMISSION

125.3301 Zoning commission; creation; transfer of powers to planning commission; resolution; membership; terms; successors; vacancy; limitation; removal of member; officers.
Sec. 301. (1) Each local unit of government in which the legislative body exercises authority under this act shall create a zoning commission unless 1 of the following applies:

(a) A county zoning commission created under former 1943 PA 183, a township zoning board created under former 1943 PA 184, or a city or village zoning commission created under former 1921 PA 207 was in existence in the local unit of government as of June 30, 2006. Unless abolished by the legislative body, that existing board or commission shall continue as and exercise the powers and perform the duties of a

zoning commission under this act, subject to a transfer of power under subsection (2).

(b) A planning commission was, as of June 30, 2006, in existence in the local unit of government and pursuant to the applicable planning enabling act exercising the powers and performing the duties of a county zoning commission created under former 1943 PA 185, of a township zoning board created under former 1943 PA 184, or of a city or village zoning commission created under former 1921 PA 207. Unless abolished by the legislative body, that existing planning commission shall continue and exercise the powers and perform the duties of a zoning commission under this act.

(c) The local unit of government has created a planning commission on or after July 1, 2006 and transferred the powers and duties of a zoning commission to the planning commission pursuant to the applicable planning enabling act.

(2) Except as otherwise provided under this subsection, if the powers and duties of the zoning commission have been transferred to the planning commission as provided by law, the planning commission shall function as the zoning commission of the local unit of government. By July 1, 2011, the legislative body shall transfer the powers and duties of the zoning commission to the planning commission. Except as provided under this subsection, beginning July 1, 2011, a zoning commission's powers or duties under this act or an ordinance adopted under this act shall only be exercised or performed by a planning commission.

(3) If a zoning commission is created on or after July 1, 2006, the zoning commission shall be created by resolution and be composed of not fewer than 5 or more than 11 members appointed by the legislative body. Not fewer than 2 of the members of a county zoning commission shall be recommended for membership by the legislative bodies of townships that are, or will be, subject to the county zoning ordinance. This requirement may be met as vacancies occur on a county zoning commission that existed on June 30, 2006.

(4) The members of a zoning commission shall be selected upon the basis of the members' qualifications and fitness to serve as members of a zoning commission.

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

(a) One group for 1 year.

(b) One group for 2 years.

(c) One group for 3 years.

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

(7) A vacancy on a zoning commission shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

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

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

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

History: 2006, Act 110, Eff. July 1, 2006 ;-- Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008

125.3302 Expenses; compensation.
Sec. 302. Members of the zoning commission may be reimbursed for reasonable expenses actually incurred in the discharge of their duties and may receive compensation as fixed by the legislative body.

History: 2006, Act 110, Eff. July 1, 2006

125.3303 Planning expert; compensation.
Sec. 303. (1) With the approval of the legislative body, the zoning commission may engage the services of a planning expert. Compensation for the planning expert shall be paid by the legislative body.

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

History: 2006, Act 110, Eff. July 1, 2006

125.3304 Regular meetings; notice; zoning commission subject to open meetings act.
Sec. 304. The zoning commission shall hold a minimum of 2 regular meetings annually, giving notice of the time and place by publication in a newspaper of general circulation in the zoning jurisdiction. Notice shall be given not less than 15 days before the meeting. The zoning commission is subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

History: 2006, Act 110, Eff. July 1, 2006

125.3305 Recommendations of zoning commission; adoption and filing.
Sec. 305. The zoning commission shall adopt and file with the legislative body the following recommendations:

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

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

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

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

History: 2006, Act 110, Eff. July 1, 2006

125.3306 Recommendations of zoning commission; submission to legislative body; public hearing; notice; examination of proposed text and maps.

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

(2) Notice of the time and place of the public hearing shall also be given by mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, 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 clerk of the legislative body for the purpose of receiving the notice of public hearing.

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

History: 2006, Act 110, Eff. July 1, 2006

125.3307 Review and recommendations after hearing; submission to township; submission to coordinating zoning committee; waiver of right to review.

Sec. 307. (1) Following the hearing required in section 306, a township shall submit for review and recommendation the proposed zoning ordinance, including any zoning maps, to the zoning commission of the county in which the township is situated if a county zoning commission has been appointed as provided under this act.

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

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

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

History: 2006, Act 110, Eff. July 1, 2006

125.3308 Summary of public hearing comments; transmission to legislative body by zoning commission; report.

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

(2) Following the enactment of the zoning ordinance, the zoning commission shall at least once per year prepare for the legislative body a report on the administration and enforcement of the zoning ordinance and recommendations for amendments or supplements to the ordinance.

History: 2006, Act 110, Eff. July 1, 2006

ARTICLE IV
ZONING ADOPTION AND ENFORCEMENT

125.3401 Public hearing to be held by legislative body; conditions; notice; approval of zoning ordinance and amendments by legislative body; filing; notice of ordinance adoption; notice mailed to airport manager; information to be included in notice; other statutory requirements superseded.

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

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

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

(4) The legislative body shall grant a hearing on a proposed ordinance provision to an interested property owner who requests a hearing by certified mail, addressed to the clerk of the legislative body. A hearing under this subsection is not subject to the requirements of section 103, except that notice of the hearing shall be given to the interested property owner in the manner required in section 103(3) and (4).

(5) After any proceedings under subsections (1) to (4), the legislative body shall consider and vote upon the adoption of a zoning ordinance,

with or without amendments. A zoning ordinance and any amendments shall be approved by a majority vote of the members of the legislative body.

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

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

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

(9) The notice required under this section shall include all of 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 legislative body of the [county, township, city, or village] 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 or amendment.

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

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

History: 2006, Act 110, Eff. July 1, 2006 ;-- Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008

125.3402 Notice of intent to file petition.

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

(2) If a notice of intent is filed under subsection (1), the petitioner shall have 30 days following the publication of the zoning ordinance to file a petition signed by a number of registered electors residing in the zoning jurisdiction not less than 15% of the total vote cast within the zoning jurisdiction for all candidates for governor at the last preceding general election at 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 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 clerk of the legislative body determines that the petition is inadequate.

(c) If a petition is filed within 30 days after publication of the ordinance, 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.

History: 2006, Act 110, Eff. July 1, 2006

125.3403 Amendment to zoning ordinance; filing of protest petition; vote.

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

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

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

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

History: 2006, Act 110, Eff. July 1, 2006

125.3404 Interim zoning ordinance.

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

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

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

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

History: 2006, Act 110, Eff. July 1, 2006

125.3405 Use and development of land as condition to rezoning.
Sec. 405. (1) An owner of land may voluntarily offer in writing, and the local unit of government may approve, certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map.

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

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

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

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

History: 2006, Act 110, Eff. July 1, 2006

125.3406 Zoning permits; fees.
Sec. 406. The legislative body may require the payment of reasonable fees for zoning permits as a condition to the granting of authority to use, erect, alter, or locate dwellings, buildings, and structures, including tents and recreational vehicles, within a zoning district established under this act.

History: 2006, Act 110, Eff. July 1, 2006

125.3407 Certain violations as nuisance per se.
Sec. 407. Except as otherwise provided by law, a use of land or a dwelling, building, or structure, including a tent or recreational vehicle, used, erected, altered, razed, or converted in violation of a zoning ordinance or regulation adopted under 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, recreational vehicle, or land is liable for maintaining a nuisance per se. The legislative body shall in the zoning ordinance enacted under this act designate the proper official or officials who shall administer and enforce the zoning ordinance and do 1 of the following for each violation of the zoning 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.

(c) Designate the violation as a blight violation and impose a civil fine or other sanction authorized by law. This subdivision applies only to a city that establishes an administrative hearings bureau pursuant to section 4q of the home rule city act, 1909 PA 279, MCL 117.4q.

History: 2006, Act 110, Eff. July 1, 2006 ;-- Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008

ARTICLE V
SPECIAL ZONING PROVISIONS

125.3501 Submission and approval of site plan; procedures and requirements.

Sec. 501. (1) The local unit of government 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 or official responsible for reviewing site plans and granting approval.

(2) 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 is agreed to by the landowner and the body or official that initially approved the site plan.

(3) 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.

(4) A decision rejecting, approving, or conditionally approving a site plan shall be based upon requirements and standards contained in the

zoning ordinance, other statutorily authorized and properly adopted local unit of government 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 conditions imposed under the zoning ordinance, other statutorily authorized and properly adopted local unit of government planning documents, other applicable ordinances, and state and federal statutes.

History: 2006, Act 110, Eff. July 1, 2006 ;-- Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008

125.3502 Special land uses; review and approval; application; notice of request; public hearing; incorporation of decision in statement of findings and conclusions.

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

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

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

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

(2) Upon receipt of an application for a special land use which requires a discretionary decision, the local unit of government shall provide notice of the request as required under section 103. The notice shall 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 property being considered for a special land use regardless of whether the property or occupant is located in the zoning jurisdiction.

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

(4) The body or official designated 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 of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed.

History: 2006, Act 110, Eff. July 1, 2006

125.3503 Planned unit development.

Sec. 503. (1) As used in this section, "planned unit development" includes such terms as cluster zoning, planned development, community unit plan, and 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) The legislative body may establish planned unit development requirements in a zoning ordinance that 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 commission, an individual charged with administration of the zoning ordinance, or the legislative body, as specified in the zoning ordinance.

(3) Within a land development project designated as a planned unit development, regulations relating to the use of land, including, but not limited to, permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas, 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 are followed in making regulatory decisions. Unless explicitly prohibited by the planned unit development regulations, if requested by the landowner, a local unit of government 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 the local unit of government shall specify all of the following:

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

(b) The conditions that create planned unit development eligibility, the participants in the review process, and the requirements and standards upon which applicants will be reviewed 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 responsible for the review and approval 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 under section 103.

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

(7) If amendment of a zoning ordinance is required by the planned unit development regulations of a 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 section shall fulfill the public hearing and notice requirements of section 306.

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

(9)Final approval 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.

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

History: 2006, Act 110, Eff. July 1, 2006

125.3504 Special land uses; regulations and standards; compliance; conditions; record of conditions.

Sec. 504. (1) If the zoning ordinance authorizes the consideration and approval of special land uses or planned unit developments under section 502 or 503 or otherwise provides for discretionary decisions, the regulations and standards upon which those decisions are made shall be specified in the zoning ordinance.

(2) 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 local unit of government.

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

(4) 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, as well as 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 requirements, be related to the standards established in the zoning ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

(5) 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 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: 2006, Act 110, Eff. July 1, 2006

125.3505 Performance guarantee.

Sec. 505. (1) To ensure compliance with a zoning ordinance and any conditions imposed under a zoning ordinance, a local unit of government may require that a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the local unit of government covering the estimated cost of improvements be deposited with the clerk of the legislative body 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 local unit of government may not require the deposit of the performance guarantee until it is prepared to issue the permit. The local unit of government shall establish procedures by which a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements shall be made as work progresses.

(2) 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 under the land division act, 1967 PA 288, MCL 560.101 to 560.293.

History: 2006, Act 110, Eff. July 1, 2006

125.3506 Open space preservation.
Sec. 506. (1) Subject to subsection (4) and section 402, a qualified local unit of government shall provide in its zoning ordinance that land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units on a smaller portion of the land than specified in the zoning ordinance, but not more than 50% for a county or township or 80% for a city or village, that could otherwise be developed, as determined by the local unit of government 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% for a county or township or 20% for a city or village, 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 the extension.

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

(2) After a landowner exercises the option provided under 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 local unit of government if both of the following apply:

(a) On or before October 1, 2001, the local unit of government 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 landowner, with the same number of dwelling units on a smaller portion of the land that, as determined by the local unit of government, could otherwise be developed under existing ordinances, laws, and rules on the entire land area.

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

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

(6) As used in this section, "qualified local unit of government" means a county, township, city, or village 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).

History: 2006, Act 110, Eff. July 1, 2006

125.3507 Purchase of development rights program; adoption of ordinance; limitations; agreements with other local governments.
Sec. 507. (1) As used in this section and sections 508 and 509, "PDR program" means a purchase of development rights program.

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

(3) A PDR program shall not acquire development rights by condemnation. This section and sections 508 and 509 do not limit any authority that may otherwise be provided by law for a local unit of government to protect natural resources, preserve open space, provide for historic preservation, or accomplish similar purposes.

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

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

History: 2006, Act 110, Eff. July 1, 2006

125.3508 PDR program; purchase of development rights by local unit of government; conveyance; notice; requirements for certain purchases.

Sec. 508. (1) A development rights ordinance shall provide for a PDR program. Under a PDR program, the local unit of government 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 local unit of government may seek through the purchase of development rights.

(b) The procedure by which the local unit of government or a landowner may by application initiate 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 procedures to be followed by the legislative body for approving, modifying, or rejecting an application to purchase development rights, including the determination of all 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 local unit of government.

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

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

(4) A county shall notify each township, city, or village, and a 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 township, city, or village of the disposition of that application.

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

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

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

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

History: 2006, Act 110, Eff. July 1, 2006

125.3509 PDR program; financing sources; bonds or notes; special assessments.

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

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

(b) Proceeds from the sale of development rights by the local unit of government subject to section 508(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 legislative body and permitted by law.

(2) The legislative body 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 local unit of government. 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 legislative body 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 assessment revenues. A pledge made by the legislative body 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 local unit of government, 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.

(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, financial institutions, 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 legislative body to finance a PDR program by special assessments. In addition to meeting the requirements of section 508, 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 legislative body 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 legislative body specify how the proposed purchase of development rights will specially benefit the land in the proposed special assessment district.

History: 2006, Act 110, Eff. July 1, 2006

ARTICLE VI
ZONING BOARD OF APPEALS

125.3601 Zoning board of appeals; appointment; procedural rules; membership; composition; alternate members; per diem; expenses; removal; terms of office; vacancies; conduct of meetings; conflict of interest.

Sec. 601. (1) A zoning ordinance shall create a zoning board of appeals. A zoning board of appeals in existence on June 30, 2006 may continue to act as the zoning board of appeals subject to this act. Subject to subsection (2), members of a zoning board of appeals shall be appointed by majority vote of the members of the legislative body serving.

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

(3) A zoning board of appeals shall be composed of not fewer than 5 members if the local unit of government has a population of 5,000 or more or not fewer than 3 members if the local unit of government has a population of less than 5,000. The number of members of the zoning board of appeals shall be specified in the zoning ordinance.

(4) In a county or township, 1 of the regular members of the zoning board of appeals shall be a member of the zoning commission, or of the planning commission if the planning commission is functioning as the zoning commission. In a city or village, 1 of the regular members of the zoning board of appeals may be a member of the zoning commission, or of the planning commission if the planning commission is functioning as the zoning commission, unless the legislative body acts as the zoning board of appeals under subsection (2). A decision made by a city or

village zoning board of appeals before the effective date of the 2007 amendatory act that amended this section is not invalidated by the failure of the zoning board of appeals to include a member of the city or village zoning commission or planning commission, as was required by this subsection before that amendatory act took effect.

(5) The remaining regular members of a zoning board of appeals, and any alternate members under subsection (7), shall be selected from the electors of the local unit of government residing within the zoning jurisdiction of that local unit of government or, in the case of a county, residing within the county but outside of any city or village. The members selected shall be representative of the population distribution and of the various interests present in the local unit of government.

(6) Subject to subsection (2), 1 regular or alternate member of a zoning board of appeals may be a member of the legislative body. Such a member shall not serve as chairperson of the zoning board of appeals. An employee or contractor of the legislative body may not serve as a member of the zoning board of appeals.

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

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

(9) A member of the zoning board of appeals may be removed by the legislative body for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a 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 malfeasance in office.

(10) The terms of office for members appointed to the zoning board of appeals shall be for 3 years, except for members serving because of their membership on the zoning commission or legislative body, whose terms shall be limited to the time they are members of those bodies. 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.

(11) A vacancy on the zoning board of appeals shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

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

(13) A member of the zoning board of appeals who is also a member of the zoning commission, the planning commission, or the legislative body shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the zoning commission, the planning commission, or the legislative body. However, the member may consider and vote on other unrelated matters involving the same property.

History: 2006, Act 110, Eff. July 1, 2006 ;-- Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008

125.3602 Meetings; call of the chairperson; oaths; attendance of witnesses; record of proceedings.

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

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

History: 2006, Act 110, Eff. July 1, 2006

125.3603 Zoning board of appeals; powers; concurring vote of majority of members.

Sec. 603. (1) The zoning 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 zoning board of appeals. The zoning board of appeals shall also hear and decide on matters referred to the zoning board of appeals or upon which the zoning board of appeals is required to pass under a zoning ordinance adopted under this act. It shall hear and decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcement of a zoning ordinance adopted under this act. For special land use and planned unit development decisions, an appeal may be taken to the zoning board of appeals only if provided for in the zoning ordinance.

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

History: 2006, Act 110, Eff. July 1, 2006

125.3604 Zoning board of appeals; procedures.
Sec. 604. (1) An appeal to the zoning board of appeals may be taken by a person aggrieved or by an officer, department, board, or bureau of this state or the local unit of government. In addition, a variance in the zoning ordinance may be applied for and granted under section 4 of the uniform condemnation procedures act, 1980 PA 87, MCL 213.54, and as provided under this act. The zoning board of appeals shall state the grounds of any determination made by the board.

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

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

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

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

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

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

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

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

(a) Cities and villages.

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

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

(10) The authority granted under subsection (9) is subject to the zoning ordinance of the local unit of government otherwise being in compliance with subsection (7) and having an ordinance provision that requires a

vote of 2/3 of the members of the zoning board of appeals to approve a use variance.

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

History: 2006, Act 110, Eff. July 1, 2006 ;-- Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008

125.3605 Decision as final; appeal to circuit court.
Sec. 605. The decision of the zoning board of appeals shall be final. A party aggrieved by the decision may appeal to the circuit court for the county in which the property is located as provided under section 606.

History: 2006, Act 110, Eff. July 1, 2006

125.3606 Circuit court; review; duties.
Sec. 606. (1) Any party aggrieved by a decision of the zoning board of appeals may appeal to the circuit court for the county in which the property is located. The circuit court shall review the record and decision to ensure that the decision meets all of the following requirements:

(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 zoning board of appeals.

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

proceedings or may affirm the original decision. The supplementary record and decision shall be filed with the court. The court may affirm, reverse, or modify the decision.

(3) An appeal from a decision of a zoning board of appeals shall be filed within 30 days after the zoning board of appeals issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the zoning board of appeals, if there is no chairperson, or within 21 days after the zoning board of appeals approves the minutes of its decision. The court may affirm, reverse, or modify the decision of the zoning board of appeals. The court may make other orders as justice requires.

History: 2006, Act 110, Eff. July 1, 2006 ;-- Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008

125.3607 Party aggrieved by order, determination, or decision; circuit court review; proper party.

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

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

History: 2006, Act 110, Eff. July 1, 2006

ARTICLE VII
STATUTORY COMPLIANCE AND REPEALER

125.3701 Compliance with open meetings act; availability of writings to public.

Sec. 701. (1) All meetings subject to this act shall be conducted in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

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

History: 2006, Act 110, Eff. July 1, 2006

125.3702 Repeal of MCL 125.581 to 125.600, 125.201 to 125.240, and 125.271 to 125.310; construction of section.
Sec. 702. (1) The following acts and parts of acts are repealed:

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

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

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

(2) This section does not alter, limit, void, affect, or abate any pending litigation, administrative proceeding, or appeal that existed on June 30, 2006 or any ordinance, order, permit, or decision that was based on the acts repealed under subsection (1). The zoning ordinance need not be readopted but is subject to the requirements of this act, including, but not limited to, the amendment procedures set forth in this act.

History: 2006, Act 110, Eff. July 1, 2006 ;-- Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008

B . PARTIAL AND COMPLETE PREEMPTIONS, MANDATORY COORDINATION ON SITING, AND SPECIAL LICENSING PROVISIONS[1]

RADIO BROADCASTING STATIONS
Act 152 of 1929

AN ACT to provide for the state-owned and operated Michigan public safety communications system for police and public safety purposes; to provide for acquisition, construction, implementation, operation, and maintenance of the property and equipment necessary to operate the system; and to prescribe the powers and duties of certain state agencies and officials.

History: 1929, Act 152, Eff. Aug. 28, 1929 ;-- Am. 1945, Act 62, Eff. Sept. 6, 1945 ;-- Am. 1996, Act 538, Imd. Eff. Jan. 13, 1997

The People of the State of Michigan enact:

28.281 Michigan public safety communications system; establishment within department of state police; scope.
Sec. 1. The Michigan public safety communications system is an 800-megahertz radio system and telecommunication network within the department of state police and includes all real and personal property, towers, buildings, equipment, and other related facilities and fixtures necessary for the operation and maintenance of the system.

History: 1929, Act 152, Eff. Aug. 28, 1929 ;-- CL 1929, 574 ;-- CL 1948, 28.281 ;-- Am. 1996, Act 538, Imd. Eff. Jan. 13, 1997

28.282 Michigan public safety communications system; construction; implementation; operation; maintenance; location; special use permit.

[1] http://web5.msue.msu.edu/lu/pamphlet/Blaw/AcrobatZoningCanNot.PDF

Sec. 2. (1) The director of the department of state police and the director of the department of management and budget are responsible for the construction, implementation, operation, and maintenance of the Michigan public safety communications system.

(2) In siting the buildings and equipment necessary to implement the Michigan public safety communications system, the director of the department of state police shall locate the system, a local unit of government with zoning authority shall be notified of a site selected in their jurisdiction and the requirements necessary for a site. If the selected site does not comply with zoning, the local unit shall have 30 days from the date of notification to grant a special use permit or propose an equivalent site. If the local unit does not grant a special use permit within the 30 day period, or a proposed alternate site does not meet the siting requirements, the department may proceed with construction.

History: 1929, Act 152, Eff. Aug. 28, 1929 ;-- CL 1929, 575 ;-- Am. 1945, Act 62, Eff. Sept. 6, 1945 ;-- CL 1948, 28.282 ;-- Am. 1996, Act 538, Imd. Eff. Jan. 13, 1997

28.283 Michigan public safety communications system; police dispatches and reports broadcasted; use by governmental public safety agency.

Sec. 3. (1) The department of state police shall broadcast all police dispatches and reports which have a reasonable relation to or connection with the apprehension of criminals, the prevention of crime, or the maintenance of peace, order, and public safety in this state.

(2) The director of the department of state police may authorize any governmental public safety agency to utilize the Michigan public safety communications system.

History: 1929, Act 152, Eff. Aug. 28, 1929 ;-- CL 1929, 576 ;-- Am. 1945, Act 62, Eff. Sept. 6, 1945 ;-- CL 1948, 28.283 ;-- Am. 1996, Act 538, Imd. Eff. Jan. 13, 1997

28.287 Repealed. 1996, Act 538, Imd. Eff. Jan. 13, 1997.

Compiler's Notes: The repealed section pertained to purchase of sets, employment of operators, and expenses relating to state radio stations.

MICHIGAN MILITARY ACT (EXCERPT)
Act 150 of 1967

32.780 Local zoning ordinances; applicability; conformance to local government master plan.

Sec. 380. State-owned or leased armories and accessory buildings, military warehouses, arsenals and storage facilities for military equipment, and lands and appurtenances required for the construction of armories or buildings, are not subject to zoning or building ordinances of any local government. The state military board shall take cognizance of local zoning ordinances and restrictions in the selection and acceptance of lands for armory or other military buildings and shall conform as nearly as possible to master plans of the local governments where it may be done without impairing the convenience and usefulness of the armories and buildings.

History: 1967, Act 150, Imd. Eff. June 30, 1967

THE GENERAL LAW VILLAGE ACT (EXCERPT)
Act 3 of 1895

67.1a Locomotives; enforceability of ordinance prescribing maximum speed limit.

Sec. 1a. Notwithstanding any other provision of this act, on and after the effective date of a passenger railroad maximum speed limit specified in a final order of the director of the state transportation department, an ordinance of a village prescribing the maximum speed limit of locomotives used in passenger train operations or of passenger railroad trains shall not be enforceable as to a speed limit other than the limit set forth in the order.

History: Add. 1984, Act 13, Imd. Eff. Feb. 16, 1984

THE HOME RULE VILLAGE ACT (EXCERPT)
Act 278 of 1909

78.26a Locomotives; enforceability of ordinance prescribing maximum speed limit.

Sec. 26a. Notwithstanding any other provision of this act, on and after the effective date of a passenger railroad maximum speed limit specified in a final order of the director of the state transportation department, an ordinance of a village prescribing the maximum speed limit of locomotives used in passenger train operations or of passenger railroad trains shall not be enforceable as to a speed limit other than the limit set forth in the order.

History: Add. 1984, Act 14, Imd. Eff. Feb. 16, 1984

THE FOURTH CLASS CITY ACT (EXCERPT)
Act 215 of 1895

91.6 Railroad track; location and grade of street crossings; construction and repair; flagmen; lighting; enforcement of ordinance prescribing maximum speed limit.

Sec. 6. The council may provide for and change the location and grade of street crossings of any railroad track; compel any railroad company or street railway company to raise or lower its railroad track to conform to street grades which may be established by the city; construct street crossings in a manner and with the protection to persons crossing at those crossings as the council may require and to keep those crossings in repair; and require and compel railroad companies to keep flagmen or watchmen at all railroad crossings of streets and to give warning of the approach and passage of trains at those crossings and to light those crossings during the night. On and after the effective date of a passenger railroad maximum speed limit specified in a final order of the director of the state transportation department, an ordinance of a city prescribing the maximum speed limit of locomotives used in passenger train operations or of passenger railroad trains shall not be enforceable as to a speed limit other than the limit set forth in the order.

History: 1895, Act 215, Eff. Aug. 30, 1895 ;-- CL 1897, 3112 ;-- CL 1915, 3026 ;-- CL 1929, 1950 ;-- CL 1948, 91.6 ;-- Am. 1984, Act 12, Imd. Eff. Feb. 16, 1984

THE HOME RULE CITY ACT (EXCERPT)
Act 279 of 1909

117.5d Locomotives; enforceability of ordinance prescribing maximum speed limit.

Sec. 5d. Notwithstanding any other provision of this act, on and after the effective date of a passenger railroad maximum speed limit specified in a final order of the director of the state transportation department, an ordinance of a city prescribing the maximum speed limit of locomotives used in passenger train operations or of passenger railroad trains shall not be enforceable as to a speed limit other than the limit set forth in the order. However, a city may prescribe the length of the time for which a passenger locomotive or passenger railroad train may obstruct vehicular traffic.

History: Add. 1984, Act 11, Imd. Eff. Feb. 16, 1984

CONTROL OF JUNKYARDS ADJACENT TO HIGHWAYS
Act 219 of 1966

AN ACT to regulate junkyards and to provide penalties.

History: 1966, Act 219, Imd. Eff. July 11, 1966 ;-- Am. 1972, Act 132, Eff. Jan. 1, 1973

The People of the State of Michigan enact:

252.201 Definitions.

Sec. 1. As used in this act:

(a) “Junk” means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled or wrecked automobiles, or parts of automobiles, iron, steel and other old or scrap ferrous or nonferrous material.

(b) “Automobile graveyard” means any establishment or place of business which is maintained, used or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts.

(c) “Junkyard” means an establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard, including garbage dumps and sanitary fills.

(d) “Interstate highway” means a state trunk line highway on the national system of interstate and defense highways, as designated, or as may hereafter be so designated, by the department of state highways and approved by the United States secretary of transportation, pursuant to the provisions of title 23 of the United States code.

(e) “Primary highway” means a state trunk line highway as designated, or as may hereafter be so designated, by the state highway department, and approved by the United States secretary of transportation, pursuant to the provisions of title 23 of the United States code.

(f) “Secondary highway” means a state secondary road or county primary road.

History: 1966, Act 219, Imd. Eff. July 11, 1966 ;-- Am. 1972, Act 132, Eff. Jan. 1, 1973

252.202 Legislative declaration; nonconforming junkyard as public nuisance.

Sec. 2. In order to promote the public safety, health, welfare, convenience and enjoyment of public travel, to protect the public investment in public highways, to preserve and enhance the scenic beauty of lands bordering public highways, to attract tourists and promote the prosperity, economic well-being and general welfare of the state, and to provide a statutory basis for controlling junkyards consistent with the public policy declared by congress in title 23 of the United States code, it is declared to be in the public interest to regulate and

restrict the establishment, operation and maintenance of junkyards in areas adjacent to interstate, primary and secondary highways within this state. All junkyards which do not conform to the requirements of this act are public nuisances.

History: 1966, Act 219, Imd. Eff. July 11, 1966 ;-- Am. 1972, Act 132, Eff. Jan. 1, 1973

252.203 Junkyards prohibited within 1000 feet of highway; exceptions.

Sec. 3. After January 1, 1973 a person shall not establish, expand or maintain a junkyard, any portion of which is within 1,000 feet of the nearest edge of the right of way of any interstate or primary or secondary highway, except the following:

(a) Those which are screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main-traveled way of the highway, or otherwise removed from sight, in accordance with rules of the department of state highways.

(b) Those located within areas which are zoned for industrial use under authority of law.

(c) Those which are not visible from the main-traveled way of an interstate primary or secondary highway.

History: 1966, Act 219, Imd. Eff. July 11, 1966 ;-- Am. 1972, Act 132, Eff. Jan. 1, 1973
Admin Rule: R 247.101 et seq. of the Michigan Administrative Code.

252.204 Screening or removal of nonconforming junkyards; removal cost.

Sec. 4. Any junkyard lawfully in existence on the effective date of this act which does not conform to the requirements for exception in section 3 and any other junkyard along any highway hereafter designated as an interstate or primary highway and which does not conform to the requirements for exception in section 3, shall be screened or removed by the state highway department as a cost of constructing state trunk line

highways. Nonconforming junkyards existing on the effective date of this act shall be removed or screened by July 1, 1970.

History: 1966, Act 219, Imd. Eff. July 11, 1966

252.204a Junkyards adjacent to secondary highway; screening or removal.

Sec. 4a. A junkyard which is lawfully in existence on the effective date of this act, which does not conform to subsections (a) or (b) of section 3 and is located along a secondary highway, shall be screened at a cost to the owner. However, screening of such a junkyard shall not be required in excess of an 8 foot fence. A junkyard which is established after the effective date of this act and is located along a secondary highway shall be adequately screened or removed in accordance with section 3 of this act at a cost to the owner.

History: Add. 1972, Act 132, Eff. Jan. 1, 1973

252.205 Screening by state highway department; acquisition of land.

Sec. 5. Junkyards referred to in section 4 shall be screened, if feasible, by the state highway department at locations on the highway right of way or in areas acquired for screening purposes outside the right of way so as not to be visible from the main-traveled way of the highways. The state highway department may acquire such land, or interests in land, necessary to provide adequate screening of junkyards.

History: 1966, Act 219, Imd. Eff. July 11, 1966

252.206 Junkyards; relocation, removal or disposal; costs.

Sec. 6. If the state highway department determines that the topography of the land adjacent to the highway will not permit adequate screening of junkyards referred to in section 4 or that the screening of junkyards would not be economically feasible, the state highway department may acquire land or interests in land necessary to secure the relocation, removal or disposal of the junkyards; and to pay for the costs of relocation, removal or disposal.

History: 1966, Act 219, Imd. Eff. July 11, 1966

252.207 Construction or maintenance of junkyards; rules and regulations; standards.

Sec. 7. The state highway department is authorized to promulgate rules and regulations, in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, which shall govern the location, planting, construction and maintenance of, and the materials used in screening or fencing required by this act, and to promulgate rules and regulations for determining unzoned industrial areas for the purposes of this act, consistent with the national standards promulgated by the United States secretary of commerce pursuant to title 23 of the United States code. Regulations shall not be more restrictive than the national standards.

History: 1966, Act 219, Imd. Eff. July 11, 1966
Admin Rule: R 247.101 et seq. of the Michigan Administrative Code.

252.208 Injunction to compel conformance.

Sec. 8. If a junkyard is not established, expanded or maintained in conformity with the provisions of section 3, the department of state highways may apply to the court of proper jurisdiction for an injunction to compel conformity with this act.

History: 1966, Act 219, Imd. Eff. July 11, 1966 ;-- Am. 1972, Act 132, Eff. Jan. 1, 1973

252.209 Construction of act.

Sec. 9. Nothing in this act shall be construed to abrogate or affect the provisions of any law or ordinance which is more restrictive than the provisions of this act.

History: 1966, Act 219, Imd. Eff. July 11, 1966

252.210 Control of junkyards; agreement with United States secretary of commerce.

Sec. 10. The state highway department is authorized to enter into agreements with the United States secretary of commerce as provided by

title 23 of the United States code, relating to the control of junkyards in areas adjacent to the interstate and primary systems, and to take action in the name of the state to comply with the terms of such agreement.

History: 1966, Act 219, Imd. Eff. July 11, 1966

252.211 Interests in land to be acquired; methods.
Sec. 11. The interests in land authorized to be acquired under this act may be the fee simple or any lesser estate, as determined by the state highway department to be reasonably necessary to accomplish the purposes of this act. Acquisitions may be by gift, purchase, exchange or condemnation and shall be made in accordance with statutes governing acquisitions for highway purposes.

History: 1966, Act 219, Imd. Eff. July 11, 1966

HIGHWAY ADVERTISING ACT OF 1972
Act 106 of 1972

AN ACT to provide for the licensing, regulation, control, and prohibition of outdoor advertising adjacent to certain roads and highways; to prescribe powers and duties of certain state agencies and officials; to promulgate rules; to provide remedies and prescribe penalties for violations; and to repeal acts and parts of acts.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972 ;-- Am. 1998, Act 464, Eff. Mar. 23, 1999

The People of the State of Michigan enact:

252.301 Short title.
Sec. 1. This act shall be known and may be cited as the “highway advertising act of 1972”.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972

252.302 Definitions.
Sec. 2. As used in this act:

(a) "Business area" means an adjacent area which is zoned under authority of state, county, township, or municipal zoning authority for industrial or commercial purposes, customarily referred to as "b" or business, "c" or commercial, "i" or industrial, "m" or manufacturing, and "s" or service, and all other similar classifications and which is within a city, village, or charter township or is within 1 mile of the corporate limits of a city, village, or charter township or is beyond 1 mile of the corporate limits of a city, village, or charter township and contains 1 or more permanent structures devoted to the industrial or commercial purposes described in this subdivision and which extends along the highway a distance of 800 feet beyond each edge of the activity. Each side of the highway is considered separately in applying this definition except where it is not topographically feasible for a sign or sign structure to be erected or maintained on the same side of the highway as the permanent structure devoted to industrial or commercial purposes, a business area may be established on the opposite side of a primary highway in an area zoned commercial or industrial or in an unzoned area with the approval of the state highway commission. A permanent structure devoted to industrial or commercial purposes does not result in the establishment of a business area on both sides of the highway. All measurements shall be from the outer edge of the regularly used building, parking lot or storage or processing area of the commercial or industrial activity and not from the property lines of the activities and shall be along or parallel to the edge or pavement of the highway. Commercial or industrial purposes are those activities generally restricted to commercial or industrial zones in jurisdictions that have zoning. In addition, the following activities shall not be considered commercial or industrial:

(i) Agricultural, animal husbandry, forestry, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands.

(ii) Transient or temporary activities.

(iii) Activities not visible from the main-traveled way.

(iv) Activities conducted in a building principally used as a residence, or in a building located on property that is used principally for residential purposes or for activities recited in subparagraph (i).

(v) Railroad tracks and minor sidings.

(vi) Outdoor advertising.

(vii) Activities more than 660 feet from the main-traveled way.

(viii) Activities that have not been in continuous operation of a business or commercial nature for at least 2 years.

(ix) Public utility facilities, whether regularly staffed or not.

(x) Structures associated with on-site outdoor recreational activities such as riding stables, golf course shops, and campground offices.

(xi) Activities conducted in a structure for which an occupancy permit has not been issued or which is not a fully enclosed building, having all necessary utility service and sanitary facilities required for its intended commercial or industrial use.

(xii) A storage facility for a business or other activity not located on the same property, except a storage building having at least 10 separate units that are available to be rented by the public.

(xiii) A temporary business solely established to qualify as commercial or industrial activity under this act.

(b) "Unzoned commercial or industrial area" means an area which is within an adjacent area, which is not zoned by state or local law, regulation or ordinance, which contains 1 or more permanent structures devoted to the industrial or commercial purposes described in subdivision (a), and which extends along the highway a distance of 800 feet beyond each edge of the activity. Each side of the highway is considered separately in applying this definition except where it is not

topographically feasible for a sign or sign structure to be erected or maintained on the same side of the highway as the permanent structure devoted to industrial or commercial purposes, an unzoned commercial or industrial area may be established on the opposite side of a primary highway in an area zoned commercial or industrial or in an unzoned area with the approval of the state highway commission. A permanent structure devoted to industrial or commercial purposes does not result in the establishment of an unzoned commercial or industrial area on both sides of the highway. All measurements shall be from the outer edge of the regularly used building, parking lot or storage or processing area of the commercial or industrial activity and not from the property lines of the activities and shall be along or parallel to the edge or pavement of the highway. Commercial or industrial purposes are those activities generally restricted to commercial or industrial zones in jurisdictions that have zoning. In addition, the following activities shall not be considered commercial or industrial:

(i) Agricultural, animal husbandry, forestry, grazing, farming and related activities, including, but not limited to, wayside fresh produce stands.

(ii) Transient or temporary activities.

(iii) Activities not visible from the main-traveled way.

(iv) Activities conducted in a building principally used as a residence, or in a building located on property that is used principally for residential purposes or for activities recited in subparagraph (i).

(v) Railroad tracks and minor sidings.

(vi) Outdoor advertising.

(vii) Activities more than 660 feet from the main-traveled way.

(viii) Activities that have not been in continuous operation of a business or commercial nature for at least 2 years.

(ix) Public utility facilities, whether regularly staffed or not.

(x) Structures associated with on-site outdoor recreational activities such as riding stables, golf course shops, and campground offices.

(xi) Activities conducted in a structure for which an occupancy permit has not been issued or which is not a fully enclosed building, having all necessary utility service and sanitary facilities required for its intended commercial or industrial use.

(xii) A storage facility for a business or other activity not located on the same property, except a storage building having at least 10 separate units that are available to be rented by the public.

(xiii) A temporary business solely established to qualify as commercial or industrial activity under this act.

(c) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(d) "Interstate highway" means a highway officially designated as a part of the national system of interstate and defense highways by the department and approved by the appropriate authority of the federal government.

(e) "Freeway" means a divided highway of not less than 2 lanes in each direction to which owners or occupants of abutting property or the public do not have a right of ingress or egress to, from or across the highway, except at points determined by or as otherwise provided by the authorities responsible therefor.

(f) "Primary highway" means a highway, other than an interstate highway or freeway, officially designated as a part of the primary system as defined in section 131 of title 23 of the United States Code, 23 USC 131, by the department and approved by the appropriate authority of the federal government.

(g) "Main-traveled way" means the traveled way of a highway on which through traffic is carried. The traveled way of each of the separate roadways for traffic in opposite directions is a main-traveled way of a divided highway. It does not include facilities as frontage roads, turning roadways or parking areas.

(h) "Sign" means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing, whether placed individually or on a T-type, V-type, back to back or double-faced display, designed, intended or used to advertise or inform.

(i) "Sign structure" means the assembled components which make up an outdoor advertising display, including but not limited to uprights, supports, facings and trim. Such sign structure may contain 1 or 2 signs per facing and may be double-faced, back to back, T-type or V-type.

(j) "Visible" means a sign that has a message that is capable of being seen and read by a person of normal visual acuity when traveling in a motor vehicle.

(k) "Location" means a place where there is located a single, double-faced, back to back, T-type, or V-type sign structure.

(l) "Maintain" means to allow to exist and includes the periodic changing of advertising messages, customary maintenance and repair of signs and sign structures.

(m) "Abandoned sign or sign structure" means a sign or sign structure subject to the provisions of this act, the owner of which has failed to secure a permit, has failed to identify the sign or sign structure or has failed to respond to notice.

(n) "Department" means the state transportation department.

(o) "Adjacent area" means the area measured from the nearest edge of the right of way of an interstate highway, freeway, or primary highway

and extending 3,000 feet perpendicularly and then along a line parallel to the right-of-way line.

(p) "Person" means any individual, partnership, private association, or corporation, state, county, city, village, township, charter township, or other public or municipal association or corporation.

(q) "On-premises sign" means a sign advertising activities conducted or maintained on the property on which it is located. The boundary of the property shall be as determined by tax rolls, deed registrations, and apparent land use delineations. When a sign consists principally of brand name or trade name advertising and the product or service advertised is only incidental to the principal activity, or if it brings rental income to the property owner or sign owner, it shall be considered the business of outdoor advertising and not an on-premises sign. Signs on narrow strips of land contiguous to the advertised activity, or signs on easements on adjacent property, when the purpose is clearly to circumvent the intent of this act, shall not be considered on-premises signs.

(r) "Billboard" means a sign separate from a premises erected for the purpose of advertising a product, event, person, or subject not related to the premises on which the sign is located. Off-premises directional signs as permitted in this act shall not be considered billboards for the purposes of this section.

(s) "Secondary highway" means a state secondary road or county primary road.

(t) "Tobacco product" means any tobacco product sold to the general public and includes, but is not limited to, cigarettes, tobacco snuff, and chewing tobacco.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972 ;-- Am. 1976, Act 265, Imd. Eff. Oct. 1, 1976 ;-- Am. 1998, Act 533, Eff. Mar. 23, 1999 ;-- Am. 2006, Act 448, Eff. Jan. 1, 2007

252.303 Purpose.

Sec. 3. To improve and enhance scenic beauty consistent with section 131 of title 23 of the United States Code, 23 USC 131, and to limit and reduce the illegal possession and use of tobacco by minors, the legislature finds it appropriate to regulate and control outdoor advertising and outdoor advertising as it pertains to tobacco adjacent to the streets, roads, highways, and freeways within this state and that outdoor advertising is a legitimate accessory commercial use of private property, is an integral part of the marketing function and an established segment of the economy of this state.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972 ;-- Am. 1998, Act 464, Eff. Mar. 23, 1999 ;-- Am. 1998, Act 533, Eff. Mar. 23, 1999 ;-- Am. 2006, Act 448, Eff. Jan. 1, 2007

252.304 Size, lighting, and spacing of signs and sign structures; regulation and control; exceptions.

Sec. 4. This act regulates and controls the size, lighting, and spacing of signs and sign structures in adjacent areas and occupies the whole field of that regulation and control except for the following:

(a) A county, city, village, township, or charter township may enact ordinances to regulate and control the size, lighting, and spacing of signs and sign structures but shall not permit a sign or sign structure that is otherwise prohibited by this act or require or cause the removal of lawfully erected signs or sign structures subject to this act without the payment of just compensation. A sign owner shall apply for an annual permit pursuant to section 6 for each sign to be maintained or to be erected within that county, city, village, charter township, or township. A sign erected or maintained within that county, city, village, township, or charter township shall also comply with all applicable provisions of this act.

(b) A county, city, village, charter township, or township vested by law with authority to enact zoning codes has full authority under its own zoning codes or ordinances to establish commercial or industrial areas and the actions of a county, city, village, charter township, or township in so doing shall be accepted for the purposes of this act. However,

except as provided in subdivision (a), zoning which is not part of a comprehensive zoning plan and is taken primarily to permit outdoor advertising structures shall not be accepted for purposes of this act. A zone in which limited commercial or industrial activities are permitted as incidental to other primary land uses is not a commercial or industrial zone for outdoor advertising control purposes.

(c) An ordinance or code of a city, village, township, or charter township that existed on March 31, 1972 and that prohibits signs or sign structures is not made void by this act.

(d) A county ordinance that regulates and controls the size, lighting, and spacing of signs and sign structures shall only apply in a township within the county if the township has not enacted an ordinance to regulate and control the size, lighting, and spacing of signs and sign structures.

(e) A county, on its own initiative or at the request of a city, village, township, or charter township within that county, may prepare a model ordinance as described in subdivision (a). A city, village, township, or charter township within that county may adopt the model ordinance.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972 ;-- Am. 1980, Act 36, Imd. Eff. Mar. 12, 1980 ;-- Am. 1990, Act 153, Eff. Oct. 1, 1990 ;-- Am. 1998, Act 533, Eff. Mar. 23, 1999 ;-- Am. 2006, Act 448, Eff. Jan. 1, 2007 ;-- Am. 2008, Act 93, Imd. Eff. Apr. 8, 2008
Compiler's Notes: Section 2 of Act 153 of 1990 provides: “This amendatory act shall take effect October 1, 1990.”

252.305 Signs subject to act.

Sec. 5. A person shall not engage or continue to engage in outdoor advertising through the erection, use or maintenance of any signs in an adjacent area where the facing of the sign is visible from an interstate highway, freeway, or primary highway, except as provided in this act. A sign having a facing visible from more than 1 state highway or other public road shall comply with the requirements for outdoor advertising for each state highway and each public road from which it is visible.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972 ;-- Am. 1998, Act 533, Eff. Mar. 23, 1999

252.306 Permit; application; contents of form.

Sec. 6. A sign owner shall apply for an annual permit on a form prescribed by the department for each sign to be maintained or to be erected in an adjacent area where the facing of the sign is visible from an interstate highway, freeway, or primary highway. A sign owner shall apply for a separate sign permit for each sign for each highway subject to this act from which the facing of the sign is visible. The owner shall apply for the permit for such signs which become subject to the permit requirements of this act because of a change in highway designation or other reason not within the control of the sign owner within 2 months after the sign becomes subject to the permit requirements of this act. The form shall require the name and business address of the applicant, the name and address of the owner of the property on which the sign is to be located, the date the sign, if currently maintained, was erected, the zoning classification of the property, a precise description of where the sign is or will be situated and a certification that the sign is not prohibited by section 18(a), (b), (c), or (d) and that the sign does not violate any provisions of this act. The sign permit application shall include a statement signed by the owner of the land on which the sign is to be placed, acknowledging that no trees or shrubs in the adjacent highway right-of-way may be removed, trimmed, or in any way damaged or destroyed without the written authorization of the department. The department may require documentation to verify the zoning, the consent of the land owner, and any other matter considered essential to the evaluation of the compliance with this act.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972 ;-- Am. 1998, Act 533, Eff. Mar. 23, 1999 ;-- Am. 2006, Act 448, Eff. Jan. 1, 2007

252.307 Permit; fees; expiration; renewal; exception; delinquent payment; transfer fee.

Sec. 7. (1) A permit fee is payable annually in advance, to be credited to the state trunk line fund. The fee is $100.00 for the first year except that signs in existence prior to a highway's change in designation or jurisdiction which would require signs to be permitted shall only be

required to pay the permit renewal amount as provided in subsection (2). The department shall establish an annual expiration date for each permit and may change the expiration date of existing permits to spread the permit renewal activity over the year. Permit fees may be prorated the first year. An application for the renewal of a permit shall be filed with the department at least 30 days before the expiration date.

(2) For signs up to and including 300 square feet, the annual permit renewal fee is $50.00. For signs greater than 300 square feet, the annual permit renewal fee is $80.00. Signs of the service club and religious category as defined in rules promulgated by the department are not subject to an annual renewal fee.

(3) For each permit, the department shall assess a $100.00 penalty for delinquent payment of renewal fees.

(4) The department shall require a transfer fee when a request is made to transfer existing permits to a new sign owner. Except as otherwise provided in this subsection, the transfer fee shall be $100.00 for each permit that is requested to be transferred, up to a maximum of $500.00 for a request that identifies 5 or more permits to be transferred. If the department incurs additional costs directly attributable to special and unique circumstances associated with the requested transfer, the department may assess a transfer fee greater than the maximums identified in this subsection to recover those costs incurred by the department.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972 ;-- Am. 1976, Act 265, Imd. Eff. Oct. 1, 1976 ;-- Am. 1998, Act 533, Eff. Mar. 23, 1999 ;-- Am. 2006, Act 448, Eff. Jan. 1, 2007

252.307a Issuance of annual permits for new signs on or after January 1, 2007; interim permits; construction of sign structure; renewable permit.

Sec. 7a. (1) Except as otherwise provided in this section, the department shall not issue annual permits for new signs on or after January 1, 2007.

(2) Permits issued by the department before the effective date of the amendatory act that added this section remain in force and valid.

(3) On and after January 1, 2007, the department shall issue an interim permit or permits to a holder of a valid permit or permits if all of the following conditions are met:

(a) The holder of the valid permit or permits is otherwise in compliance with this act.

(b) The holder of the permit or permits surrenders the permit or permits to the department upon the removal of a sign structure or sign structures that have a valid permit under this act.

(c) The holder of the permit or permits verifies the removal of the sign structure or sign structures in writing to the department.

(d) The department verifies that the sign structure or structures have been removed or the removal has been deemed effective under this section.

(e) If a permit holder has a valid annual permit or permits for a site or sites where no sign structure exists or no construction has begun to build a sign structure on January 1, 2007, the permit holder may exchange the permit or permits for an interim permit under this section or begin construction under the valid permit or permits no later than 1 year after January 1, 2007. The number of permits that can be received in an exchange shall be determined under subsection (4).

(3) An interim permit that is issued under this section shall only be utilized for the construction of a new sign structure and shall remain in effect without expiration with fees renewed on an annual basis.

(4) Subject to subsections (2) and (8), a permit holder who is exchanging a permit or permits under subsection (2)(e) shall be issued 1 interim permit for each of the first 3 permits surrendered. For each permit surrendered under subsection (2)(e) after the first 3 permits surrendered, a permit holder under subsection (2)(e) shall receive 1 interim permit for

each 3 permits surrendered. A permit holder shall have 1 year from January 1, 2007 to exchange permits pursuant to subsection (2)(e) and this subsection. A permit that is not exchanged pursuant to subsection (2)(e) and this subsection cannot be exchanged and shall expire no later than 1 year after January 1, 2007.

(5) The department shall verify that an existing sign structure has been removed no later than 30 days after the department receives written notice from the permit holder that the sign structure has been removed. If the department does not respond to the written notice within 30 days after receipt of the written notice, then the permit holder shall be deemed to have removed the sign structure in compliance with this section.

(6) A holder of 2 valid permits for a sign structure with 2 faces who complies with this section shall receive 2 interim permits for the construction of a sign structure with 2 faces. A permit holder under this subsection shall not receive 2 interim permits to construct 2 single-face sign structures.

(7) A holder of a valid permit for a sign structure with a single face is entitled to exchange that permit under this section for an interim permit with a single face. A holder of valid permits for 2 different single-face structures may exchange the 2 permits under this section for 2 interim permits to construct 2 single-face sign structures or 2 interim permits to construct 1 sign structure with 2 faces.

(8) A holder of more than 2 valid permits for a sign structure with more than 2 faces may exchange the permits under this section for a maximum of 2 interim permits. The 2 interim permits received under this section shall only be used to construct 1 sign structure with no more than 2 faces.

(9) After construction of a sign structure under an interim permit is complete, the department shall issue renewable permits annually for the completed sign structure.

(10) If a permit holder for a sign structure that exists on January 1, 2007 requires additional permits for any reason, the department may issue a valid renewable permit renewable on an annual basis without complying with subsection (2) even if the permit holder has more than 2 valid permits as a result.

History: Add. 2006, Act 447, Eff. Jan. 1, 2007

252.308 Repealed. 1976, Act 265, Imd. Eff. Oct. 1, 1976.

Compiler's Notes: The repealed section pertained to bond of permit applicant.

252.309 Permit; issuance or denial.

Sec. 9. Except for signs existing on March 31, 1972, a permit shall be issued or denied within 30 days after proper receipt of the permit form and the permit fee from the applicant. A permit shall not be issued for a sign which is prohibited by section 18(a), (b), (c), or (d). A permit shall not be issued for a sign that violates this act unless the sign is eligible for removal compensation under section 22.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972 ;-- Am. 1976, Act 265, Imd. Eff. Oct. 1, 1976 ;-- Am. 1998, Act 533, Eff. Mar. 23, 1999 ;-- Am. 2006, Act 448, Eff. Jan. 1, 2007

252.310 Permit; exemption.

Sec. 10. The owner of a sign allowed under section 13(1)(b) or (c) is not required to obtain a permit for that sign.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972 ;-- Am. 1998, Act 533, Eff. Mar. 23, 1999

252.311 Trimming or removing trees or shrubs within highway right-of-way; violation as felony; penalty; removal of sign.

Sec. 11. (1) Except as otherwise provided in subsection (2), a person who trims or removes trees or shrubs within a highway right-of-way for the purpose of making a proposed or existing sign more visible may pay a penalty of up to 5 times the value of the trees or shrubs trimmed or removed unless the person trimmed or removed the trees or shrubs under

the authority of a permit issued under section 11a. The value of the removed trees or shrubs shall be determined by the department in accordance with section 11a(3).

(2) A person who removes trees or shrubs within a highway right-of-way for the purpose of making a proposed or existing sign more visible without first obtaining a permit under section 11a is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $25,000.00, or both. If no criminal action pursuant to this section has been brought against the person within 1 year of the removal of trees or shrubs without a permit, the department may proceed to recover the penalty prescribed in subsection (1). If a criminal action is brought against a person pursuant to this subsection, the department shall not proceed to recover the penalty prescribed in subsection (1).

(3) If a sign owner or the sign owner's agent trims or removes trees or shrubs without first having obtained a permit under section 11a, the sign owner shall not be eligible to obtain a permit under section 11a for 3 years from the date of trimming or removal of trees or shrubs.

(4) If trees or shrubs within a highway right-of-way have been trimmed or removed by a sign owner or its agent for the purpose of making the sign more visible, the sign shall be considered illegal and the department may remove the sign pursuant to the procedures established in section 19 if a court determines any of the following:

(a) The trimming or removal was in violation of a local ordinance.

(b) The trimming or removal resulted in the intentional trimming or removal of trees or shrubs that were not authorized to be trimmed or removed in a permit issued under section 11a.

(c) The sign owner trimmed or removed trees or shrubs and did not obtain a permit under section 11a.

(5) If a sign is removed under this section and the department subsequently receives an application for a permit under section 6 for the

same area, the department shall consider that the conditions for the permit issued under section 6 remain in force for spacing and all other requirements of this act.

History: Add. 1998, Act 533, Eff. Apr. 1, 1999 ;-- Am. 2006, Act 448, Eff. Jan. 1, 2007

252.311a Permit to manage vegetation.

Sec. 11a. (1) Subject to the requirements of this section, the department is authorized to and shall issue permits for the management of vegetation to the owner of a sign subject to this act.

(2) A sign owner may apply to the department for a permit to manage vegetation using the department's approved form. The application shall be accompanied by an application fee of $150.00 to cover the costs of evaluating and processing the application. The application shall be submitted during the 2 or more annual application periods not less than 60 days each, as specified by the department. The application shall clearly identify the vegetation to be managed in order to create visibility of the sign within the billboard viewing zone and all proposed mitigation for the impacts of the vegetation management undertaken. The application shall also include anticipated management that will be needed in the future to maintain the visibility of the sign within the billboard viewing zone for the time specified in subsection (4) and procedures for clearing vegetation as determined by the department.

(3) From January 1, 2007 until January 1, 2008, upon proper receipt by the department of an application and application fee, and based on the provisions of subsection (4), an applicant shall be notified of approval, approval with modifications, or denial no later than 90 days after the last day of the application period. Beginning January 1, 2008, the department shall issue its decision on an application no later than 30 days after the last day of the application period. The department shall approve the application, approve the application with modification, or deny the application. If the department approves the application or approves the application with modification, it shall notify the applicant and the notification shall include the value of the vegetation to be managed as determined by the department using the most recent version of the

international society of arboriculture's guide for plant appraisal and the corresponding Michigan tree evaluation supplement to the guide for plant appraisal published by the Michigan forestry and park association. The department may use another objective authoritative guide or establish a value schedule, in consultation with representatives of the outdoor advertising industry and other interested parties, if either the guide or the supplement has not been updated for more than 5 years. The notification to the applicant shall also include any required mitigation for the vegetation to be managed and all conditions and requirements associated with the issuance of the permit. The permit fee shall be $300.00, except that in special and unique situations and circumstances where the department incurs additional costs directly attributable to the approval of the permit, a fee greater than $300.00 adequate for the recovery of additional costs may be assessed. Upon receipt of the permit fee, payment for the value of the vegetation, and compliance with MDOT conditions and requirements, the department shall issue the permit.

(4) Subject to the provisions of this subsection, a permit to manage vegetation shall provide for a minimum of 5 seconds of continuous, clear, and unobstructed view of the billboard face based on travel at the posted speed as measured from the point directly adjacent to the point of the billboard closest to the highway. The department and the applicant may enter into an agreement, at the request of the applicant, identifying the specific location of the continuous, clear, and unobstructed view within the billboard viewing zone. The specific location may begin at a point anywhere within the billboard viewing zone but shall result in a continuous, clear, and unobstructed view of not less than 5 seconds. An applicant shall apply for a permit that minimizes the amount of vegetation to be managed for the amount of viewing time requested. Applications for vegetation management that provide for greater than 5 seconds of continuous, clear, and unobstructed viewing at the posted speed as measured from a point directly adjacent to the point of the billboard closest to the highway shall not be rejected based solely upon the application exceeding the 5-second minimum. For billboards spaced less than 500 feet apart, vegetation management, when permitted, shall provide for a minimum of 5 seconds of continuous, clear, and

unobstructed view of the billboard face based on travel at the posted speed or the distance between the billboard and the adjacent billboard, whichever is less.

(5) The department shall issue permits for vegetation management in a viewing cone or, at the department's discretion, another shape that provides for the continuous, clear, and unobstructed view of the billboard face. The department may, in its discretion, issue a permit for vegetation management outside of the billboard viewing zone.

(6) If no suitable alternative exists or the applicant is unable to provide acceptable mitigation, the department may deny an application or provide a limited permit to manage vegetation when it can be demonstrated that 1 or more of the following situations exist:

(a) The vegetation management would have an adverse impact on safety.

(b) The vegetation management would have an adverse impact on operations of the state trunk line highway.

(c) The vegetation management conflicts with federal or state law, rules, or statutory requirements.

(d) The applicant does not have the approval of the owner of the property.

(e) The vegetation to be managed was planted or permitted to be planted by the department for a specific purpose.

(f) Vegetation would be managed for a newly constructed billboard or vegetation existed that obscured the billboard or would have obscured the billboard before it was constructed. In denying an application or providing a limited permit, the department shall consider previous vegetation management that was allowed at the billboard site.

(g) The management would occur on a scenic or heritage route that was designated on or before the effective date of the amendatory act that added this section.

(h) The application is for a sign that has been found, after a hearing in accordance with section 19, not to be in compliance with this act.

(i) Other special or unique circumstances or conditions exist, including, but not limited to, adverse impact on the environment, natural features, or adjacent property owners.

(7) If the department denies an application or issues a limited permit under this subsection, the department shall provide a specific rationale for denying an application or approving a limited permit.

(8) No later than 30 days after receiving a denial or a limited permit under subsection (6), an applicant may request the review and reconsideration of the denial or limited permit. The applicant shall submit its request in writing on a form as determined by the department. The applicant shall state the specific item or items for which review and reconsideration are being requested. An applicant who received a limited permit may manage vegetation in accordance with that permit during the review and reconsideration period.

(9) No later than 90 days after January 1, 2007, the department shall develop a procedure for review and reconsideration of applications that are denied or that result in the issuance of a limited permit. This procedure shall include at least 2 levels of review and provide for input from the applicant. The review period shall not exceed 120 days. The department shall consult with all affected and interested parties, including, but not limited to, representatives of the outdoor advertising industry, in the development of this procedure.

(10) If, after review and reconsideration as provided for in subsection (8), the applicant is denied a permit or issued a limited permit, the applicant may appeal the decision of the department to a court of competent jurisdiction.

(11) All work performed in connection with trimming, removing, or relocating vegetation shall be performed at the sign owner's expense.

(12) The department shall not plant or authorize to be planted any vegetation that obstructs, or through expected normal growth will obstruct in the future, the visibility within the billboard viewing zone of any portion of a sign face subject to this act.

(13) The department shall prepare an annual report for submission to the legislature regarding the vegetation management undertaken pursuant to this section. At a minimum, this report shall include all of the following items:

(a) The number of application periods.

(b) The number of applications submitted under this section.

(c) The number of permits approved without modifications.

(d) The number of permits approved with modifications.

(e) The number of permits denied.

(f) The number of modified or denied permits which were appealed.

(g) The number of appeals that reversed the department's decision.

(h) The number of appeals that upheld the department's decision.

(i) The number of permits approved which requested a visibility time period exceeding 5 seconds.

(j) The amount of compensation paid to the state for removed vegetation.

(k) The average number of days after the end of the application period before an applicant was sent notice that a permit was approved.

(l) A summary of the reasons for which the department denied or modified permits.

(m) A summary of the amount of all revenues and expenses associated with the management of the vegetation program.

(14) The report in subsection (13) shall contain a summary for the entire state and report in detail for each department region. The department shall provide the report to the legislature for review no later than 90 days following the completion of each fiscal year. The reporting deadline for the initial report is 18 months after January 1, 2007.

(15) A person who under the authority of a permit obtained under this section trims or removes more trees and shrubs than the permit authorizes is subject to 1 or more of the following penalties:

(a) For the first 3 violations during a 3-year period, a penalty of an amount up to $5,000.00 or the amount authorized as a penalty in section 11(1), whichever is greater.

(b) For the fourth violation during a 3-year period and any additional violation during that period, a penalty of an amount up to $25,000.00 or double the amount authorized as a penalty in section 11(1), whichever is greater, for each violation.

(c) For the fourth violation during a 3-year period, and any additional violation, a person is not eligible to obtain or renew a permit under this section for a period of 3 years from the date of the fourth violation.

(16) If the department alleges that a person has trimmed or removed more trees or shrubs than the permit authorizes, then the department shall notify the person of its intent to seek any 1 or more of the penalties provided in subsection (15). The notification shall be in writing and delivered via United States certified mail, and shall detail the conduct the department alleges constitutes a violation of subsection (15), shall indicate what penalties the department will be seeking under subsection (15), and shall occur within 30 days of the filing of the completion order

for the trimming or removal of trees or shrubs the department alleges violated the permit. Any allegation by the department that a person has trimmed or removed more trees or shrubs than the permit authorizes shall be subject to the appeals process contained in section 11(8), (9), and (10).

(17) As used in this act:

(a) "Billboard viewing zone" means the 1,000-foot area measured at the pavement edge of the main-traveled way closest to the billboard having as its terminus the point of the right-of-way line immediately adjacent to the billboard.

(b) "Vegetation management" means the trimming, removal, or relocation of trees, shrubs, or other plant material.

(c) "Viewing cone" means the triangular area described as the point directly below the face of the billboard closest to the roadway, the point directly below the billboard face farthest away from the roadway, a point as measured from a point directly adjacent to the part of the billboard closest to the roadway and extending back parallel to the roadway the distance that provides the view of the billboard prescribed in this section, and the triangle described by the points extending upward to the top of the billboard.

History: Add. 2006, Act 448, Eff. Jan. 1, 2007

252.312 Placing permit number on sign; violation; penalty.
Sec. 12. (1) All persons holding permits under this act, at their own expense, shall place the permit number on each sign facing erected or maintained by them within 4 months after receiving a permit for signs existing on March 31, 1972 and within 3 business days for all other signs. The numbers shall be of a size and type specified by the department and located on the lower corner thereof nearest the adjacent highway.

(2) Any person who does not display the correct permit number or who does not display any permit number on a sign as required under subsection (1) is subject to a $250.00 penalty. The department shall give a person who is not in compliance with this subsection written notice of noncompliance, and a person not in compliance with this subsection shall have 30 days to remedy the violation before any penalty is assessed. A person subject to this section may verify compliance with the department via time-dated electronic means.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972 ;-- Am. 2006, Act 448, Eff. Jan. 1, 2007

252.313 Signs prohibited on adjacent areas; exceptions.
Sec. 13. (1) A sign shall not be erected or maintained in an adjacent area where the facing of the sign is visible from an interstate highway, freeway, or primary highway except the following:

(a) Directional and other official signs, including, but not limited to, signs pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, and which comply with rules promulgated by the department relative to the lighting, size, number, and spacing thereof.

(b) Signs advertising the sale or lease of real property upon which they are located.

(c) On-premises signs.

(d) Signs located in a business area or an unzoned commercial and industrial area and that comply with sections 12, 15, 16, and 17 except that a sign not described in subdivision (a), (b), or (c) shall not be erected or maintained beyond 660 feet of the nearest edge of the right of way.

(2) If the department is authorized by law to designate scenic areas along an interstate highway, freeway, or primary highway, signs shall not be erected or maintained within areas so designated unless located within a

business area or an unzoned commercial or industrial area where signs may be erected or maintained in compliance with this act.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972 ;-- Am. 1976, Act 265, Imd. Eff. Oct. 1, 1976 ;-- Am. 1998, Act 533, Eff. Mar. 23, 1999
Admin Rule: R 247.701 et seq. of the Michigan Administrative Code.

252.314 Signs on land leased from state; conditions; terms; cancellation.

Sec. 14. (1) The state highway commission may lease land owned by the department along an interstate highway, freeway or primary highway in business areas or unzoned, commercial or industrial areas, to the owner or operator of any gasoline station, repair garage, restaurant, lodging facility, retail store, tourist attraction or to sports, cultural, educational, charitable, service, religious or civic organizations, for the purpose of erecting and maintaining a sign, the advertising copy of which publicizes or calls attention only to goods, services or facilities available on, or events or attractions on, the premises of the owner or operator. Signs may be permitted if all of the following conditions exist:

(a) The advertised premises of the owner or operator are located within 5 miles of the land so leased.

(b) There is no business area or unzoned commercial or industrial area available for outdoor advertising along the interstate highway, freeway or primary highway within 5 miles of the advertised premises of the owner or operator.

(c) The inability to publicize or call attention to goods, services or facilities available on, or events or attractions on, the premises of the owner or operator except by a sign erected and maintained pursuant to this section would work a financial hardship upon the owner or operator under such reasonable criteria as may be determined by the state highway commission.

(d) The leasing of such land and the erection and maintenance of such sign would not be cause for the reduction of federal aid highway funds to

the state, pursuant to section 131 of title 23 of the United States code, as amended.

(2) Any signs so erected or maintained shall be subject to the provisions of sections 15, 16 and 17 and if erected or maintained by a permittee under this act, to the provisions of section 12.

(3) The leases made pursuant to this section shall be on a year to year term and shall be subject to cancellation at any time the signs erected or maintained on the leased property cease to meet the requirements of this section. The signs shall be subject to removal pursuant to section 19 upon cancellation of the lease.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972

252.315 Size requirements and limitations.

Sec. 15. (1) All signs erected or maintained in business areas or unzoned commercial and industrial areas shall comply with the following size requirements and limitations:

(a) In counties of less than 425,000 population, signs shall not exceed 1,200 square feet in area, including border or trim but excluding ornamental base or apron, supports and other structural members.

(b) In counties having a population of 425,000 or more, signs of a size exceeding 1,200 square feet in area but not in excess of 6,500 square feet in area, including border or trim but excluding ornamental base or apron, supports and other structural members, shall be permitted if the department determines that the signs are in accord with customary usage in the area where the sign is located.

(c) For signs erected after March 23, 1999, signs on a sign structure shall not be stacked 1 on top of another. For signs erected prior to March 23, 1999, the sign or sign structure shall not be modified to provide a sign or sign structure that is stacked 1 on top of another.

(2) Maximum size limitations shall apply to each side of a sign structure. Signs may be placed back to back, side by side or in V-type or T-type construction, with not more than 2 sign displays to each side. Any such sign structure shall be considered as 1 sign for the purposes of this section.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972 ;-- Am. 1998, Act 533, Eff. Mar. 23, 1999 ;-- Am. 2006, Act 448, Eff. Jan. 1, 2007

252.316 Illuminated signs.

Sec. 16. (1) A sign that is subject to this act may be illuminated so as to allow the sign to be seen and read but the illumination shall be employed in a manner that prevents beams or rays of light from being directed at any portion of the main-traveled way of the highway in a manner that interferes with safe driving.

(2) A sign containing changing illumination shall not be erected in any area except in an incorporated city or village over 35,000 in population where the department determines it is consistent with customary usage in the area. A sign permitted under section 18(f) is not a sign containing changing illumination.

(3) A sign shall not be so illuminated that it obscures or interferes with the effectiveness of an official traffic sign, device, or signal.

(4) All lighting shall be subject to any other provisions relating to lighting of signs presently applicable to all highways under the jurisdiction of the state.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972 ;-- Am. 2006, Act 448, Eff. Jan. 1, 2007

252.317 Distances between signs; distance from interchange, intersection, or rest area.

Sec. 17. (1) Along interstate highways and freeways, a sign structure located in a business area or unzoned commercial or industrial area shall not be erected closer than 1,000 feet to another sign structure on the same side of the highway.

(2) Along primary highways a sign structure shall not be closer than 500 feet to another sign structure.

(3) The provisions of this section do not apply to signs separated by a building or other visual obstruction in such a manner that only 1 sign located within the spacing distances is visible from the highway at any time, provided that the building or other visual obstruction has not been created for the purpose of visually obstructing either of the signs at issue.

(4) Along interstate highways and freeways located outside of incorporated municipalities, a sign structure shall not be permitted adjacent to or within 500 feet of an interchange, an intersection at grade or a safety roadside rest area. The 500 feet shall be measured from the point of beginning or ending of pavement widening at the exit from, or entrance to, the main-traveled way.

(5) Official signs as described in section 13(1)(a) and on-premises signs shall not be counted nor shall measurements be made from them for purposes of determining compliance with the spacing requirements provided in this section.

(6) The spacing requirements provided in this section apply separately to each side of the highway.

(7) The spacing requirements provided in this section shall be measured along the nearest edge of the pavement of the highway between points directly opposite each sign.

(8) A sign that was erected in compliance with the spacing requirements of this section that were in effect at the time when the sign was erected, but which does not comply with the spacing requirements of this section after March 23, 1999, shall not be considered unlawful as that term is used in section 22.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972 ;-- Am. 1998, Act 533, Eff. Mar. 23, 1999 ;-- Am. 2006, Act 448, Eff. Jan. 1, 2007

252.318 Prohibited signs or sign structures.
Sec. 18. The following signs or sign structures are prohibited:

(a) Those which purport to regulate, warn, or direct the movement of traffic or which interfere with, imitate, or resemble any official traffic sign, signal, or device.

(b) Those which are not adequately maintained and in a good state of repair.

(c) Those which are erected or maintained upon trees or painted or drawn upon rocks or other natural resources.

(d) Those which prevent the driver of a motor vehicle from having a clear and unobstructed view of approaching, intersecting, or merging traffic.

(e) Those which are abandoned.

(f) Those that involve motion or rotation of any part of the structure, running animation or displays, or flashing or moving lights. This subdivision does not apply to a sign or sign structure with static messages or images that change if the rate of change between 2 static messages or images does not exceed more than 1 change per 6 seconds, each change is complete in 1 second or less, and the maximum daylight sign luminance level does not exceed 62,000 candelas per meter squared at 40,000 lux illumination beginning 1/2 hour after sunrise and continuing until 1/2 hour before sunset and does not exceed 375 candelas per meter squared at 4 lux illumination at all other times. In addition to the above requirements, signs exempted under this subdivision shall be configured to default to a static display in the event of mechanical failure.

(g) Signs found to be in violation of subdivision (f) shall be brought into compliance by the permit holder or its agent no later than 24 hours after receipt by the permit holder or its agent of an official written notice from the department. Failure to comply with this subdivision within this

specified time frame shall result in a $100.00 penalty being assessed to the sign owner for each day the sign remains out of compliance. The first repeat violation of subdivision (f), for a specific sign, shall also be brought into compliance by the permit holder or its agent within 24 hours after receipt of an official written notice from the department. Failure to comply with the official written notice within the 24-hour period for the first repeat violation subjects the sign owner to a $1,000.00 penalty for each day the sign remains out of compliance. These penalties are required to be submitted to the department before the sign's permit is renewed under section 6. Second repeat violations of subdivision (f), for a specific sign, shall result in permanent removal of the variable message display device from that sign by the department or the sign owner.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972 ;-- Am. 2006, Act 448, Eff. Jan. 1, 2007

252.318a Billboards; advertising purchase or consumption of tobacco products prohibited; violation; civil fine.

Sec. 18a. (1) Notwithstanding any other provision of this act, beginning January 1, 2000, all billboards within this state are subject to this act and shall not advertise the purchase or consumption of tobacco products.

(2) Notwithstanding any other provision of this act, a person who violates this section is responsible for a civil fine of not less than $5,000.00 or more than $10,000.00 for each day of violation. A civil fine collected under this section shall be distributed to public libraries as provided under 1964 PA 59, MCL 397.31 to 397.40.

History: Add. 1998, Act 464, Eff. Mar. 23, 1999 ;-- Am. 2006, Act 448, Eff. Jan. 1, 2007

252.319 Removal of signs or sign structures; procedure.

Sec. 19. (1) Signs and their supporting structures erected or maintained in violation of this act may be removed by the department in the manner prescribed in this section.

(2) There shall be mailed to the owner of the sign by certified mail a notice that the sign or its supporting sign structure violates stated

specified provisions of this act and is subject to removal. If the owner's address cannot be determined, a notice shall be posted on the sign. The posted notice shall be written on red waterproof paper stock of a size not less than 8-1/2 inches by 11 inches. The notice shall be posted in the area designated by section 12 for the placing of permit numbers, in a manner so that it is visible from the highway faced by the sign or sign structure.

(3) If the sign or sign structure is not removed or brought into compliance with this act within 60 days following the date of posting or mailing of written notice or within such further time as the department may allow in writing, the sign or sign structure shall be considered to be abandoned.

(4) The department shall conduct a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, at which it shall confirm that the sign is abandoned, that due process has been observed, and that the sign may be removed by the department without payment of compensation and at the expense of the owner. Signs or sign structures considered abandoned, and any other sign or sign structure erected or maintained in violation of this act that is not eligible for removal compensation as provided in section 22, shall be removed by the department forthwith or upon the expiration of such further time as the department allows. The department may recover as a penalty from the owner of the sign or sign structure or, if he or she cannot be found, the owner of the real property upon which the sign or sign structure is located, double the cost of removal or $500.00, whichever is greater. For frivolous hearings as determined by the administrative law judge, the department may recover as a penalty from the owner of the sign or sign structure, or, if the owner of the sign or sign structure cannot be found, the owner of the real property upon which the sign or sign structure is located, double the cost of an administrative hearing incurred by the department or $500.00, whichever is greater. Any penalty imposed under this section is subject to de novo review in circuit court.

(5) The department, its agents and employees, and any person acting under the authority of or by contract with the department may enter upon

private property without liability for so doing in connection with the posting or the removal of any sign or sign structure pursuant to this act.

(6) The department may contract on a negotiated basis without competitive bidding with a permittee under this act for the removal of any sign or sign structure pursuant to this act.

(7) Any repeat violation of this act shall be considered a continuing violation of this act.

(8) A sign or sign structure erected or maintained in violation of this act is a nuisance per se. The department, before or after a hearing is conducted, may apply to the circuit court in the county in which a sign is located for an order to show cause why the use of a sign erected or maintained in violation of this act should not be enjoined pending its removal in accordance with this section.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972 ;-- Am. 1998, Act 533, Eff. Mar. 23, 1999 ;-- Am. 2006, Act 448, Eff. Jan. 1, 2007

252.320 Severability.

Sec. 20. If any part of this act is found by a court to be invalid or unconstitutional, the remaining parts of this act shall not be affected but shall remain in full force and effect.

History: Add. 1998, Act 464, Eff. Mar. 23, 1999

252.321 Penalty; misrepresentation.

Sec. 21. A person who erects or maintains any sign or sign structure or other object for outdoor advertising subject to the provisions of this act without complying with this act is liable for a penalty of not less than $100.00 nor more than $1,000.00 for each violation which shall be paid into the state trunk line fund. Penalties shall be sued for, by and in the name of the department and shall be recoverable with the reasonable costs thereof in the district or circuit court in the county where the person maintains his principal place of business or in the county where the signs erected or maintained without complying with this act are located. A person who falsely misrepresents information submitted in a permit form

pursuant to section 6 is guilty of a misdemeanor. A sign erected or maintained under a permit falsely secured in such a manner shall be deemed to be abandoned and is not eligible for removal compensation.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972

252.322 Removal of signs or sign structures; compensation; condition.

Sec. 22. (1) Just compensation shall be paid from the state trunk line fund upon the removal by or in behalf of the department of any sign or sign structure lawfully in existence on March 31, 1972 but which does not comply with the requirements of sections 13(1)(d), 15, 16, and 17 and any sign or sign structure lawfully erected after March 31, 1972 but which thereafter becomes unlawful because of a change in the designation of the highway or in the zoning of the area in which it is located.

(2) Each removal constitutes a taking and appropriation by the state of the following:

(a) From the owner of the sign or sign structure, all right, title and interest in and to the sign or sign structure, and the owner's leasehold related thereto.

(b) From the owner of the real property on which the sign or sign structure is located immediately prior to its removal, the right to erect and maintain signs on that property, other than those described in section 13(1)(a), (b), and (c).

(3) The compensation to be paid pursuant to this section shall be paid to the persons entitled to it upon presentation to the department of such information as the department may reasonably require.

(4) Unless a sign is exempt under section 10, its owner shall secure and shall keep in force a permit under sections 6 and 7. Compliance with this subsection is a condition for eligibility for compensation. Compensation

shall not be paid for any sign, including a sign described in subsection (1), which is removed by the department because it is abandoned.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972 ;-- Am. 1976, Act 265, Imd. Eff. Oct. 1, 1976 ;-- Am. 1998, Act 533, Eff. Mar. 23, 1999

252.323 Rules; hearings; review.

Sec. 23. (1) The department may promulgate and enforce rules to implement this act in accordance with and subject to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Compiled Laws of 1948.

(2) If a person is aggrieved by any action or inaction of the department, he may request a formal hearing on the matter involved. The hearing shall be conducted by the department in accordance with the provisions for contested cases in Act No. 306 of the Public Acts of 1969, as amended.

(3) A determination, action or inaction by the department following the hearing shall be subject to judicial review as provided in Act No. 306 of the Public Acts of 1969, as amended.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972
Admin Rule: R 247.701 et seq. of the Michigan Administrative Code.

252.324 Repeal.

Sec. 24. Act No. 333 of the Public Acts of 1966, being sections 252.251 to 252.262 of the Compiled Laws of 1948, is repealed.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972

252.325 Repealed. 2006, Act 448, Eff. Jan. 1, 2007.

Compiler's Notes: The repealed section pertained to analysis and funding of study.

MICHIGAN EXPOSITION AND FAIRGROUNDS AUTHORITY ACT (EXCERPTS)
Act 361 of 1978

285.165 Control vested in authority.

Sec. 5. The control of all land and other property held or acquired by this state or its people for the purpose of holding and conducting agricultural and industrial fairs and exhibitions is vested in the authority.

History: 1978, Act 361, Imd. Eff. July 22, 1978 ;-- Am. 2000, Act 39, Imd. Eff. Mar. 24, 2000 ;-- Am. 2004, Act 468, Eff. Mar. 1, 2005

285.169 State exposition and fairgrounds authority; board; membership; exercising duties of office; vacancy; discharge of duties; conduct of business; quorum; compensation and expenses; officers; meetings.

Sec. 9. (1) A state exposition and fairgrounds authority shall be governed by the 11-member authority board appointed under this section. The authority board shall consist of the following members:

(a) The director or a designated representative as an ex officio voting member.

(b) The director of the department of agriculture or a designated representative as an ex officio voting member.

(c) Nine members, not more than 5 of whom shall be members of the same political party, appointed by the governor by and with the consent of the senate. The term of office of each member in this subdivision shall be 3 years except that, of the members first appointed, 3 shall serve for 1 year, 3 shall serve for 2 years, and 3 shall serve for 3 years. The former state exposition and fairgrounds council existing before March 1, 2005 is abolished. The governor shall appoint the 9 appointed members to serve on the authority board, and the terms of those members shall begin on March 1, 2005. Members of the former council are eligible for appointment to the authority board if otherwise qualified. It is the intent of the legislature that the members of the authority board represent all

geographic areas of the state. The 9 appointed members shall be chosen from the following categories:

(i) Three members representing agricultural interests.

(ii) One member representing the tourism industry in Michigan.

(iii) Two members of the general public.

(iv) One member representing organized labor.

(v) One member representing the business community.

(vi) One member representing county fairs.

(2) Upon appointment to the authority board under subsection (1), and upon the taking and filing of the constitutional oath of office, a member of the authority board shall enter the office and exercise the duties of the office.

(3) Regardless of the cause of a vacancy on the authority board, the governor shall fill a vacancy in the office of a member of the authority board by appointment by and with the advice and consent of the senate. A vacancy shall be filled for the balance of the unexpired term. A member of the authority board shall hold office until a successor has been appointed and has qualified.

(4) Members of the authority board and officers and employees of the authority are subject to 1968 PA 317, MCL 15.321 to 15.330. A member of the authority board or an officer, employee, or agent of the authority board shall discharge the duties of his or her position in a nonpartisan manner, with good faith, and with that degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging his or her duties, a member of the authority board or an officer, employee, or agent of the authority board, when acting in good faith, may rely upon the opinion of counsel for the authority, upon the report of an independent appraiser

selected with reasonable care by the authority board, or upon financial statements of the authority represented to the member of the authority board, officer, employee, or agent to be correct by the officer of the authority having charge of its books or account, or stated in a written report by the auditor general or a certified public accountant or the firm of the accountants fairly to reflect the financial condition of the authority.

(5) The authority board may adopt bylaws and policies and procedures for conducting its business. Six members of the authority board constitute a quorum for the transaction of business. An action of the authority board requires a concurring vote by 6 members of the authority board.

(6) Authority board members shall serve without compensation and shall receive reimbursement for actual and necessary expenses.

(7) The governor shall designate a member of the authority board to serve as its chairperson, who shall serve as chairperson at the pleasure of the governor. The authority board shall annually select other officers from its membership.

(8) The director and the director of the department of agriculture shall not serve as officers of the authority board.

(9) The authority board shall meet not less than 4 times per year.

(10) At least 1 meeting of the authority board shall be dedicated to soliciting input from the local neighborhood advisory council established under section 15b, the surrounding communities, and local units of government.

History: 1978, Act 361, Imd. Eff. July 22, 1978 ;-- Am. 2000, Act 39, Imd. Eff. Mar. 24, 2000 ;-- Am. 2004, Act 468, Eff. Mar. 1, 2005

285.175b Publication of newsletter; posting minutes on website; establishment of local neighborhood advisory council.
Sec. 15b. (1) The authority shall develop a newsletter to be published not less often than twice per calendar year for residents of the surrounding area of the state exposition and fairgrounds. The authority shall make the newsletter available electronically on its website and, if requested, by mail.

(2) The minutes of the meeting of the authority board shall be posted on the authority's website.

(3) The authority shall establish a local neighborhood advisory council for the purpose of public input on the authority's activities.

History: Add. 2004, Act 468, Eff. Mar. 1, 2005

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPTS)
Act 451 of 1994

Water Resources Protection

324.3133 Local ordinances, regulations, or resolutions; preemption; contracts with local units; enactment and enforcement of local standards; compliance with conditions of approval; submission of resolution by local unit to department; public meeting; issuance of opinion and approval by department.
Sec. 3133. (1) Except as otherwise provided in this section, sections 3131 and 3132 preempt a local ordinance, regulation, or resolution of a local unit that would duplicate, extend, revise, or conflict with section 3131 or 3132. Except as otherwise provided for in this section, a local unit shall not enact, maintain, or enforce an ordinance, regulation, or resolution that duplicates, extends, revises, or conflicts with section 3131 or 3132.

(2) The director of the department of environmental quality may contract with a local unit to act as its agent for the purpose of enforcing this

section and sections 3131 and 3132. The department shall have sole authority to assess fees. If a local unit is under contract with the department of environmental quality to act as its agent or the local unit has received prior written authorization from the department, then the local unit may pass an ordinance that is identical to section 3132 and rules promulgated under section 3131, except as prohibited in subsection (4).

(3) A local unit may enact an ordinance prescribing standards in addition to or more stringent than those contained in section 3132 or in rules promulgated under section 3131 and which regulate a sewage sludge or sewage sludge derivative land application site under either or both of the following circumstances:

(a) The operation of a sewage sludge or sewage sludge derivative land application site within that local unit will result in unreasonable adverse effects on the environment or public health within the local unit. The determination that unreasonable adverse effects on the environment or public health will exist shall take into consideration specific populations whose health may be adversely affected within the local unit.

(b) The operation of a sewage sludge or sewage sludge derivative land application site within that local unit has resulted or will result in the local unit being in violation of other existing state laws or federal laws.

(4) An ordinance enacted pursuant to subsection (2) or (3) shall not conflict with existing state laws or federal laws. An ordinance enacted pursuant to subsection (3) shall not be enforced by a local unit until approved or conditionally approved by the director of the department of environmental quality under subsection (5). The local unit shall comply with any conditions of approval.

(5) If the legislative body of a local unit submits to the department of environmental quality a resolution identifying how the requirements of subsection (3)(a) or (b) are met, the department shall hold a public meeting in the local unit within 60 days after the submission of the resolution to assist the department in determining whether the

requirements of subsection (3)(a) or (b) are met. Within 45 days after the public meeting, the department shall issue a detailed opinion on whether the requirements of subsection (3)(a) or (b) are met as identified by the resolution of the local unit and shall approve, conditionally approve, or disapprove the ordinance accordingly. If the department fails to satisfy the requirements of this subsection, the ordinance is considered to be approved.

History: Add. 1997, Act 29, Imd. Eff. June 18, 1997
Popular Name: Act 451
Popular Name: NREPA

Air Pollution Control

324.5542 Effect on existing ordinances or regulations; local enforcement; cooperation with local governmental units.

Sec. 5542. (1) Nothing in this part or in any rule promulgated under this part invalidates any existing ordinance or regulation having requirements equal to or greater than the minimum applicable requirements of this part or prevents any political subdivision from adopting similar provisions if their requirements are equal to or greater than the minimum applicable requirements of this part.

(2) When a political subdivision or enforcing official of a political subdivision fails to enforce properly the provisions of the political subdivision's ordinances, laws, or regulations that afford equal protection to the public as provided in this part, the department, after consultation with the local official or governing body of the political subdivision, may take such appropriate action as may be necessary for enforcement of the applicable provisions of this part.

(3) The department shall counsel and advise local units of government on the administration of this part. The department shall cooperate in the enforcement of this part with local officials upon request.

History: 1994, Act 451, Eff. Mar. 30, 1995
Popular Name: Act 451
Popular Name: NREPA

Pesticide Control

324.8328 Local governments; powers.
Sec. 8328. (1) Except as otherwise provided in this section, it is the express legislative intent that this part preempt any local ordinance, regulation, or resolution that purports to duplicate, extend, or revise in any manner the provisions of this part. Except as otherwise provided for in this section, a local unit of government shall not enact, maintain, or enforce an ordinance, regulation, or resolution that contradicts or conflicts in any manner with this part.

(2) If a local unit of government is under contract with the department to act as its agent or the local unit of government has received prior written authorization from the department, then that local unit of government may pass an ordinance that is identical to this part and rules promulgated under this part, except as prohibited in subsection (7). The local unit of government's enforcement response for a violation of the ordinance that involves the use of a pesticide is limited to issuing a cease and desist order as prescribed in section 8327.

(3) A local unit of government may enact an ordinance identical to this part and rules promulgated under this part regarding the posting and notification of the application of a pesticide. Subject to subsection (8), enforcement of such an ordinance may occur without prior authorization from the department and without a contract with the department for the enforcement of this part and rules promulgated under this part. The local unit of government shall immediately notify the department upon enactment of such an ordinance and shall immediately notify the department of any citations for a violation of that ordinance. A person who violates an ordinance enacted under this subsection is responsible for a municipal civil infraction and may be ordered to pay a civil fine of not more than $500.00.

(4) A local unit of government may enact an ordinance prescribing standards different from those contained in this part and rules promulgated under this part and which regulates the distribution, sale,

storage, handling, use, application, transportation, or disposal of pesticides under either or both of the following circumstances:

(a) Unreasonable adverse effects on the environment or public health will exist within the local unit of government. The determination that unreasonable adverse effects on the environment or public health will exist shall take into consideration specific populations whose health may be adversely affected within that local unit of government.

(b) The local unit of government has determined that the use of a pesticide within that unit of government has resulted or will result in the violation of other existing state laws or federal laws.

(5) An ordinance enacted pursuant to subsections (2), (3), and (4) shall not conflict with existing state laws or federal laws. An ordinance enacted pursuant to subsection (4) shall not be enforced by a local unit of government until approved by the commission of agriculture. If the commission of agriculture denies an ordinance enacted pursuant to subsection (4), the commission of agriculture shall provide a detailed explanation of the basis of the denial within 60 days.

(6) Upon identification of unreasonable adverse effects on the environment or public health by a local unit of government as evidenced by a resolution submitted to the department, the department shall hold a local public meeting within 60 days after the submission of the resolution to determine the nature and extent of unreasonable adverse effects on the environment or public health due to the use of pesticides. Within 30 days after the local public meeting, the department shall issue a detailed opinion regarding the existence of unreasonable adverse effects on the environment or public health as identified by the resolution of the local unit of government.

(7) The director may contract with a local unit of government to act as its agent for the purpose of enforcing this part and the rules promulgated pursuant to this part. The department shall have sole authority to assess fees, register and certify pesticide applicators, license commercial applicators and restricted use pesticide dealer firms, register pesticide

products, cancel or suspend pesticide registrations, and regulate and enforce all provisions of this part pertaining to the application and use of a pesticide to an agricultural commodity or for the purpose of producing an agricultural commodity.

(8) For any ordinance enacted pursuant to this section, the local unit of government shall provide that persons enforcing the ordinance comply with the training and enforcement requirements as determined by the director. A local unit of government shall reimburse the department for actual costs incurred in training local government personnel.

History: 1994, Act 451, Eff. Mar. 30, 1995 ;-- Am. 1996, Act 172, Imd. Eff. Apr. 18, 1996
Popular Name: Act 451
Popular Name: NREPA

Fertilizers

324.8517 Local ordinance, regulation, or resolution; preemption; adoption; enforcement; identification of unreasonable adverse effects; local public meeting; contract by director with local government; compliance with training and enforcement requirements.

Sec. 8517. (1) Except as otherwise provided in this section, this part preempts any local ordinance, regulation, or resolution that would duplicate, extend, or revise in any manner the provisions of this part. Except as otherwise provided for in this section, a local unit of government shall not adopt, maintain, or enforce an ordinance, regulation, or resolution that contradicts or conflicts in any manner with this part.

(2) If a local unit of government is under contract with the department to act as its agent or the local unit of government has received prior written authorization from the department, that local unit of government may adopt an ordinance that is identical to this part and rules promulgated under this part, except as prohibited in subsection (6). The local unit of government's enforcement response for a violation of the ordinance that involves the manufacturing, storage, distribution, sale, or agricultural use

of products regulated by this part is limited to issuing a cease and desist order in the manner prescribed in section 8511.

(3) A local unit of government may adopt an ordinance prescribing standards different from those contained in this part and rules promulgated under this part and that regulates the manufacturing, storage, distribution, sale, or agricultural use of a product regulated by this part only under either or both of the following circumstances:

(a) Unreasonable adverse effects on the environment or public health will exist within the local unit of government, taking into consideration specific populations whose health may be adversely affected within that local unit of government.

(b) The local unit of government has determined that the manufacturing, storage, distribution, sale, or agricultural use of a product regulated by this part within that unit of government has resulted or will result in the violation of other existing state or federal laws.

(4) An ordinance adopted under subsection (2) or (3) shall not conflict with existing state laws or federal laws. An ordinance adopted under subsection (3) shall not be enforced by a local unit of government until approved by the commission of agriculture. The commission of agriculture shall provide a detailed explanation of the basis of a denial within 60 days.

(5) Within 60 days after the legislative body of a local unit of government submits to the department a resolution identifying unreasonable adverse effects on the environment or public health as provided for in subsection (3)(a), the department shall hold a local public meeting to determine the nature and extent of unreasonable adverse effects on the environment or public health due to the manufacturing, storage, distribution, sale, or agricultural use of a product regulated by this part. Within 30 days after the local public meeting, the department shall issue a detailed opinion regarding the existence of unreasonable adverse effects on the environment or public health as identified by the resolution of the local unit of government.

(6) The director may contract with a local unit of government to act as its agent for the purpose of enforcing this part and the rules promulgated under this part. The department has sole authority to assess fees, register fertilizer or soil conditioner products, cancel or suspend registrations, and regulate and enforce provisions of section 8512.

(7) A local unit of government that adopts an ordinance under subsection (2) or (3) shall require persons enforcing the ordinance to comply with training and enforcement requirements determined appropriate by the director.

History: Add. 1998, Act 276, Imd. Eff. July 27, 1998 ;-- Am. 2008, Act 14, Imd. Eff. Feb. 29, 2008
Popular Name: Act 451
Popular Name: NREPA

Hazardous Waste Management

324.11116 Expansion, enlargement, or alteration of treatment, storage, or disposal facility; review; construction permit; local ordinance, permit requirement, or other requirement not abridged or altered; new proposal.

Sec. 11116. (1) A treatment, storage, or disposal facility in existence on January 1, 1980, or a treatment, storage, or disposal facility in existence on November 19, 1980, for which approval of construction has been received under part 55, is not subject to a review of the board and does not require a construction permit under this part except for an expansion, enlargement, or alteration of the treatment, storage, or disposal facility beyond its original authorized design capacity or beyond the area specified in the operating license, original construction permit, or other authorization. This subsection does not abridge or alter the effect of a local ordinance, permit requirement, or other requirement on the construction of a treatment, storage, or disposal facility described in this subsection.

(2) The expansion, enlargement, or alteration of a treatment, storage, or disposal facility in existence on January 1, 1980, constitutes a new proposal for which a construction permit is required.

History: 1994, Act 451, Eff. Mar. 30, 1995
Popular Name: Act 451
Popular Name: Hazardous Waste Act
Popular Name: NREPA

324.11120 Notification of member, county, and municipality; selection of members to serve on board; creation of board; timetable; duties of board; comment and input; listing issues; negotiation process; identification of affected parties; appointment of mediator; final best offer or negotiated settlement; hearings; impact; considerations; concerns and objections; modifications; integration of local ordinances, permits, or requirements; seeking advice; decision; approval or rejection of application; extension; preparation of draft construction permit; initiation of public participation process; duties of department; direction of board; duties of board upon rejection of application.

Sec. 11120. (1) The department shall notify those members appointed by the governor who will serve on the board within 75 days after receipt of a construction permit application, if the department has not notified the applicant of the intent to deny the application, or at the time the department refers an application to the board, or at the time an application is automatically referred to the board pursuant to section 11119(4), whichever is earlier. At that time the department also shall notify the county and the municipality in which the proposed treatment, storage, or disposal facility is to be located and request the appointment of the members of the board as provided in section 11117(2)(b). The notification shall include a notice of intent to issue all departmental permits required for the construction, pending recommendations of the board and approval by the department. Within 45 days after the notification, the county and the municipality shall select the members to serve on the board. The board shall be created at that time and notification of the creation of the board shall be made to the chairperson.

(2) Within 30 days after creation of a board, the board shall meet to review and establish a timetable for the consideration of an application for a proposed treatment, storage, or disposal facility.

(3) The board shall do all of the following:

(a) Set a date and arrange for publication of notice of a public hearing in a newspaper having major circulation in the vicinity of the proposed site, at its first meeting. The public notice shall do both of the following:

(i) Contain a map indicating the location of the proposed treatment, storage, or disposal facility, a description of the proposed action, and the location where the application for a construction permit may be reviewed and where copies may be obtained.

(ii) Identify the time, place, and location for the public hearing held to receive public comment and input on the application for a construction permit.

(b) Hold a public hearing within 45 days of the first board meeting.

(c) Publish the notice not less than 30 days before the date of the public hearing.

(4) Comment and input on the proposed treatment, storage, or disposal facility may be presented orally or in writing at the public hearing, and shall continue to be accepted in writing by the board for 15 days after the public hearing date.

(5) After the public hearing comment period has been closed, the board shall list the issues that are to be addressed through a negotiation process and list the issues to be evaluated by the board through its deliberations.

(6) A negotiation process shall take place between the applicant and the affected parties, who shall be identified by the board. A representative of the municipality and a representative of the county in which the facility is proposed to be located shall each be considered an affected party. If requested by any affected party or the applicant, the board shall appoint a mediator to assist during negotiations. The negotiation process shall:

(a) Proceed concurrently with the board's hearings process.

(b) Address the list of issues referred by the board and any other issues unanimously agreed to be considered by the applicant and all affected parties.

(c) Be completed within 150 days after the first meeting of the board unless the applicant and 1 or more affected parties involved in the negotiation process jointly request an extension of not more than 60 days and the extension is approved by the board. The board shall not grant extensions in excess of 60 days. An extension granted under this subdivision may extend the time period in which the board either approves or rejects the construction permit application as specified in subsection (15).

(7) On each negotiation issue which has not reached a negotiated settlement, the board shall select between final best offers presented by affected parties. The final best offer or the negotiated settlement shall not be less stringent than the requirements of the law or pertinent decisions of the board, whichever is the most stringent.

(8) The board shall conduct formal or informal hearings to receive evidence on the disputed issues not subject to the negotiation process described in subsections (6) and (7).

(9) The formal hearings process shall be conducted by the board to receive information from technical experts on disputed issues. Any affected party may request permission by the board to participate in the board's formal hearings within 15 days after the board's public hearing. The board shall determine which affected parties shall participate in the board's formal hearing. If the board denies the request of an affected party to participate in the board's formal hearing, the board shall give the affected party notice of the board's decision and the reasons for the decision. A representative of the municipality and a representative of the county in which the facility is proposed to be located shall each be automatically entitled to participate. During the board's formal hearings process, the board shall:

(a) Receive sworn testimony.

(b) Cross-examine witnesses.

(c) Allow representatives of affected parties to cross-examine witnesses.

(d) Request participation as needed.

(10) Comments made at informal hearings shall not be made under oath and no cross-examination shall occur.

(11) The board shall deliberate on the impact of the proposed treatment, storage, or disposal facility on the municipality in which it is to be located and make a final determination as to its recommendation to the department regarding the construction permit application.

(12) The board shall consider, at a minimum, all of the following:

(a) The risk and impact of accident during the transportation of hazardous waste.

(b) The risk and impact of contamination of ground and surface water by leaching and runoff from the proposed treatment, storage, or disposal facility.

(c) The risk of fires or explosions from improper treatment, storage, and disposal methods.

(d) The impact on the municipality where the proposed treatment, storage, or disposal facility is to be located in terms of health, safety, cost, and consistency with local planning and existing development. The board also shall consider local ordinances, permits, or other requirements and their potential relationship to the proposed treatment, storage, or disposal facility.

(e) The nature of the probable environmental impact, including the specification of the predictable adverse effects on the following:

(i) The natural environment and ecology.

(ii) Public health and safety.

(iii) Scenic, historic, cultural, and recreational value.

(iv) Water and air quality and wildlife.

(f) An evaluation of measures to mitigate adverse effects.

(g) The board shall consider the information contained in the construction permit application disclosure statement.

(13) The board also shall consider the concerns and objections submitted by the public. The board shall facilitate efforts to provide that the concerns and objections are mitigated by establishing additional stipulations specifically applicable to the treatment, storage, or disposal facility and operation at that site. Through deliberations, the board may modify the construction permit application in response to its findings. To the fullest extent practicable, the board also shall integrate by stipulation the provisions of the local ordinances, permits, or requirements.

(14) The board may seek the advice of any person in order to render a decision to issue its recommendation to the department to approve or deny the construction permit application.

(15) Within 180 days after the first meeting of the board, the board shall make a decision on the negotiated agreement and the final best offer from each party on each issue and shall recommend to the department that the department either approve or reject the construction permit application. The 180-day time period may be extended as provided in subdivision (6)(c). However, an extension shall not exceed 60 days.

(16) If the board recommends to the department the approval of the construction permit application and the department follows the recommendation, the department shall prepare a draft construction permit and initiate a public participation process equivalent to that required by the applicable provisions of the solid waste disposal act or regulations promulgated under that act. Upon completion of the public

participation process, the department shall review all comments made during that process and shall issue or revise and issue the construction permit or reconvene the board to consider issues specified by the department that were raised during the public participation process. Within 30 days after having been reconvened under this subsection, the board shall recommend to the department the rejection of the application or recommend the revision and issuance of the construction permit, or recommend that the department revise the draft construction permit and initiate a public participation process equivalent to that required by the applicable provisions of the solid waste disposal act or regulations promulgated under that act.

(17) If the board recommends the rejection of the construction permit application, the board shall do all of the following:

(a) State its reasons in writing and indicate the necessary changes to make the application acceptable if a new application is made.

(b) Recommend that the department deny the construction permit and initiate a public participation process equivalent to that required by the applicable provisions of the solid waste disposal act, or regulations promulgated under that act.

History: 1994, Act 451, Eff. Mar. 30, 1995 ;-- Am. 1995, Act 61, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: Hazardous Waste Act
Popular Name: NREPA

324.11121 Effect of local ordinance, permit requirement, or other requirement.

Sec. 11121. A local ordinance, permit requirement, or other requirement does not prohibit the construction of a treatment, storage, or disposal facility, except as otherwise provided in section 11122.

History: 1994, Act 451, Eff. Mar. 30, 1995
Popular Name: Act 451
Popular Name: Hazardous Waste Act
Popular Name: NREPA

324.11122 Limited storage facility; license; form and contents of application; fee; compatibility with local zoning ordinances; impact on municipality; certification; approval or denial of operating license.

Sec. 11122. (1) A person may establish a limited storage facility without a construction permit from the department. However, a person shall not establish a limited storage facility or conduct, manage, maintain, or operate a limited storage facility within this state without an operating license from the department issued under this section, notwithstanding section 11123. A limited storage facility is subject to the rules pertaining to storage facilities.

(2) An applicant for a limited storage facility operating license shall apply for that license on a form provided by the department that shall include the name and residence of the applicant, the location of the proposed or existing facility, other information specified by rule or by federal regulation issued under the solid waste disposal act, and proof of financial responsibility. The application shall include a determination of existing hydrogeological characteristics specified in a hydrogeological report and monitoring program consistent with rules promulgated by the department, an environmental assessment, an engineering plan, procedures for closure, and a resolution or other formal determination of the governing body of the municipality in which the proposed limited storage facility would be located indicating that the limited storage facility is compatible with local zoning ordinances. However, in the absence of a resolution or other formal determination, the application shall include a copy of a registered letter sent to the municipality dated 60 days prior to the application submittal indicating the intent to construct a limited storage facility, requesting a formal determination on whether the proposed facility is compatible with local zoning ordinances in effect on the date the letter is received and indicating that failure to pass a resolution or make a formal determination within 60 days of receipt of the letter means that the proposed facility is to be considered compatible with applicable zoning ordinances. The environmental assessment shall include, at a minimum, an evaluation of the proposed facility's impact on the air, water, and other natural resources of the state and also shall contain an environmental failure mode assessment. The

application shall be accompanied by a fee of $500.00, which shall be deposited in the general fund of the state.

(3) If a municipality does not make a formal determination concerning whether a proposed limited storage facility is compatible with local zoning ordinances within 60 days of receiving a registered letter as described in subsection (2), it shall mean that the limited storage facility is to be considered compatible with local zoning ordinances and incompatibility with local zoning shall not be a basis for denial of the license by the department. In determining whether the proposed limited storage facility is compatible with local zoning ordinances, the municipality shall assess the proposed facility's compatibility with ordinances in effect at the date of receipt of the registered letter.

(4) Prior to issuing an operating license for a limited storage facility, the department shall deliberate on the impact that the proposed limited storage facility would have on the municipality in which it is to be located and shall consider, at a minimum, all of the following:

(a) The risk and impact of accident during the transportation of hazardous waste.

(b) The risk and impact of contamination of ground and surface water by leaching and runoff from the proposed limited storage facility.

(c) The risk of fires or explosions from improper storage methods.

(d) The impact on the municipality where the proposed limited storage facility is to be located in terms of the health, safety, cost, and consistency with local planning and existing development. The department also shall consider local ordinances, permits, or other requirements and their potential relationship to the proposed limited storage facility.

(e) The nature of the probable environmental impact, including the specific predictable adverse effects on the following:

(i) The natural environment and ecology.

(ii) Public health and safety.

(iii) Scenic, historic, cultural, and recreational value.

(iv) Water and air quality and wildlife.

(f) An evaluation of measures to mitigate adverse effects.

(5) The department shall consider the concerns and objections submitted by the public. The department shall facilitate efforts to provide that the concerns and objections are mitigated by establishing additional stipulations specifically applicable to the limited storage facility and operation at that site. The department shall not issue an operating license under this section unless the proposed limited storage facility is compatible with the zoning ordinances of the municipality in which the limited storage facility would be located.

(6) The applicant also shall submit to the department a certification under the seal of a licensed professional engineer verifying that the construction of the limited storage facility has proceeded according to the plans approved by the department. The department shall require additional certification periodically during the operation or in order to verify proper closure of the site.

(7) The department shall either approve or deny the application for an operating license. If the department denies the operating license, the department shall state the reasons for the denial in writing.

History: 1994, Act 451, Eff. Mar. 30, 1995
Popular Name: Act 451
Popular Name: Hazardous Waste Act
Popular Name: NREPA

324.11125 Final decision on operating license application; public hearing; notice; time; extension of deadline; stipulations; operation not prohibited by local ordinance, permit, or other requirement;

changes or additions to disclosure statement; listings not identified or disclosed as grounds for denial of application.
Sec. 11125. (1) The department shall provide notice and an opportunity for a public hearing before making a final decision on an operating license application. The department shall make a final decision on an operating license application within 140 days after the department receives a complete application. However, if the state's hazardous waste management program is authorized by the United States environmental protection agency under sections 3006 to 3009 of subtitle C of the solid waste disposal act, title II of Public Law 89-272, 42 U.S.C. 6926 to 6929, the department may extend the deadline beyond the limitation provided in this section in order to fulfill the public participation requirements of the solid waste disposal act. The operating license may contain stipulations specifically applicable to site and operation. A local ordinance, permit, or other requirement shall not prohibit the operation of a licensed treatment, storage, or disposal facility.

(2) If any information required to be included in the disclosure statement required under section 11118 changes or is supplemented after the filing of the statement, the applicant, permittee, or licensee shall provide that information to the department in writing within 30 days of the change or addition.

(3) The department may deny an operating license application submitted pursuant to section 11123 if there are any listings pursuant to section 11118(4)(b) to (d) that were not identified during the site review board process or were not disclosed as required in section 11123(2) or this section.

History: 1994, Act 451, Eff. Mar. 30, 1995
Popular Name: Act 451
Popular Name: Hazardous Waste Act
Popular Name: NREPA

324.11134 Municipality or county; prohibited conduct.
Sec. 11134. A municipality or county shall not prohibit the transportation of hazardous waste through the municipality or county or prevent the ingress and egress into a licensed treatment, storage, or disposal facility.

History: 1994, Act 451, Eff. Mar. 30, 1995
Popular Name: Act 451
Popular Name: Hazardous Waste Act
Popular Name: NREPA

Underground Storage Tanks

****** 324.21102 THIS SECTION IS REPEALED BY ACT 451 OF 1994 EFFECTIVE UPON THE EXPIRATION OF 12 MONTHS AFTER PART 215 BECOMES INVALID PURSUANT TO SECTION 21546 (3) ******

324.21102 Underground storage tank system; registration or renewal of registration; exemption; notification of change; indication of materials stored; tests; forwarding copy of registration or notification of change to local unit of government; registration fee; deposit of fees; rules; exemption; notification of closure or removal; continuation of fees.

Sec. 21102. (1) A person who is the owner of an underground storage tank system shall register and annually renew the registration on the underground storage tank system with the department. However, the owner or operator of an underground storage tank closed prior to January 1, 1974 in compliance with the fire prevention code, Act No. 207 of the Public Acts of 1941, being sections 29.1 to 29.33 of the Michigan Compiled Laws, and the rules promulgated under that act, is exempt from the registration requirements of this section.

(2) A person who is the owner of an underground storage tank system shall register the underground storage tank system with the department prior to bringing the underground storage tank system into use. Additionally, an installation registration form containing the information required by the department shall be submitted to the department at least 45 days prior to the installation of the underground storage tank system.

(3) The department shall accept the registration or renewal of registration of an underground storage tank system under this section only if the owner of the underground storage tank system pays the registration fee specified in subsection (8).

(4) Except as otherwise provided in subsections (5) and (6), a person who is the owner of an underground storage tank system registered under subsection (1) or (2) shall notify the department of any change in the information required under section 3 or of the removal of an underground storage tank system from service.

(5) A person who is the owner of an underground storage tank system, the contents of which are changed routinely, may indicate all the materials that are stored in the underground storage tank system on the registration form described in section 21103. A person providing the information described in this subsection is not required to notify the department of changes in the contents of the underground storage tank system unless the material to be stored in the system differs from the information provided on the registration form.

(6) Except as otherwise provided in section 21103(2), a person who is the owner of an underground storage tank system registered under subsection (1) or (2) is not required to notify the department of a test conducted on the tank system but shall furnish this information upon the request of the department.

(7) Upon the request of a local unit of government in which an underground storage tank system is located, the department shall forward a copy of registration or notification of change to the local unit of government where the underground storage tank system is located.

(8) Except as provided in section 21104(3), the owner of an underground storage tank system shall, upon registration or renewal of registration, pay a registration fee of $100.00 for each underground storage tank included in that underground storage tank system. The department shall deposit all registration fees it collects into the fund.

(9) The department may promulgate rules that require proof of registration under this part to be attached to the underground storage tank system or to the property where the underground storage tank system is located.

(10) Except as otherwise provided in this subsection, an underground storage tank system or an underground storage tank that is part of the system that has been closed or removed pursuant to rules promulgated under this part is exempt from the requirements of this section. However, the owner of an underground storage tank system or an underground storage tank that is part of the system that has been closed or removed shall notify the department of the closure or removal pursuant to rules promulgated by the department. The owner of an underground storage tank system shall continue to pay registration fees on underground storage tanks that have been closed or removed until notification of the closure or removal is provided on the required form pursuant to these rules.

History: 1994, Act 451, Eff. Mar. 30, 1995 **Note:** 324.21102 THIS SECTION IS REPEALED BY ACT 451 OF 1994 EFFECTIVE UPON THE EXPIRATION OF 12 MONTHS AFTER PART 215 BECOMES INVALID PURSUANT TO SECTION 21546 (3) 2

Popular Name: Act 451
Popular Name: NREPA
Admin Rule: R 29.2101 et seq. of the Michigan Administrative Code.

324.21108 Enforcement of part and rules.

Sec. 21108. (1) The department shall enforce this part and the rules promulgated under this part.

(2) The department may delegate the authority to enforce this part and the rules promulgated under this part to a local unit of government that has sufficient employees who are certified by the department under subsection (3) as underground storage tank system inspectors. A local unit of government may apply for delegation under this section by submitting a resolution of the governing body of the local unit of government and an application containing the information required by the department. The department may revoke a delegation under this section for a violation of this part, the rules promulgated under this part, or a contract entered between the department and the local unit of government.

(3) The department may certify individuals who are qualified to enforce this part and the rules promulgated under this part as underground storage tank system inspectors. The department may revoke an individual's certification under this section for violating this part or rules promulgated under this part.

(4) If the department elects to delegate enforcement authority under subsection (2), the department shall promulgate rules that do both of the following:

(a) Establish criteria for delegation under subsection (2).

(b) Establish qualifications for certification of individuals as underground storage tank system inspectors under subsection (3).

(5) The department may contract with a local unit of government for the purpose of enforcing this part and the rules promulgated under this part.

(6) The department or a certified underground storage tank system inspector within his or her jurisdiction, at the discretion of the department or inspector and without a complaint and without restraint or liability for trespass, may, at an hour reasonable under the circumstances involved, enter into and upon real property including a building or premises where regulated substances may be stored for the purpose of inspecting and examining the property, buildings, or premises, and their occupancies and contents to determine compliance with this part and the rules promulgated under this part.

(7) The department shall enhance its audit and inspection program to monitor the installation and operation of new underground storage tank systems or components to ensure that equipment meets minimum quality standards, that the installation is done properly, and that the monitoring systems are properly utilized.

(8) The department shall conduct a study regarding the causes of underground storage tank leaks and prepare a report making recommendations regarding upgrading underground storage tank system

standards, establishing timetables for the replacement of equipment, and instituting any other practices or procedures which will minimize releases of regulated substances into the environment. The report shall be submitted by July 1, 1995 to the members of the legislature who are members of committees dealing with natural resource issues.

History: 1994, Act 451, Eff. Mar. 30, 1995 **Note:** 324.21108 THIS SECTION IS REPEALED BY ACT 451 OF 1994 EFFECTIVE UPON THE EXPIRATION OF 12 MONTHS AFTER PART 215 BECOMES INVALID PURSUANT TO SECTION 21546 (3)
Popular Name: Act 451
Popular Name: NREPA

324.21109 Additional safeguards; resolution; enactment or enforcement of certain ordinances prohibited.

Sec. 21109. (1) The department may, upon resolution of the governing body of a local unit of government in whose jurisdiction an underground storage tank system is being installed, require additional safeguards, other than those specified in rules, when the public health, safety, or welfare, or the environment is endangered.

(2) A local unit of government shall not enact or enforce a provision of an ordinance that is inconsistent with this part or rules promulgated under this part.

(3) A local unit of government shall not enact or enforce a provision of an ordinance that requires a permit, license, approval, inspection, or the payment of a fee or tax for the installation, use, closure, or removal of an underground storage tank system.

History: 1994, Act 451, Eff. Mar. 30, 1995 **Note:** 324.21109 THIS SECTION IS REPEALED BY ACT 451 OF 1994 EFFECTIVE UPON THE EXPIRATION OF 12 MONTHS AFTER PART 215 BECOMES INVALID PURSUANT TO SECTION 21546 (3)
Popular Name: Act 451
Popular Name: NREPA

Great Lakes Preservation

324.32701 Definitions; retention of established baseline capacity.
Sec. 32701. (1) As used in this part:

(a) "Adverse resource impact" means any of the following:

(i) Until February 1, 2009, decreasing the flow of a river or stream by part of the index flow such that the river's or stream's ability to support characteristic fish populations is functionally impaired.

(ii) Beginning February 1, 2009, subject to subparagraph (vi), decreasing the flow of a cold river system by part of the index flow as follows:

(A) For a cold stream, the withdrawal will result in a 3% or more reduction in the density of thriving fish populations as determined by the thriving fish curve.

(B) For a cold small river, the withdrawal will result in a 1% or more reduction in the density of thriving fish populations as determined by the thriving fish curve.

(iii) Beginning February 1, 2009, subject to subparagraph (vi), decreasing the flow of a cold-transitional river system by part of the index flow such that the withdrawal will result in a 5% or more reduction in the density of thriving fish populations as determined by the thriving fish curve.

(iv) Beginning February 1, 2009, subject to subparagraph (vi), decreasing the flow of a cool river system by part of the index flow as follows:

(A) For a cool stream, the withdrawal will result in a 10% or more reduction in the abundance of characteristic fish populations as determined by the characteristic fish curve.

(B) For a cool small river, the withdrawal will result in a 15% or more reduction in the density of thriving fish populations as determined by the thriving fish curve.

(C) For a cool large river, the withdrawal will result in a 12% or more reduction in the density of thriving fish populations as determined by the thriving fish curve.

(v) Beginning February 1, 2009, subject to subparagraph (vi), decreasing the flow of a warm river system by part of the index flow as follows:

(A) For a warm stream, the withdrawal will result in a 5% or more reduction in the abundance of characteristic fish populations as determined by the characteristic fish curve.

(B) For a warm small river, the withdrawal will result in a 10% or more reduction in the abundance of characteristic fish populations as determined by the characteristic fish curve.

(C) For a warm large river, the withdrawal will result in a 10% or more reduction in the abundance of characteristic fish populations as determined by the characteristic fish curve.

(vi) Beginning February 1, 2009, decreasing the flow of a stream or river by more than 25% of its index flow.

(vii) Decreasing the level of a lake or pond with a surface area of 5 acres or more through a direct withdrawal from the lake or pond in a manner that would impair or destroy the lake or pond or the uses made of the lake or pond, including the ability of the lake or pond to support characteristic fish populations, or such that the ability of the lake or pond to support characteristic fish populations is functionally impaired. As used in this subparagraph, lake or pond does not include a retention pond or other artificially created surface water body.

(b) "Agricultural purpose" means the agricultural production of plants and animals useful to human beings and includes, but is not limited to,

forages and sod crops, grains and feed crops, field crops, dairy animals and dairy products, poultry and poultry products, cervidae, livestock, including breeding and grazing, equine, fish and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms, and other similar products, or any other product, as determined by the commission of agriculture, that incorporates the use of food, feed, fiber, or fur.

(c) "Assessment tool" means the water withdrawal assessment tool provided for in section 32706a.

(d) "Baseline capacity", subject to subsection (2), means any of the following, which shall be considered the existing withdrawal approval amount under section 4.12.2 of the compact:

(i) The following applicable withdrawal capacity as reported to the department or the department of agriculture, as appropriate, by the person making the withdrawal in the annual report submitted under section 32707 not later than April 1, 2009 or in the water use conservation plan submitted under section 32708 not later than April 1, 2009:

(A) Unless reported under a different provision of this subparagraph, for a quarry or mine that holds an authorization to discharge under part 31 that includes a discharge volume, the discharge volume stated in that authorization on February 28, 2006.

(B) The system capacity used or developed to make a withdrawal on February 28, 2006, if the system capacity and a description of the system capacity are included in an annual report that is submitted under this part not later than April 1, 2009.

(ii) If the person making the withdrawal does not report under subparagraph (i), the highest annual amount of water withdrawn as reported under this part for calendar year 2002, 2003, 2004, or 2005. However, for a person who is required to report by virtue of the 2008

amendments to section 32705(2)(d), baseline capacity means the person's withdrawal capacity as reported in the April 1, 2009 annual report submitted under section 32707.

(iii) For a community supply, the total designed withdrawal capacity for the community supply under the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023, on February 28, 2006 as reported to the department in a report submitted not later than April 1, 2009.

(e) "Characteristic fish curve" means a fish functional response curve that describes the abundance of characteristic fish populations in response to reductions in index flow as published in the document entitled "Report to the Michigan Legislature in response to 2006 Public Act 34" by the former groundwater conservation advisory council dated July 2007, which is incorporated by reference.

(f) "Characteristic fish population" means the fish species, including thriving fish, typically found at relatively high densities in stream reaches having specific drainage area, index flow, and summer temperature characteristics.

(g) "Cold river system" means a stream or small river that has the appropriate summer water temperature that, based on statewide averages, sustains a fish community composed predominantly of cold-water fish species, and where small increases in water temperature will not cause a decline in these populations, as determined by a scientific methodology adopted by order of the commission.

(h) "Cold-transitional river system" means a stream or river that has the appropriate summer water temperature that, based on statewide averages, sustains a fish community composed predominantly of cold-water fish species, and where small increases in water temperature will cause a decline in the proportion of cold-water species, as determined by a scientific methodology adopted by order of the commission.

(i) "Community supply" means that term as it is defined in section 2 of the safe drinking water act, 1976 PA 399, MCL 325.1002.

(j) "Compact" means the Great Lakes-St. Lawrence river basin water resources compact provided for in part 342.

(k) "Consumptive use" means that portion of water withdrawn or withheld from the Great Lakes basin and assumed to be lost or otherwise not returned to the Great Lakes basin due to evaporation, incorporation into products or agricultural products, use as part of the packaging of products or agricultural products, or other processes. Consumptive use includes a withdrawal of waters of the Great Lakes basin that is packaged within the Great Lakes basin in a container of 5.7 gallons (20 liters) or less and is bottled drinking water as defined in the food code, 2005 recommendations of the food and drug administration of the United States public health service.

(l) "Cool river system" means a stream or river that has the appropriate summer water temperature that, based on statewide averages, sustains a fish community composed mostly of warm-water fish species, but also contains some cool-water species or cold-water species, or both, as determined by a scientific methodology adopted by order of the commission.

(m) "Council" means the Great Lakes-St. Lawrence river basin water resources council created in the compact.

(n) "Department" means the department of environmental quality.

(o) "Designated trout stream" means a trout stream identified on the document entitled "Designated Trout Streams for the State of Michigan", as issued under order of the director of the department of natural resources, FO-210.04, on October 10, 2003.

(p) "Diversion" means a transfer of water from the Great Lakes basin into another watershed, or from the watershed of 1 of the Great Lakes into that of another by any means of transfer, including, but not limited to, a pipeline, canal, tunnel, aqueduct, channel, modification of the direction of a water course, tanker ship, tanker truck, or rail tanker but does not apply to water that is used in the Great Lakes basin or a Great

Lake watershed to manufacture or produce a product that is then transferred out of the Great Lakes basin or watershed. Diverted has a corresponding meaning. Diversion includes a transfer of water withdrawn from the waters of the Great Lakes basin that is removed from the Great Lakes basin in a container greater than 5.7 gallons (20 liters). Diversion does not include any of the following:

(i) A consumptive use.

(ii) The supply of vehicles, including vessels and aircraft, whether for the needs of the persons or animals being transported or for ballast or other needs related to the operation of vehicles.

(iii) Use in a noncommercial project on a short-term basis for firefighting, humanitarian, or emergency response purposes.

(iv) A transfer of water from a Great Lake watershed to the watershed of its connecting waterways.

(q) "Environmentally sound and economically feasible water conservation measures" means those measures, methods, technologies, or practices for efficient water use and for reduction of water loss and waste or for reducing a withdrawal, consumptive use, or diversion that meet all of the following:

(i) Are environmentally sound.

(ii) Reflect best practices applicable to the water use sector.

(iii) Are technically feasible and available.

(iv) Are economically feasible and cost-effective based on an analysis that considers direct and avoided economic and environmental costs.

(v) Consider the particular facilities and processes involved, taking into account the environmental impact, the age of equipment and facilities

involved, the process employed, energy impacts, and other appropriate factors.

(r) "Farm" means that term as it is defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(s) "Flow-based safety factor" means a protective measure of the assessment tool that reduces the portion of index flow available for a withdrawal to 1/2 of the index flow for the purpose of minimizing the risk of adverse resource impacts caused by statistical uncertainty.

(t) "Great Lakes" means Lakes Superior, Michigan and Huron, Erie, and Ontario and their connecting waterways including the St. Marys river, Lake St. Clair, the St. Clair river, and the Detroit river. For purposes of this definition, Lakes Huron and Michigan shall be considered a single Great Lake.

(u) "Great Lakes basin" means the watershed of the Great Lakes and the St. Lawrence river.

(v) "Great Lakes charter" means the document establishing the principles for the cooperative management of the Great Lakes water resources, signed by the governors and premiers of the Great Lakes region on February 11, 1985.

(w) "Great Lakes region" means the geographic region composed of the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, and Wisconsin, the commonwealth of Pennsylvania, and the provinces of Ontario and Quebec, Canada.

(x) "Index flow" means the 50% exceedance flow for the lowest summer flow month of the flow regime, for the applicable stream reach, as determined over the period of record or extrapolated from analyses of the United States geological survey flow gauges in Michigan. Beginning on October 1, 2008, index flow shall be calculated as of that date.

(y) "Intrabasin transfer" means a diversion of water from the source watershed of a Great Lake prior to its use to the watershed of another Great Lake.

(z) "Lake augmentation well" means a water well used to withdraw groundwater for the purpose of maintaining or raising water levels of an inland lake or stream as defined in section 30101.

(aa) "Large quantity withdrawal" means 1 or more cumulative total withdrawals of over 100,000 gallons of water per day average in any consecutive 30-day period that supply a common distribution system.

(bb) "Large river" means a river with a drainage area of 300 or more square miles.

(cc) "New or increased large quantity withdrawal" means a new water withdrawal of over 100,000 gallons of water per day average in any consecutive 30-day period or an increase of over 100,000 gallons of water per day average in any consecutive 30-day period beyond the baseline capacity of a withdrawal.

(dd) "New or increased withdrawal capacity" means new or additional water withdrawal capacity to supply a common distribution system that is an increase from the person's baseline capacity. New or increased capacity does not include maintenance or replacement of existing withdrawal capacity.

(ee) "Online registration process" means the online registration process provided for in section 32706.

(ff) "Preventative measure" means an action affecting a stream or river that prevents an adverse resource impact by diminishing the effect of a withdrawal on stream or river flow or the temperature regime of the stream or river.

(gg) "Registrant" means a person who has registered a water withdrawal under section 32705.

(hh) "River" means a flowing body of water with a drainage area of 80 or more square miles.

(ii) "Site-specific review" means the department's independent review under section 32706c to determine whether the withdrawal is a zone A, zone B, zone C, or zone D withdrawal and whether a withdrawal is likely to cause an adverse resource impact.

(jj) "Small river" means a river with a drainage area of less than 300 square miles.

(kk) "Source watershed" means the watershed from which a withdrawal originates. If water is withdrawn directly from a Great Lake, then the source watershed shall be considered to be the watershed of that Great Lake and its connecting waterways. If water is withdrawn from the watershed of a direct tributary to a Great Lake, then the source watershed shall be considered to be the watershed of that Great Lake and its connecting waterways, with a preference for returning water to the watershed of the direct tributary from which it was withdrawn.

(ll) "Stream" means a flowing body of water with a drainage area of less than 80 square miles.

(mm) "Stream reach" means a segment of a stream or river.

(nn) "Thriving fish curve" means a fish functional response curve that describes the initial decline in density of thriving fish populations in response to reductions in index flow as published in the document entitled "Report to the Michigan Legislature in response to 2006 Public Act 34" by the former groundwater conservation advisory council dated July 2007, which is incorporated by reference.

(oo) "Thriving fish population" means the fish species that are expected to flourish at very high densities in stream reaches having specific drainage area, index flow, and summer temperature characteristics.

(pp) "Warm river system" means a stream or river that has the appropriate summer water temperature that, based on statewide averages, sustains a fish community composed predominantly of warm-water fish species, as determined by a scientific methodology adopted by order of the commission.

(qq) "Waters of the Great Lakes basin" means the Great Lakes and all streams, rivers, lakes, connecting channels, and other bodies of water, including groundwater, within the Great Lakes basin.

(rr) "Waters of the state" means groundwater, lakes, rivers, and streams and all other watercourses and waters, including the Great Lakes, within the territorial boundaries of the state. Waters of the state do not include drainage ways and ponds designed and constructed solely for wastewater conveyance, treatment, or control.

(ss) "Withdrawal" means the removal of water from surface water or groundwater.

(tt) "Zone A withdrawal" means the following:

(i) For a cold river system, as follows:

(A) For a cold stream, less than a 1% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(B) For a cold small river, less than 50% of the withdrawal that would result in an adverse resource impact.

(ii) For a cold-transitional river system, there is not a zone A withdrawal.

(iii) For a cool river system, as follows:

(A) For a cool stream, less than a 10% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(B) For a cool small river, less than a 5% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(C) For a cool large river, less than an 8% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(iv) For a warm river system, less than a 10% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(uu) "Zone B withdrawal" means the following:

(i) There is not a zone B withdrawal for a cold stream or small river.

(ii) For a cold-transitional river system, less than a 5% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(iii) For a cool river system, as follows:

(A) For a cool stream, a 10% or more but less than a 20% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(B) For a cool small river, a 5% or more but less than a 10% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(C) For a cool large river, an 8% or more but less than a 10% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(iv) For a warm river system, as follows:

(A) For a warm stream, a 10% or more but less than a 15% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(B) For a warm small river or a warm large river, a 10% or more but less than a 20% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(vv) "Zone C withdrawal" means the following as long as the withdrawal will not decrease the flow of a stream or river by more than 25% of its index flow:

(i) For a cold river system, as follows:

(A) For a cold stream, a 1% or more but less than a 3% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(B) For a cold small river, 50% or more of the withdrawal that would result in an adverse resource impact but less than a 1% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(ii) There is not a zone C withdrawal for a cold-transitional river system.

(iii) For a cool river system, as follows:

(A) For a cool stream, a 20% or more reduction in the density of thriving fish populations as determined by the thriving fish curve but less than a 10% reduction in the abundance of characteristic fish populations as determined by the characteristic fish curve.

(B) For cool small rivers, a 10% or more but less than a 15% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(C) For cool large rivers, a 10% or more but less than a 12% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(iv) For warm river systems, as follows:

(A) For warm streams, a 15% or more reduction in the density of thriving fish populations as determined by the thriving fish curve but less than a 5% reduction in the abundance of characteristic fish populations as determined by the characteristic fish curve.

(B) For warm small rivers and warm large rivers, a 20% or more reduction in the density of thriving fish populations as determined by the thriving fish curve but less than a 10% reduction in the abundance of characteristic fish populations as determined by the characteristic fish curve.

(ww) "Zone D withdrawal" means, beginning February 1, 2009, a withdrawal that is likely to cause an adverse resource impact.

(2) For purposes of determining baseline capacity, a person who replaces his or her surface water withdrawal capacity with the same amount of groundwater withdrawal capacity from the drainage area of the same stream reach may retain the baseline capacity established under this section.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 1996, Act 434, Imd. Eff. Dec. 2, 1996 ;-- Am. 2003, Act 148, Imd. Eff. Aug. 8, 2003 ;-- Am. 2006, Act 33, Imd. Eff. Feb. 28, 2006 ;-- Am. 2008, Act 179, Imd. Eff. July 9, 2008
Popular Name: Act 451
Popular Name: NREPA

324.32726 Local ordinance.

Sec. 32726. Except as authorized by the public health code, 1978 PA 368, MCL 333.1101 to 333.25211, a local unit of government shall not enact or enforce an ordinance that regulates a large quantity withdrawal. This section is not intended to diminish or create any existing authority of municipalities to require persons to connect to municipal water supply systems as authorized by law.

History: Add. 2006, Act 33, Imd. Eff. Feb. 28, 2006
Popular Name: Act 451
Popular Name: NREPA

Supervisor of Wells

324.61505 Supervisor of wells; jurisdiction; authority; enforcement of part.

Sec. 61505. The supervisor has jurisdiction and authority over the administration and enforcement of this part and all matters relating to the prevention of waste and to the conservation of oil and gas in this state. The supervisor also has jurisdiction and control of and over all persons and things necessary or proper to enforce effectively this part and all matters relating to the prevention of waste and the conservation of oil and gas.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Supervisor of Wells

324.61506b Conditions prohibiting issuance of permit or authorization to drill oil or gas well; waiver; exception.

Sec. 61506b. (1) Except as provided in subsections (2) and (3), beginning on the effective date of this section, the supervisor shall not issue a permit for or authorize the drilling of an oil or gas well if both of the following apply:

(a) The well is located within 450 feet of a residential building.

(b) The residential building is located in a city or township with a population of 70,000 or more.

(2) The supervisor may grant a waiver from the requirement of subsection (1)(a) if the clerk of the city, village, or township in which the proposed well is located has been notified of the application for a permit for the proposed well and if either of the following conditions is met:

(a) The owner or owners of all residential buildings located within 450 feet of the proposed well give written consent.

(b) The supervisor determines, pursuant to a public hearing held before the waiver is granted, that the proposed well location will not cause waste and there is no reasonable alternative for the location of the well that will allow the oil and gas rights holder to develop the oil and gas.

(3) Subsection (1) does not apply to a well utilized for the injection, withdrawal, and observation of the storage of natural gas pursuant to this part.

History: Add. 1998, Act 303, Imd. Eff. July 28, 1998
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Supervisor of Wells

324.61525 Permit to drill well; application; bond; posting; fee; issuance; disposition of fees; availability of information pertaining to applications; information provided to city, village, or township.
Sec. 61525. (1) A person shall not drill or begin the drilling of any well for oil or gas, for secondary recovery, or a well for the disposal of salt water, or brine produced in association with oil or gas operations or other oil field wastes, or wells for the development of reservoirs for the storage of liquid or gaseous hydrocarbons, except as authorized by a permit to drill and operate the well issued by the supervisor of wells pursuant to part 13 and unless the person files with the supervisor a bond as provided in section 61506. The permittee shall post the permit in a conspicuous place at the location of the well as provided in the rules and requirements or orders issued or promulgated by the supervisor. An application for a permit shall be accompanied by a fee of $300.00. A permit to drill and operate shall not be issued to an owner or his or her authorized representative who does not comply with the rules and requirements or orders issued or promulgated by the supervisor. A permit shall not be issued to an owner or his or her authorized representative who has not complied with or is in violation of this part or any of the rules, requirements, or orders issued or promulgated by the supervisor or the department.

(2) The supervisor shall forward all fees received under this section to the state treasurer for deposit in the fund.

(3) The supervisor shall make available to any person, upon request, not less often than weekly, the following information pertaining to applications for permits to drill and operate:

(a) Name and address of the applicant.

(b) Location of proposed well.

(c) Well name and number.

(d) Proposed depth of the well.

(e) Proposed formation.

(f) Surface owner.

(g) Whether hydrogen sulfide gas is expected.

(4) The supervisor shall provide the information under subsection (3) to the county in which an oil or gas well is proposed to be located and to the city, village, or township in which the oil or gas well is proposed to be located if that city, village, or township has a population of 70,000 or more. A city, village, township, or county in which an oil or gas well is proposed to be located may provide written comments and recommendations to the supervisor pertaining to applications for permits to drill and operate. The supervisor shall consider all such comments and recommendations in reviewing the application.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 252, Imd. Eff. July 10, 1998 ;-- Am. 1998, Act 303, Imd. Eff. July 28, 1998 ;-- Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Supervisor of Wells

Surface and Underground Coal Mine Reclamation

324.63504 Assumption by state of exclusive jurisdiction over regulation of surface coal mining and reclamation operations in state; purpose of part.

Sec. 63504. Pursuant to the authority granted in section 503 of title V of the surface mining control and reclamation act of 1977, Public Law 95-87, 30 U.S.C. 1253, that allows a state to assume and retain exclusive jurisdiction over the regulation of surface coal mining and reclamation operations within that state by obtaining approval of a state program that has the capability of implementing and enforcing the provisions and purposes of the surface mining control and reclamation act of 1977, this state wishes to assume exclusive jurisdiction over the regulation of surface coal mining and reclamation operations in this state. It is the purpose of this part to provide a state plan to implement and enforce the purposes provided in section 102 of title I of the surface mining control and reclamation act of 1977, Public Law 95-87, 30 U.S.C. 1202.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

Michigan Trailways

324.72101 Definitions.

Sec. 72101. As used in this part:

(a) “Advisory council” means the Michigan trailways advisory council created in section 72110.

(b) “Council” means a Michigan trailway management council established pursuant to section 72106.

(c) “Fund” means the Michigan trailways fund created in section 72109.

(d) “Governmental agency” means the federal government, a county, city, village, or township, or a combination of any of these entities.

(e) “Michigan trailway” means a trailway designated by the commission pursuant to section 72103.

(f) “Rail-trail” means a former railroad bed that is in public ownership and used as a trailway.

(g) “Trailway” means a land corridor that features a broad trail capable of accommodating a variety of public recreation uses.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 1997, Act 129, Imd. Eff. Nov. 5, 1997
Popular Name: Act 451
Popular Name: NREPA

324.72103 Designation as trailway; public hearing; establishing and changing permitted uses; revocation of designation.
Sec. 72103. (1) Upon petition by any person or on its own motion, the commission may designate a trailway in this state as a “Michigan trailway”. The petition or motion shall propose permitted uses of the trailway. The commission shall not designate a trailway as a Michigan trailway unless it meets, or will meet when completed, all of the following requirements:

(a) The land on which the trailway is located is owned by the state or a governmental agency, or otherwise is under the long-term control of the state or a governmental agency through a lease, easement, or other arrangement. If the land is owned by a governmental agency, the commission shall obtain the consent of the governmental agency before designating the land as part of a Michigan trailway.

(b) The design and maintenance of the trailway and its related facilities meet generally accepted standards of public safety.

(c) The trailway meets appropriate standards for its designated recreation uses.

(d) The trailway is available for designated recreation uses on a nondiscriminatory basis.

(e) The trailway is a multiuse trail suitable for use by pedestrians, by people with disabilities, and by other users, as appropriate.

(f) The trailway is, or has potential to be, a segment of a statewide network of trailways, or it attracts a substantial share of its users from beyond the local area.

(g) The trailway is marked with an official Michigan trailway sign and logo at major access points.

(h) The trailway is not directly attached to a roadway, except at roadway crossings.

(i) Where feasible, the trailway offers adequate support facilities for the public, including parking, sanitary facilities, and emergency telephones, that are accessible to people with disabilities and are at reasonable frequency along the trailway.

(j) Potential negative impacts of trailway development on owners or residents of adjacent property are minimized through all of the following:

(i) Adequate enforcement of trailway rules and regulations.

(ii) Continuation of access for trailway crossings for agricultural and other purposes.

(iii) Construction and maintenance of fencing, where necessary, by the owner or operator of the trailway.

(iv) Other means as considered appropriate by the commission.

(k) Other conditions required by the commission.

(2) The commission shall not designate a trailway a Michigan trailway under subsection (1) unless a public hearing has been held in the vicinity of the proposed Michigan trailway to take testimony and gather public

opinion on the proposed designation including, but not limited to, the proposed uses of the trailway and whether or not motorized uses are appropriate for the trailway. The public hearing shall be held at a location and at a time calculated to attract a fair representation of opinions on the designation. A transcript or a summary of the testimony at the public hearing shall be forwarded to the commission.

(3) At the time a Michigan trailway is designated under subsection (1), the commission shall, in consultation with the governmental agencies in which the trailway is located, establish uses to be permitted on the trailway. In establishing permitted uses, the commission shall consider all of the following:

(a) The safety and enjoyment of trailway users.

(b) Impacts on residents, landowners, and businesses adjacent to the trailway.

(c) Applicable local ordinances.

(4) A change in the permitted uses of a Michigan trailway established under subsection (3) relating to whether or not a motorized use is allowed on the trailway shall not be made without approval of the commission after a public hearing held in the same manner as provided in subsection (2).

(5) The commission may revoke a Michigan trailway designation if it determines that a trailway fails to meet the requirements of this section. Before revoking a Michigan trailway designation, the commission shall provide notice to all entities involved in the management of the trailway. If the trailway is brought into compliance with this section within 90 days after providing this notice, the commission shall not revoke the designation.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

Mackinac Island State Park

324.76504 Mackinac Island state park; control and management by commission; quorum; conducting business at public meeting; notice; powers of commissioners; rules; deputy sheriffs; disposition of moneys; availability of writings to public; annual report; statement of receipts and expenditures; recommendations and suggestions.
Sec. 76504. (1) The Mackinac Island state park shall be under the control and management of the commission, and a majority of the members of the commission constitutes a quorum for the transaction of business. The business which the commission may perform shall be conducted at a public meeting of the commission held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(2) The commission shall have the exclusive right to do either or both of the following:

(a) Lay out, manage, and maintain the park and preserve the old fort and other property held by the commission on or acquired by the commission after August 6, 2001.

(b) Promulgate and enforce rules not inconsistent with the laws of this state and necessary to implement the commission's duties.

(3) The commission may do 1 or more of the following:

(a) Enter into leases and establish prices for rentals or privileges upon property controlled by the commission.

(b) Sell or lease as personal property buildings or structures acquired by the commission in settlement of delinquent land rentals.

(c) Employ a director and other persons as may be needed.

(4) The rules of the commission shall apply to all roads situated on Mackinac Island state park lands. The commission shall not make a rule permitting the use of motor vehicles except motor vehicles owned by the state, a political subdivision of the state, or by a public utility, and used in the exercise of its franchise. The commission may provide by rule for the issuance of temporary permits for the operation of motor vehicles over roads situated on state park lands. The commission may grant permits pursuant to part 13 for the use of lands for the expansion of existing cemeteries, under terms and conditions as the commission prescribes. The commission may also grant privileges and franchises for waterworks, sewerage, transportation, and lighting, for a period of not more than 40 years. The commission shall prescribe by rule the maximum number of horse drawn vehicles for hire that may be licensed by the commission for operation within the park.

(5) The sheriff of the county of Mackinac, upon the application of the commission, shall appoint 1 or more persons who shall be designated by the commission as deputy sheriffs in and for the county, and who shall be employees of the commission but who shall not receive fees or emoluments for services as deputy sheriffs. The commission may establish the compensation of the persons employed by the commission, but a debt or obligation shall not be created by the commission exceeding the amount of money at its disposal at the time.

(6) All money received from rentals or privileges shall be paid promptly into the state treasury to be credited to the general fund and to be disbursed as appropriated by the legislature. The commission, in consideration of the furnishing of fire protection, street service, sewerage service, and other public service agreed upon, may remit reasonable rentals as the commission determines from leases of property acquired by the state under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, and deeded to the commission, to the several tax assessing units in which the property is situated as provided in that act, in proportion to the delinquent taxes and special assessments of the units canceled against the description of land.

(7) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. The commission shall provide to the governor an annual report and statement of receipts and expenditures, and recommendations and suggestions as the commission considers proper.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2001, Act 78, Eff. Aug. 6, 2001 ;-- Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004
Popular Name: Act 451
Popular Name: NREPA
Admin Rule: R 318.111 et seq. of the Michigan Administrative Code.

324.76702 Mackinac Island state park commission; additional powers.

Sec. 76702. The Mackinac Island state park commission may, in addition to the powers already conferred on it by law, exercise the following powers: (a) To acquire, construct, improve, repair, maintain, restore, equip, furnish, use, and operate all property, real or personal, necessary or convenient to the exercise of the powers or the performance of the duties conferred upon it by law, including, but not limited to, property that in the judgment of the commission will increase the beauty and utility of the state park facilities and provide recreational, historical, or other facilities for the benefit and enjoyment of the public and landscaping, driveways, streets, or walkways for such property.

(b) To employ consulting architects, engineers, museum technicians, landscape architects, supervisors, managers, lawyers, fiscal agents, and other agents and employees as it considers necessary, and to establish their compensation.

(c) To enlist the guidance, assistance, and cooperation of the Michigan historical commission.

(d) To establish charges for admission to the facilities under its jurisdiction, to establish other charges for the use of any facilities, including fees or charges to be imposed on concessionaires, and to

charge rentals for the lease or use of any of its facilities as the commission determines proper and as will assure the prompt and full carrying out of all covenants contained in the proceedings authorizing any bonds pursuant to this part.

(e) To accept gifts, grants, and donations.

(f) To acquire, construct, develop, improve, repair, maintain, and operate, but not to extend the runway beyond 3,600 feet, an airport or landing field on property under its jurisdiction, and to lease to any governmental unit any real or personal property under its jurisdiction for use as an airport or landing field on the terms and conditions approved by the commission and the department of management and budget. The exercise of any power granted by this subdivision is subject to determination by the proper federal authority that such exercise will not affect the title of the state to the land involved. All rules and regulations established by any lessee shall reflect written approval by the commission before the rules or regulations are in effect.

(g) To sell real or personal property that is under the control of the commission if all of the following requirements are met:

(i) The property is sold for fair market value. The determination of fair market value may take into account a commitment by the buyer to keep the property open or accessible to the public. Furthermore, if the property is sold to a person who donated labor or materials for the improvement, repair, maintenance, or restoration of the property, the price may be reduced by an amount not greater than the portion of the fair market value attributable to the donation of labor or materials.

(ii) The commission determines that the property is not of current or potential value to the purposes of the commission as set forth in this subchapter.

(iii) The commission determines that the sale of the property is in the best interests of the state.

(iv) The sale of the property is not otherwise prohibited by law.

(v) If the property is real property, the property is zoned residential or commercial and is not contiguous to state park land.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2006, Act 181, Imd. Eff. June 6, 2006
Popular Name: Act 451
Popular Name: NREPA

324.76903 Mackinac Island state park commission; rules; jurisdiction.

Sec. 76903. All rules promulgated by the Mackinac Island state park commission under this part, this act, or any other act shall be effective within the whole territory covered by the park, and the Mackinac Island state park commission may promulgate and enforce rules relative to any part or portion of the park or other property controlled by the Mackinac Island state park commission, notwithstanding any contrary or inconsistent ordinance, regulation, or bylaw of the city of Mackinac Island, the township of Mackinaw, county of Cheboygan, or the village of Mackinaw City.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2001, Act 78, Eff. Aug. 6, 2001
Popular Name: Act 451
Popular Name: NREPA

324.77704 Michilimackinac state park; rules; jurisdiction of commission.

Sec. 77704. All rules promulgated by the Mackinac Island state park commission under this part, this act, or any other act shall be effective within the whole territory covered by the park. The Mackinac Island state park commission may promulgate and enforce rules relative to any part or portion of the park, notwithstanding any contrary or inconsistent ordinance, regulation, or bylaw of the village of Mackinaw City.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

Snowmobiles

324.82119 Operation of snowmobiles prohibited; exceptions; permanent prohibition; requirements; rules.
Sec. 82119. (1) A person shall not operate a snowmobile upon a public highway, land used as an airport or street, or on a public or private parking lot not specifically designated for the use of snowmobiles except under the following conditions and circumstances:

(a) Subject to subsection (2), a snowmobile may be operated on the right-of-way of a public highway, except a limited access highway, if it is operated at the extreme right of the open portion of the right-of-way and with the flow of traffic on the highway. However, a snowmobile may be operated on the right-of-way of a public highway against the flow of traffic if the right-of-way is a snowmobile trail that is designated by the department in the plan developed pursuant to section 82106(2) and that is approved by the state transportation department. Snowmobiles operated on the right-of-way of a public highway, as provided in this subdivision, shall travel single file and shall not be operated abreast except when overtaking and passing another snowmobile. In the absence of a posted snowmobile speed limit, a snowmobile operated on the right-of-way of a public highway, as provided in this subdivision, shall not exceed the speed limit posted on the public highway.

(b) Subject to subsection (2), a snowmobile may be operated on the right-of-way of a limited access public highway if it is operated on a snowmobile trail that is designated by the department in the plan developed pursuant to section 82106(2) and that is approved by the state transportation department. A snowmobile shall only be operated on that right-of-way in the manner provided in that plan. In addition, a snowmobile operated on the right-of-way of a public highway, as provided in this subdivision, shall travel single file and shall not be operated abreast except when overtaking and passing another snowmobile. In the absence of a posted snowmobile speed limit, a snowmobile operated on the right-of-way of a public highway, as provided in this subdivision, shall not exceed the speed limit posted on the public highway.

(c) A snowmobile may be operated on the roadway or shoulder when necessary to cross a bridge or culvert if the snowmobile is brought to a complete stop before entering onto the roadway or shoulder and the driver yields the right-of-way to an approaching vehicle on the highway.

(d) In a court action in this state where competent evidence demonstrates that a vehicle that is permitted to be operated on a highway pursuant to the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, collided with a snowmobile on a roadway, the driver of the snowmobile involved in the collision shall be considered prima facie negligent.

(e) A snowmobile may be operated across a public highway other than a limited access highway, at right angles to the highway, for the purpose of getting from 1 area to another when the operation can be done in safety and another vehicle is not crossing the highway at the same time in the same general area. An operator shall bring his or her snowmobile to a complete stop before proceeding across the public highway and shall yield the right-of-way to all oncoming traffic.

(f) Snowmobiles may be operated on a highway in a county road system that is not normally snowplowed for vehicular traffic and on the plowed right-of-way or shoulder when no right-of-way exists on a snowplowed highway in the county road system, outside the corporate limits of a city or village, that is designated and marked for snowmobile use by the county road commission having jurisdiction. Upon the request of a county road commission that has designated all county roads outside the corporate limits of a city or village for snowmobile use, the state transportation department shall erect at county road commission expense and shall maintain, in accordance with the Michigan manual of uniform traffic control devices standards, the basic snowmobile sign unit together with a supplemental panel stating "permitted on right-of-way or shoulder of all ..... (county name) roads — MCL 324.82119" at the county line on all state trunk line highways and county roads. A sign erected before the effective date of the 2005 amendatory act that amended this section may cite 1968 PA 74 instead of citing this section.

(g) A law enforcement officer of a local unit of government or the state may authorize use of a snowmobile on a public highway or street within his or her jurisdiction when an emergency occurs and conventional motor vehicles cannot be used for transportation due to snow or other extreme highway conditions.

(h) A snowmobile may be operated on a highway or street for a special event of limited duration conducted according to a prearranged schedule only under permit from the governmental unit having jurisdiction. The event may be conducted on the frozen surface of public waters only under permit from the department.

(i) A city or village by ordinance may designate 1 or more specific public highways or streets within its jurisdiction as egress and ingress routes for the use of snowmobiles. A city or village acting under the authority of this subdivision shall erect and maintain, in accordance with the Michigan manual of uniform traffic control devices standards, a sign unit giving proper notice of the designation.

(2) The state transportation department and the department of natural resources may permanently prohibit snowmobile use as described in subsection (1)(a) or (b) in a highway right-of-way if, within 10 years after the effective date of the amendatory act that added this subsection, all of the following requirements are met:

(a) The right-of-way is designated in a closure plan developed by the state transportation department and the department of natural resources and approved by the state transportation commission and the commission of natural resources.

(b) The state transportation department and the department of natural resources have held a public hearing on the proposed prohibition in the county where the prohibition is to apply. The state transportation department and the department of natural resources shall give notice of the hearing by publication in a newspaper of general circulation in the county not more than 21 or less than 7 days before the hearing.

(c) The state transportation department and the department have consulted on the proposed prohibition with the snowmobile advisory committee created under section 82102a.

(d) Snowmobile use in that right-of-way poses a particular and demonstrable threat to public safety.

(e) The department has designated and, if required under subsection (1)(a) or (b), the state transportation department has approved an alternative snowmobile trail that meets all of the following requirements:

(i) Is open for use and functional during snowmobile season.

(ii) Bypasses the highway right-of-way on which snowmobile use is to be prohibited.

(iii) Provides access to any qualified business that, when the alternative snowmobile trail is designated, is located along the highway right-of-way on which snowmobile use is to be prohibited. As used in this subparagraph, "qualified business" means a gas station, restaurant, hotel, motel, convenience store, or grocery store or any other business that relies on snowmobile-based commerce.

(3) The state transportation department and the department of natural resources may promulgate rules to implement subsections (1)(b) and (2).

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2005, Act 307, Imd. Eff. Dec. 27, 2005
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Snowmobiles

324.82124 Ordinances; duty to maintain highway; immunity from liability; “gross negligence” defined.
Sec. 82124. (1) Any municipality may pass an ordinance regulating the operation of snowmobiles if the ordinance meets substantially the minimum requirements of this part. A local unit of government may not adopt an ordinance that:

(a) Imposes a fee for a license.

(b) Specifies accessory equipment to be carried on the snowmobile.

(c) Requires a snowmobile operator to possess a motor vehicle driver license.

(d) Restricts operation of a snowmobile on the frozen surface of public waters or on lands owned by or under the control of the state except pursuant to section 82125.

(2) A board of county road commissioners, a county board of commissioners, and a county have no duty to maintain any highway under their jurisdiction in a condition reasonably safe and convenient for the operation of snowmobiles.

(3) Beginning on October 19, 1993, a board of county road commissioners, a county board of commissioners, and a county are immune from tort liability for injuries or damages sustained by any person arising in any way out of the operation or use of a snowmobile on maintained or unmaintained highways, shoulders, and rights-of-way over which the board of county road commissioners, the county board of commissioners, or the county has jurisdiction. The immunity provided by this subsection does not apply to actions which constitute gross negligence. Gross negligence is defined as conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA
Popular Name: Snowmobiles

THE REVISED SCHOOL CODE (EXCERPT)
Act 451 of 1976

380.1263 Building schools; requirements; compliance; review and approval; submission of site plan to local zoning authority; "high school building" and "local zoning authority" defined.

Sec. 1263. (1) The board of a school district shall not build a school upon a site without having prior title in fee to the site, a lease for not less than 99 years, or a lease for not less than 50 years from the United States government, or this state, or a political subdivision of this state.

(2) The board of a school district shall not build a frame school on a site for which it does not have a title in fee or a lease for 50 years without securing the privilege of removing the school.

(3) The governing board of a public school shall not design or build a school building to be used for instructional or noninstructional school purposes or design and implement the design for a school site unless the design or construction is in compliance with 1937 PA 306, MCL 388.851 to 388.855a. The superintendent of public instruction has sole and exclusive jurisdiction over the review and approval of plans and specifications for the construction, reconstruction, or remodeling of school buildings used for instructional or noninstructional school purposes and, subject to subsection (4), of site plans for those school buildings.

(4) Unless the site is located within a city or village, the governing board of a public school shall not build or expand a high school building on a site without first submitting the site plan to the local zoning authority for administrative review as provided under this subsection. Not later than 60 days after receiving the site plan, the local zoning authority shall respond to the governing board with either a written notice that the local zoning authority concurs with the site plan or with written suggested changes to the site plan. If the local zoning authority does not respond to the governing board with either of these options, the governing board shall be considered to have received a written notice of concurrence from the local zoning authority. If there are written suggested changes, then not later than 45 days after receiving the written suggested changes, the governing board shall respond to the local zoning authority with a revised site plan that incorporates the changes or with an explanation of why the changes are not being made. This subsection applies to expansion of a high school building only if the expansion will result in the square footage of the high school building being increased by at least

20%. This subsection does not apply to temporary structures or facilities that are necessary due to unexpected enrollment increases and that are used for not more than 2 years.

(5) If mutually agreed by the governing board and the local zoning authority, the time periods in subsection (4) may be extended.

(6) The communication required under subsection (4) between a governing board and a local zoning authority is for informational purposes only and does not require the governing board to make any changes in its site plan. Once the process prescribed under subsection (4) is complete, this section does not require any further interaction between the governing board and a local zoning authority.

(7) A local zoning authority shall not charge a governing board a fee for the process prescribed under subsection (4) that exceeds $250.00 for an administrative review or $1,500.00 for total costs incurred by a local zoning authority under subsection (4) for the specific project involved.

(8) As used in this section:

(a) "High school building" means any structure or facility that is used for instructional purposes, that offers at least 1 of grades 9 to 12, and that includes an athletic field or facility.

(b) "Local zoning authority" means the zoning authority for the jurisdiction in which the construction or expansion of a high school building is to occur.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977 ;-- Am. 1990, Act 159, Imd. Eff. July 2, 1990 ;-- Am. 2006, Act 276, Imd. Eff. July 7, 2006
Popular Name: Act 451

MICHIGAN LIQUOR CONTROL CODE OF 1998 (EXCERPT)
Act 58 of 1998

436.1503 Licenses; proximity of contemplated location to church or school building; measurement of distance; exceptions; waiver;

objection; hearing; transfer to location farther from church or school.

Sec. 503. (1) A new application for a license to sell alcoholic beverages at retail, or a request to transfer location of an existing license, shall be denied if the contemplated location is within 500 feet of a church or a school building. The distance between the church or school building and the contemplated location shall be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the part of the church or school building nearest to the contemplated location and from the part of the contemplated location nearest to the church or school building.

(2) This section does not apply to specially designated merchants not in conjunction with on the premise licenses.

(3) This section does not apply to an outstanding license issued before March 1, 1949, for a location within the aforesaid distance or to the renewal or transfer of the outstanding license at that location, or to a resort license in effect during the 1948-1949 licensing year, or to the renewal or transfer of the resort at that location or to an application for a license at that location which has been approved by the commission before March 1, 1949, and licenses so issued, renewed, transferred, or approved shall be conclusively presumed to be valid for purposes of this section only.

(4) The commission may waive this section in the case of other classes of licenses. If an objection is not filed by the church or school, the commission may issue the license pursuant to this act. If an objection is filed, the commission shall hold a hearing pursuant to rules established by the commission before making a decision on the issuance of the license.

(5) This section shall not be construed to prevent the transfer of a license to a location farther from a church or school, if the license to be transferred is within the 500-foot radius.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998
Admin Rule: R 436.1951 et seq. and R 436.1963 of the Michigan Administrative Code.

Chapter 1

436.1101 Short title.
Sec. 101. This act shall be known and may be cited as the “Michigan liquor control code of 1998”.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998

436.1103 Meanings of words and phrases.
Sec. 103. For the purposes of this act, the words and phrases defined in this chapter have the meanings ascribed to them in this chapter, unless the context requires otherwise.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998

436.1105 Definitions; A, B.
Sec. 105. (1) "Alcohol" means the product of distillation of fermented liquid, whether or not rectified or diluted with water, but does not mean ethyl or industrial alcohol, diluted or not, that has been denatured or otherwise rendered unfit for beverage purposes.

(2) "Alcohol vapor device" means any device that provides for the use of air or oxygen bubbled through alcoholic liquor to produce a vapor or mist that allows the user to inhale this alcoholic vapor through the mouth or nose.

(3) "Alcoholic liquor" means any spirituous, vinous, malt, or fermented liquor, liquids and compounds, whether or not medicated, proprietary, patented, and by whatever name called, containing 1/2 of 1% or more of alcohol by volume which are fit for use for beverage purposes as defined and classified by the commission according to alcoholic content as belonging to 1 of the varieties defined in this chapter.

(4) "Authorized distribution agent" means a person approved by the commission to do 1 or more of the following:

(a) To store spirits owned by a supplier of spirits or the commission.

(b) To deliver spirits sold by the commission to retail licensees.

(c) To perform any function needed to store spirits owned by a supplier of spirits or by the commission or to deliver spirits sold by the commission to retail licensees.

(5) "Bar" means a barrier or counter at which alcoholic liquor is sold to, served to, or consumed by customers.

(6) "Beer" means any beverage obtained by alcoholic fermentation of an infusion or decoction of barley, malt, hops, or other cereal in potable water.

(7) "Brand" means any word, name, group of letters, symbol, trademark, or combination thereof adopted and used by a supplier to identify a specific beer, malt beverage, wine, mixed wine drink, or mixed spirit drink product and to distinguish that product from another beer, malt beverage, wine, mixed wine drink, or mixed spirit drink product that is produced or marketed by that or another supplier. As used in this section and notwithstanding sections 305(2)(j) and 403(2)(j), "supplier" means a brewer, an outstate seller of beer, a wine maker, a small wine maker, an outstate seller of wine, a manufacturer of mixed wine drink, an outstate seller of a mixed wine drink, a mixed spirit drink manufacturer, or an outstate seller of mixed spirit drink.

(8) "Brand extension" means any brand which incorporates all or a substantial part of the unique features of a preexisting brand of the same supplier. As used in this section and notwithstanding sections 305(2)(j) and 403(2)(j), "supplier" means a brewer, an outstate seller of beer, a wine maker, a small wine maker, an outstate seller of wine, a manufacturer of mixed wine drink, an outstate seller of a mixed wine

drink, a mixed spirit drink manufacturer, or an outstate seller of mixed spirit drink.

(9) "Brandy" means an alcoholic liquor as defined in 27 CFR 5.22(d) (1980).

(10) "Brandy manufacturer" means a person licensed under this act to engage in the manufacturing, rectifying or blending, or both, of brandy only and no other distilled spirit. Only a licensed wine maker or a small wine maker is eligible to be a brandy manufacturer. The commission may approve a brandy manufacturer to sell at retail brandy which it manufactures, blends or rectifies, or both, at its licensed premises or at other premises authorized in this act.

(11) "Brewer" means a person located in this state that is licensed to manufacture and sell to licensed wholesalers beer produced by it.

(12) "Brewpub" means a license issued in conjunction with a class C, tavern, class A hotel, or class B hotel license that authorizes the person licensed with the class C, tavern, class A hotel, or class B hotel to manufacture and brew not more than 5,000 barrels of beer per calendar year in Michigan and sell at those licensed premises the beer produced for consumption on or off the licensed brewery premises in the manner provided for in sections 405 and 407.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 2005, Act 320, Imd. Eff. Dec. 27, 2005

436.1107 Definitions; C to L.

Sec. 107. (1) “Cash” means money in hand, bank notes, demand deposits at a bank, or legal tender, which a creditor must accept according to law. Cash does not include call loans, postdated checks, or promissory notes.

(2) “Class C license” means a place licensed to sell at retail beer, wine, mixed spirit drink, and spirits for consumption on the premises.

(3) “Class G-1 license” means a place licensed to sell at retail beer, wine, mixed spirit drink, and spirits for consumption on the premises at a golf course having at least 18 holes that measure at least 5,000 yards and which license is issued only to a facility which permits member access by means of payments that include annual paid membership fees.

(4) “Class G-2 license” means a place licensed to sell at retail beer and wine for consumption on the premises at a golf course having at least 18 holes that measure at least 5,000 yards and which license is issued only to a facility which permits member access by means of payments that include annual paid membership fees.

(5) “Club” means a nonprofit association, whether incorporated or unincorporated, organized for the promotion of some common purpose, the object of which is owning, hiring, or leasing a building, or space in a building, of an extent and character as in the judgment of the commission may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests, but does not include an association organized for a commercial or business purpose.

(6) “Commission” means the liquor control commission provided for and created in section 209.

(7) “Church” means an entire house or structure set apart primarily for use for purposes of public worship, and which is tax exempt under the laws of this state, and in which religious services are held and with which a clergyman is associated, and the entire structure of which is kept for that use and not put to any other use inconsistent with that use.

(8) “Distiller” means any person licensed to manufacture and sell spirits or alcohol, or both, of any kind.

(9) “Hotel” means a building or group of buildings located on the same or adjoining pieces of real property, which provide lodging to travelers and temporary residents and which may also provide food service and other goods and services to registered guests and to the public.

(10) “Class A hotel” means a hotel licensed by the commission to sell beer and wine for consumption on the premises only, which provides for the rental of, and maintains the availability for rental of, not less than 25 bedrooms if located in a local governmental unit with a population of less than 175,000 or not less than 50 bedrooms if located in a local governmental unit with a population of 175,000 or more.

(11) “Class B hotel” means a hotel licensed by the commission to sell beer, wine, mixed spirit drink, and spirits for consumption on the premises only, which provides for the rental of, and maintains the availability for rental of, not less than 25 bedrooms if located in a local governmental unit with a population of less than 175,000 or not less than 50 bedrooms if located in a local governmental unit with a population of 175,000 or more.

(12) “License” means a contract between the commission and the licensee granting authority to that licensee to manufacture and sell, or sell, or warehouse alcoholic liquor in the manner provided by this act.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 2001, Act 223, Eff. Mar. 22, 2002

436.1109 Definitions; M to O.

Sec. 109. (1) “Manufacturer” means a person engaged in the manufacture of alcoholic liquor, including, but not limited to, a distiller, a rectifier, a wine maker, and a brewer.

(2) “Micro brewer” means a brewer that produces in total less than 30,000 barrels of beer per year and that may sell the beer produced to consumers at the licensed brewery premises for consumption on or off the licensed brewery premises. In determining the 30,000-barrel threshold, all brands and labels of a brewer, whether brewed in this state or outside this state, shall be combined and all facilities for the production of beer that are owned or controlled by the same person shall be treated as a single facility.

(3) “Minor” means a person less than 21 years of age.

(4) “Mixed spirit drink” means a drink produced and packaged or sold by a mixed spirit drink manufacturer or an outstate seller of mixed spirit drink which contains 10% or less alcohol by volume consisting of distilled spirits mixed with nonalcoholic beverages or flavoring or coloring materials and which may also contain 1 or more of the following:

(a) Water.

(b) Fruit juices.

(c) Fruit adjuncts.

(d) Sugar.

(e) Carbon dioxide.

(f) Preservatives.

(5) “Mixed spirit drink manufacturer” means any person licensed under this act to manufacture mixed spirit drink in this state and to sell mixed spirit drink to a wholesaler. For purposes of rules promulgated by the commission, a mixed spirit drink manufacturer shall be treated as a wine manufacturer but is subject to the rules applicable to spirits for purposes of manufacturing and labeling.

(6) “Mixed wine drink” means a drink or similar product marketed as a wine cooler and containing less than 7% alcohol by volume, consisting of wine and plain, sparkling, or carbonated water, and containing any 1 or more of the following:

(a) Nonalcoholic beverages.

(b) Flavoring.

(c) Coloring materials.

(d) Fruit juices.

(e) Fruit adjuncts.

(f) Sugar.

(g) Carbon dioxide.

(h) Preservatives.

(7) “Outstate seller of beer” means a person licensed by the commission to sell beer which has not been manufactured in this state to a wholesaler in this state in accordance with rules promulgated by the commission.

(8) “Outstate seller of mixed spirit drink” means a person licensed by the commission to sell mixed spirit drink which has not been manufactured in this state to a wholesaler in this state in accordance with rules promulgated by the commission. For purposes of rules promulgated by the commission, an outstate seller of mixed spirit drink shall be treated as an outstate seller of wine but is subject to the rules applicable to spirits for purposes of manufacturing and labeling.

(9) “Outstate seller of wine” means a person licensed by the commission to sell wine which has not been manufactured in this state to a wholesaler in this state in accordance with rules promulgated by the commission and to sell sacramental wine as provided in section 301.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998
Constitutionality: In Granholm v Heald, 544 US 460 (2005), the United States Supreme Court held that Michigan laws regulating direct shipment of alcohol to in-state consumers discriminated against interstate commerce in violation of clause 3 of section 8 of article 1 of the United States Constitution, and that the powers granted to states under the 21st Amendment to the United States Constitution do not authorize violation of other constitutional provisions.

436.1111 Definitions; P to S.

Sec. 111. (1) "Person" means an individual, firm, partnership, limited partnership, association, limited liability company, or corporation.

(2) "Primary source of supply" means, in the case of domestic spirits, the distiller, producer, owner of the commodity at the time it becomes a marketable product, or bottler, or the exclusive agent of any such person and, in the case of spirits imported into the United States, either the foreign distiller, producer, owner of the bottler, or the prime importer for, or the exclusive agent in the United States of, the foreign distiller, producer, owner, or the bottler.

(3) "Professional account" means an account established for a person by a class C licensee or tavern licensee whose major business is the sale of food, by which the licensee extends credit to the person for not more than 30 days.

(4) "Residence" means the premises in which a person resides permanently.

(5) "Retailer" means a person licensed by the commission who sells to the consumer in accordance with rules promulgated by the commission.

(6) "Sacramental wine" means wine containing not more than 24% of alcohol by volume which is used for sacramental purposes.

(7) "Sale" includes the exchange, barter, traffic, furnishing, or giving away of alcoholic liquor. In the case of a sale in which a shipment or delivery of alcoholic liquor is made by a common or other carrier, the sale of the alcoholic liquor is considered to be made in the county within which the delivery of the alcoholic liquor is made by that carrier to the consignee or his or her agent or employee, and venue for the prosecution for that sale may be in the county or city where the seller resides or from which the shipment is made or at the place of delivery.

(8) "School" includes buildings used for school purposes to provide instruction to children in grades kindergarten through 12, when that instruction is provided by a public, private, denominational, or parochial school, except those buildings used primarily for adult education or college extension courses. School does not include a proprietary trade or occupational school.

(9) "Small distiller" means a manufacturer of spirits annually manufacturing in Michigan not exceeding 60,000 gallons of spirits, of all brands combined.

(10) "Small wine maker" means a wine maker manufacturing or bottling not more than 50,000 gallons of wine in 1 calendar year.

(11) "Special license" means a contract between the commission and the special licensee granting authority to that licensee to sell beer, wine, mixed spirit drink, or spirits. The license shall be granted only to such persons and such organization and for such period of time as the commission shall determine so long as the person or organization is able to demonstrate an existence separate from an affiliated umbrella organization. If such an existence is demonstrated, the commission shall not deny a special license solely by the applicant's affiliation with an organization that is also eligible for a special license.

(12) "Specially designated distributor" means, subject to section 534, a person engaged in an established business licensed by the commission to distribute spirits and mixed spirit drink in the original package for the commission for consumption off the premises.

(13) "Specially designated merchant" means a person to whom the commission grants a license to sell beer or wine, or both, at retail for consumption off the licensed premises.

(14) "Spirits" means a beverage that contains alcohol obtained by distillation, mixed with potable water or other substances, or both, in solution, and includes wine containing an alcoholic content of more than 21% by volume, except sacramental wine and mixed spirit drink.

(15) "State liquor store" means a store established by the commission under this act for the sale of spirits in the original package for consumption off the premises.

(16) "Supplier of spirits" means a vendor of spirits, a manufacturer of spirits, or a primary source of supply.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 2008, Act 218, Imd. Eff. July 16, 2008

436.1113 Definitions; T to W.

Sec. 113. (1) "Tavern" means any place licensed to sell at retail beer and wine for consumption on the premises only.

(2) "Vehicle" means any means of transportation by land, by water, or by air.

(3) "Vendor" means a person licensed by the commission to sell alcoholic liquor.

(4) "Vendor of spirits" means a person selling spirits to the commission.

(5) "Warehouse" means a premises or place primarily constructed, used, or provided with facilities for the storage in transit or other temporary storage of perishable goods or for the conduct of a warehousing business, or for both.

(6) "Warehouser" means a licensee authorized by the commission to store alcoholic beverages, but prohibited from making sales or deliveries to retailers unless the licensee is also the holder of a wholesaler or manufacturer license issued by the commission.

(7) "Wholesaler" means a person who sells beer, wine, or mixed spirit drink only to retailers or other licensees, and who sells sacramental wine as provided in section 301.

(8) "Wine" means the product made by the normal alcoholic fermentation of the juice of sound, ripe grapes, or any other fruit with the usual cellar treatment, and containing not more than 21% of alcohol by volume, including fermented fruit juices other than grapes and mixed wine drinks.

(9) "Wine maker" means any person licensed by the commission to manufacture wine and to sell that wine to a wholesaler, to a consumer by

direct shipment, at retail on the licensed winery premises, to sell that wine to a retailer, and as provided for in section 537.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 2005, Act 269, Imd. Eff. Dec. 16, 2005 **Note:** 436.1113 THIS SECTION IS REPEALED BY ACT 269 OF 2005 EFFECTIVE WHEN CONDITIONS APPLIED BY ENACTING SECTION 2(1) OF ACT 269 OF 2005 ARE MET: See compiler's note following section
Constitutionality: In Granholm v Heald, 544 US 460 (2005), the United States Supreme Court held that Michigan laws regulating direct shipment of alcohol to in-state consumers discriminated against interstate commerce in violation of clause 3 of section 8 of article 1 of the United States Constitution, and that the powers granted to states under the 21st Amendment to the United States Constitution do not authorize violation of other constitutional provisions.
Compiler's Notes: Enacting sections 2 and 3 of Act 269 of 2005 provide:"Enacting section 2. (1) If any provision of section 113 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1113, as amended by this amendatory act, is held to be unconstitutional by a court of competent jurisdiction and the allowable time for filing an appeal has expired or the appellant has exhausted all of his or her avenues of appeal, section 113 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1113, is repealed."(2) Section 113a of the Michigan liquor control code of 1998, 1998 PA 58, as added by this amendatory act, shall not take effect unless section 113 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1113, is held unconstitutional or repealed pursuant to subsection (1)."Enacting section 3. If an appellate court declares this amendatory act unconstitutional, then it is the intent of the legislature that a good faith effort be made to amend section 305 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1305, to make it less burdensome for a small winery to terminate an agreement with a wholesaler."

****** 436.1113a.added THIS ADDED SECTION IS EFFECTIVE WHEN CONDITIONS APPLIED BY ENACTING SECTION 2(2) OF ACT 269 OF 2005 ARE MET: See compiler's note following section ******

436.1113a.added Additional definitions.

Sec. 113a. (1) "Tavern" means any place licensed to sell at retail beer and wine for consumption on the premises only.

(2) "Vehicle" means any means of transportation by land, by water, or by air.

(3) "Vendor" means a person licensed by the commission to sell alcoholic liquor.

(4) "Vendor of spirits" means a person selling spirits to the commission.

(5) "Warehouse" means a premises or place primarily constructed, used, or provided with facilities for the storage in transit or other temporary storage of perishable goods or for the conduct of a warehousing business, or for both.

(6) "Warehouser" means a licensee authorized by the commission to store alcoholic liquor, but prohibited from making sales or deliveries to retailers unless the licensee is also the holder of a wholesaler license issued by the commission.

(7) "Wholesaler" means a person who sells beer, wine, or mixed spirit drink only to retailers or other licensees, and who sells sacramental wine as provided in section 301.

(8) "Wine" means the product made by the normal alcoholic fermentation of the juice of sound, ripe grapes, or any other fruit with the usual cellar treatment, and containing not more than 21% of alcohol by volume, including fermented fruit juices other than grapes and mixed wine drinks.

(9) "Wine maker" means any person licensed by the commission to manufacture wine, to sell that wine to a wholesaler, to sell that wine by direct shipment to a consumer, at retail on the licensed winery premises, and as provided for in section 537 but not to sell wine to a retailer.

History: Add. 2005, Act 269, Eff. (pending)
Compiler's Notes: Enacting sections 2 and 3 of Act 269 of 2005 provide:"Enacting section 2. (1) If any provision of section 113 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1113, as amended by this amendatory act, is held to be unconstitutional by a court of competent jurisdiction and the allowable time for filing an appeal has expired or the appellant has exhausted all of his or her avenues of appeal, section 113 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1113, is repealed."(2) Section 113a of the Michigan liquor control code of 1998, 1998 PA 58, as added by this amendatory act, shall not take effect unless section 113 of the

Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1113, is held unconstitutional or repealed pursuant to subsection (1)."Enacting section 3. If an appellate court declares this amendatory act unconstitutional, then it is the intent of the legislature that a good faith effort be made to amend section 305 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1305, to make it less burdensome for a small winery to terminate an agreement with a wholesaler."

JUNK YARDS
Act 12 of 1929

AN ACT to give power to the township board of any township to license and regulate junk yards and places for the dismantling, wrecking and disposing of the junk and/or refuse material of automobiles; to prescribe rules, regulations and conditions for the operation of the same; to provide penalties for the operation of the same without a license and for the violation of any rule, regulation or condition.

History: 1929, Act 12, Eff. Aug. 28, 1929 ;-- Am. 1935, Act 34, Imd. Eff. Apr. 27, 1935

The People of the State of Michigan enact:

445.451 Junk yards; township licenses, fees, regulations, state of purchases.

Sec. 1. The township board of any township may, at any regular meeting, adopt a resolution providing for the licensing of junk yards and places for the dismantling, wrecking and disposing of the junk and/or refuse material of automobiles; may prescribe the amount of an annual license fee which shall not exceed 25 dollars, and prescribe the form of an application for such license, and adopt rules, regulations and conditions for the operation thereof, which in the discretion of said board will best protect the public health, interests and general welfare of their township, and shall specify the date when such resolution and the rules, regulations and conditions shall take effect: Provided, however, That the licensee shall, at least once each month, prepare and mail to the commissioner of the department of public safety at East Lansing, Michigan, a sworn statement of all purchases made by said licensee. The township board may in its discretion, for just cause, refuse to grant the license provided for in this act.

History: 1929, Act 12, Eff. Aug. 28, 1929 ;-- CL 1929, 9766 ;-- Am. 1935, Act 34, Imd. Eff. Apr. 27, 1935 ;-- CL 1948, 445.451

445.452 Junk yards; regulations, publication.

Sec. 2. Said resolution and the rules, regulations and conditions enacted thereunder shall within 5 days after their adoption and before the same shall take effect, be published by posting the same in 3 conspicuous places in the township, and an affidavit of said posting shall be filed in the office of the township clerk.

History: 1929, Act 12, Eff. Aug. 28, 1929 ;-- CL 1929, 9767 ;-- CL 1948, 445.452

445.453 Violation of act; penalty.

Sec. 3. Any person, firm, association or corporation which shall operate such an establishment without a license, or shall violate any rule, regulation or condition, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding 100 dollars, or by imprisonment in the county jail not to exceed 90 days, or by both such fine and imprisonment in the discretion of the court.

History: 1929, Act 12, Eff. Aug. 28, 1929 ;-- CL 1929, 9768 ;-- CL 1948, 445.453

MICHIGAN PUBLIC SERVICE COMMISSION (EXCERPTS)
Act 3 of 1939

460.4 Michigan public service commission; rights, privileges, and jurisdiction; meaning of certain references; review of order or decree.

Sec. 4. The Michigan public service commission shall have and exercise all rights, privileges, and the jurisdiction in all respects as has been conferred by law and exercised by the Michigan public utilities commission. Where reference is or has been made in any law to the "commission", the "Michigan public utilities commission", the "Michigan railroad commission", that reference shall be construed to mean the Michigan public service commission except that with respect to railroad, bridge, and tunnel companies, that reference shall be construed to mean the state transportation department. Any order or decree of the Michigan public service commission shall be subject to review in the

manner provided for in section 26 of Act No. 300 of the Public Acts of 1909, being section 462.26 of the Michigan Compiled Laws.

History: 1939, Act 3, Imd. Eff. Feb. 15, 1939 ;-- CL 1948, 460.4 ;-- Am. 1972, Act 300, Imd. Eff. Dec. 19, 1972 ;-- Am. 1987, Act 4, Eff. Apr. 1, 1987 ;-- Am. 1993, Act 355, Imd. Eff. Jan. 14, 1994
Admin Rule: R 460.851 et seq.; R 460.1451 et seq.; R 460.1951 et seq.; R 460.2101 et seq.; R 460.2212 et seq.; R 460.2501 et seq.; R 460.2601 et seq.; and R 460.3101 et seq. of the Michigan Administrative Code.

460.6 Public service commission; power and jurisdiction; "private, investor-owned wastewater utilities" defined.

Sec. 6. (1) The public service commission is vested with complete power and jurisdiction to regulate all public utilities in the state except a municipally owned utility, the owner of a renewable resource power production facility as provided in section 6d, and except as otherwise restricted by law. The public service commission is vested with the power and jurisdiction to regulate all rates, fares, fees, charges, services, rules, conditions of service, and all other matters pertaining to the formation, operation, or direction of public utilities. The public service commission is further granted the power and jurisdiction to hear and pass upon all matters pertaining to, necessary, or incident to the regulation of public utilities, including electric light and power companies, whether private, corporate, or cooperative; water, telegraph, oil, gas, and pipeline companies; motor carriers; private wastewater treatment facilities; and all public transportation and communication agencies other than railroads and railroad companies.

(2) A private, investor-owned wastewater utility may apply to the commission for rate regulation. If an application is filed under this subsection, the commission is vested with the specific grant of jurisdictional authority to regulate the rates, fares, fees, and charges of private, investor-owned wastewater utilities. As used in this subsection, "private, investor-owned wastewater utilities" means a utility that delivers wastewater treatment services through a sewage system and the physical assets of which are wholly owned by an individual or group of individual shareholders.

History: 1939, Act 3, Imd. Eff. Feb. 15, 1939 ;-- CL 1948, 460.6 ;-- Am. 1952, Act 240, Eff. Sept. 18, 1952 ;-- Am. 1960, Act 44, Imd. Eff. Apr. 19, 1960 ;-- Am. 1967, Act 125, Imd. Eff. June 27, 1967 ;-- Am. 1969, Act 223, Imd. Eff. Aug. 6, 1969 ;-- Am. 1980, Act 50, Imd. Eff. Mar. 25, 1980 ;-- Am. 1992, Act 37, Imd. Eff. Apr. 21, 1992 ;-- Am. 1993, Act 355, Imd. Eff. Jan. 14, 1994 ;-- Am. 2005, Act 190, Imd. Eff. Nov. 7, 2005
Admin Rule: R 460.11 et seq.; R 460.511 et seq.; R 460.915 et seq.; R 460.1451 et seq.; R 460.1951 et seq.; R 460.2011 et seq.; R 460.2051 et seq.; R 460.2101 et seq.; R 460.2211 et seq.; R 460.2601 et seq.; and R 460.3101 et seq. of the Michigan Administrative Code.

CLEAN, RENEWABLE, AND EFFICIENT ENERGY ACT (EXCERPT)
Act 295 of 2008

AN ACT to require certain providers of electric service to establish renewable energy programs; to require certain providers of electric or natural gas service to establish energy optimization programs; to authorize the use of certain energy systems to meet the requirements of those programs; to provide for the approval of energy optimization service companies; to provide for certain charges on electric and natural gas bills; to promote energy conservation by state agencies and the public; to create a wind energy resource zone board and provide for its power and duties; to authorize the creation and implementation of wind energy resource zones; to provide for expedited transmission line siting certificates; to provide for a net metering program and the responsibilities of certain providers of electric service and customers with respect to net metering; to provide for fees; to prescribe the powers and duties of certain state agencies and officials; to require the promulgation of rules and the issuance of orders; and to provide for civil sanctions, remedies, and penalties.

History: 2008, Act 295, Imd. Eff. Oct. 6, 2008
Compiler's Notes: Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

PART 4
WIND ENERGY RESOURCE ZONE

460.1141 Definitions.
Sec. 141. As used in this part:

(a) "Construction" means any substantial action constituting placement or erection of the foundations or structures supporting a transmission line. Construction does not include preconstruction activity or the addition of circuits to an existing transmission line.

(b) "Route" means real property on or across which a transmission line is constructed or proposed to be constructed.

History: 2008, Act 295, Imd. Eff. Oct. 6, 2008
Compiler's Notes: Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

460.1143 Wind energy resource zone board; membership.
Sec. 143. Within 60 days after the effective date of this act, the commission shall create the wind energy resource zone board. The board shall consist of 9 members, as follows:

(a) 1 member representing the commission.

(b) 2 members representing the electric utility industry.

(c) 1 member representing alternative electric suppliers.

(d) 1 member representing the attorney general.

(e) 1 member representing the renewable energy industry.

(f) 1 member representing cities and villages.

(g) 1 member representing townships.

(h) 1 member representing independent transmission companies.

(i) 1 member representing a statewide environmental organization.

(j) 1 member representing the public at large.

History: 2008, Act 295, Imd. Eff. Oct. 6, 2008
Compiler's Notes: Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

460.1145 Wind energy resource zone board; powers, duties, and decision-making authority; report.

Sec. 145. (1) The wind energy resource zone board shall exercise its powers, duties, and decision-making authority under this part independently of the commission.

(2) The board shall do all of the following:

(a) In consultation with local units of government, study all of the following:

(i) Wind energy production potential and the viability of wind as a source of commercial energy generation in this state.

(ii) Availability of land in this state for potential utilization by wind energy conversion systems.

(b) Conduct modeling and other studies related to wind energy, including studying existing wind energy conversion systems, estimates for additional wind energy conversion system development, and average annual recorded wind velocity levels. The board's studies should include examination of wind energy conversion system requests currently in the applicable regional transmission organization's generator interconnection queue.

(3) Within 240 days after the effective date of this act, issue a proposed report detailing its findings under subsection (2). The board's proposed report shall include the following:

(a) A list of regions in the state with the highest level of wind energy harvest potential.

(b) A description of the estimated maximum and minimum wind generating capacity in megawatts that can be installed in each identified region of this state.

(c) An estimate of the annual maximum and minimum energy production potential for each identified region of this state.

(d) An estimate of the maximum wind generation capacity already in service in each identified region of this state.

(4) The board shall submit a copy of the proposed report under subsection (3) to the legislative body of each local unit of government located in whole or part within any region listed in subsection (3)(a). The legislative body may submit comments to the board on the proposed report within 63 days after the proposed report was submitted to the legislative body. After the deadline for submitting comments on the proposed report, the board shall hold a public hearing on the proposed report. The board may hold a separate public hearing in each region listed under subsection (3)(a). The board shall give written notice of a public hearing under this subsection to the legislative body of each local unit of government located in whole or part within the region or regions that are the subject of the hearing and shall publish the notice in a newspaper of general circulation within the region or regions.

(5) Within 45 days after satisfying the requirements of subsection (4), the board shall issue a final report as described in subsection (3).

(6) After the board issues its report under subsection (5), electric utilities, affiliated transmission companies and independent transmission companies with transmission facilities within or adjacent to regions of this state identified in the board's report shall identify existing or new transmission infrastructure necessary to deliver maximum and minimum wind energy production potential for each of those regions and shall submit this information to the board for its review.

(7) The board is dissolved 90 days after it issues its report under subsection (5).

History: 2008, Act 295, Imd. Eff. Oct. 6, 2008
Compiler's Notes: Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

460.1147 Wind energy resource zone; designation; creation; preparation of order; report.
Sec. 147. (1) Based on the board's findings as reported under section 145, the commission shall, through a final order, designate the area of this state likely to be most productive of wind energy as the primary wind energy resource zone and may designate additional wind energy resource zones.

(2) A wind energy resource zone shall be created on land that is entirely within the boundaries of this state and shall encompass a natural geographical area or region of this state. A wind zone shall exclude land that is zoned residential when the board's proposed report is issued under section 145, unless the land is subsequently zoned for nonresidential use.

(3) In preparing its order, the commission shall evaluate projected costs and benefits in terms of the long-term production capacity and long-term needs for transmission. The order shall ensure that the designation of a wind zone does not represent an unreasonable threat to the public convenience, health, and safety and that any adverse impacts on private property values are minimal. In determining the location of a wind zone, the commission shall consider all of the following factors pursuant to the findings of the board:

(a) Average annual wind velocity levels in the region.

(b) Availability of land in the region that may be utilized by wind energy conversion systems.

(c) Existing wind energy conversion systems in the region.

(d) Potential for megawatt output of combined wind energy conversion systems in the region.

(e) Other necessary and appropriate factors as to which findings are required by the commission.

(4) In conjunction with the issuance of its order under subsection (1), the commission shall submit to the legislature a report on the effect that setback requirements and noise limitations under local zoning or other ordinances may have on wind energy development in wind energy resource zones. The report shall include any recommendations the commission may have for legislation addressing these issues. Before preparing the report, the commission shall conduct hearings in various areas of the state to receive public comment on the report.

History: 2008, Act 295, Imd. Eff. Oct. 6, 2008
Compiler's Notes: Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

460.1149 Electric utility, affiliated transmission company, or independent transmission company; expedited siting certificate; application; approvals.

Sec. 149. (1) To facilitate the transmission of electricity generated by wind energy conversion systems located in wind energy resource zones, the commission may issue an expedited siting certificate for a transmission line to an electric utility, affiliated transmission company, or independent transmission company as provided in this part.

(2) An electric utility, affiliated transmission company, or independent transmission company may apply to the commission for an expedited siting certificate. An applicant may withdraw an application at any time.

(3) Before filing an application for an expedited siting certificate for a proposed transmission line under this part, an electric utility, affiliated transmission company, or independent transmission company must receive any required approvals from the applicable regional transmission organization for the proposed transmission line.

(4) Sixty days before seeking approval from the applicable regional transmission organization for a transmission line as described in subsection (3), an electric utility, affiliated transmission company, or independent transmission company shall notify the commission in writing that it will seek the approval.

(5) The commission shall represent this state's interests in all proceedings before the applicable regional transmission organization for which the commission receives notice under subsection (4).

History: 2008, Act 295, Imd. Eff. Oct. 6, 2008
Compiler's Notes: Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

460.1151 Expedited siting certificate; application; contents.
Sec. 151. An application for an expedited siting certificate shall contain all of the following:

(a) Evidence that the proposed transmission line received any required approvals from the applicable regional transmission organization.

(b) The planned date for beginning construction of the proposed transmission line.

(c) A detailed description of the proposed transmission line, its route, and its expected configuration and use.

(d) Information addressing potential effects of the proposed transmission line on public health and safety.

(e) Information indicating that the proposed transmission line will comply with all applicable state and federal environmental standards, laws, and rules.

(f) A description and evaluation of 1 or more alternate transmission line routes and a statement of why the proposed route was selected.

(g) Other information reasonably required by commission rules.

History: 2008, Act 295, Imd. Eff. Oct. 6, 2008
Compiler's Notes: Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

460.1153 Notice; conduct of proceeding; determination by commission that requirements are met; precedence; certificate as conclusive and binding; time period for granting or denying certificate.

Sec. 153. (1) Upon applying for a certificate, an electric utility, affiliated transmission company, or independent transmission company shall give public notice in the manner and form the commission prescribes of an opportunity to comment on and participate in a contested case with respect to the application. Notice shall be published in a newspaper of general circulation in the relevant wind energy resource zone within a reasonable time period after an application is provided to the commission and shall be sent to each affected municipality, electric utility, affiliated transmission company, and independent transmission company and each affected landowner on whose property a portion of the proposed transmission line will be constructed. The notice shall be written in plain, nontechnical, and easily understood terms and shall contain a title that includes the name of the electric utility, affiliated transmission company, or independent transmission company and the words "Notice of Intent to Construct a Transmission Line to Serve a Wind Energy Resource Zone".

(2) The commission shall conduct a proceeding on the application for an expedited siting certificate as a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Upon receiving an application for a certificate, each affected municipality and each affected landowner shall be granted full intervener status as of right in commission proceedings concerning the proposed transmission lines.

(3) The commission shall grant an expedited siting certificate if it determines that all of the following requirements are met:

(a) The proposed transmission line will facilitate transmission of electricity generated by wind energy conversion systems located in a wind energy resource zone.

(b) The proposed transmission line has received federal approval.

(c) The proposed transmission line does not represent an unreasonable threat to the public convenience, health, and safety.

(d) The proposed transmission line will be of appropriate capability to enable the wind potential of the wind energy resource zone to be realized.

(e) The proposed or alternate route to be authorized by the expedited siting certificate is feasible and reasonable.

(4) If the commission grants an expedited siting certificate for a transmission line under this part, the certificate takes precedence over a conflicting local ordinance, law, rule, regulation, policy, or practice that prohibits or regulates the location or construction of the transmission line. A zoning ordinance or limitation imposed after an electric utility, affiliated transmission company, or independent transmission company files for a certificate shall not limit or impair the transmission line's construction, operation, or maintenance.

(5) In an eminent domain or other related proceeding arising out of or related to a transmission line for which a certificate is issued, a certificate issued under this act is conclusive and binding as to the public convenience and necessity for that transmission line and its compatibility with the public health and safety or any zoning or land use requirements in effect when the application was filed.

(6) The commission has a maximum of 180 days to grant or deny an expedited siting certificate under this section.

History: 2008, Act 295, Imd. Eff. Oct. 6, 2008
Compiler's Notes: Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

460.1155 Annual report.

Sec. 155. The commission shall make an annual report, summarizing the impact of establishing wind energy resource zones, expedited

transmission line siting applications, estimates for future wind generation within wind zones, and recommendations for program enhancements or expansion, to the governor and the legislature on or before the first Monday of March of each year.

History: 2008, Act 295, Imd. Eff. Oct. 6, 2008
Compiler's Notes: Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

460.1157 Construction of transmission line not prohibited.

Sec. 157. This part does not prohibit an electric utility, affiliated transmission company, or independent transmission company from constructing a transmission line without obtaining an expedited siting certificate.

History: 2008, Act 295, Imd. Eff. Oct. 6, 2008
Compiler's Notes: Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

460.1159 Commission order subject to review; administration of part.

Sec. 159. (1) A commission order relating to any matter provided for under this part is subject to review as provided in section 26 of 1909 PA 300, MCL 462.26.

(2) In administering this part, the commission has only those powers and duties granted to the commission under this part.

History: 2008, Act 295, Imd. Eff. Oct. 6, 2008
Compiler's Notes: Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

460.1161 Eminent domain not conferred.

Sec. 161. This part does not confer the power of eminent domain.

History: 2008, Act 295, Imd. Eff. Oct. 6, 2008
Compiler's Notes: Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

RAILROAD CODE OF 1993 (EXCERPT)
Act 354 of 1993

462.131 Regulatory and police power of department; rules.
Sec. 131. (1) To the extent provided in this act, the department shall have and exercise regulatory and police power over railroad companies in this state insofar as such power has not been preempted by federal law or regulation.

(2) The department may promulgate and enforce rules relating to sanitation and adequate shelter as affecting the welfare and health of railroad employees, to the extent such rules are not preempted by federal law or regulation. Rules promulgated under this act shall be promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

History: 1993, Act 354, Imd. Eff. Jan. 14, 1994

STATE TRANSPORTATION PRESERVATION ACT OF 1976 (EXCERPT)
Act 295 of 1976

474.60 Acquiring, leasing, or securing easement for use of real property owned by railroad; conveyance or lease to public or private entity; divestiture or creation of leases; determination of sale terms; exceptions; order of parties to be offered lease; reversion; submission of financial statement and operation plan; "tributary lines" defined; return of proceeds to state; action for relief; determination of lease terms; jurisdiction; preservation of right-of-way for future use as railroad line; disposing of or leasing right-of-way; powers of department.
Sec. 10. (1) In weighing the varied interests of the residents of this state, the department shall give consideration to the individual interest of any person, public or private corporation, local or regional transportation authority, local governmental unit, private carrier, group of rail users, state agency, other public or private entity, including a port authority

established under the Hertel-Law-T. Stopczynski port authority act, 1978 PA 639, MCL 120.101 to 120.130, or any combination of these entities, expressing a desire to acquire or lease or secure an easement for the use of a portion or all of the real property owned by a railroad company. The property acquired by the department under this act may be conveyed or leased to an entity or combination of entities listed in this subsection with appropriate reimbursement, as determined by the department.

(2) The department may begin divestiture or offer 10-year leases to the current operator of the properties described in this subsection within 180 days after the effective date of the amendatory act that added this subsection. The department shall accomplish divestiture or create leases, without partitioning a segment or a portion of a segment, in the following order from the smallest segment first to the largest segment last, of the following defined segments of state-owned rail property:

(a) Lenawee county system means the rail lines owned by the state between Adrian and Riga, between Grosvenor and River Raisin and Lenawee Junction.

(b) Hillsdale county system means the rail lines owned by the state between Litchfield and the Indiana state line and between Jonesville and Quincy.

(c) Vassar area system means the rail lines owned by the state between Millington and Munger, between Vassar and Colling, and at Denmark Junction.

(d) Ann Arbor and Northwest Michigan system means the rail lines owned by the state between Durand and Ann Arbor, between Owosso and Thompsonville, between Cadillac and Petoskey, between Walton Junction and Traverse City, between Grawn and Williamsburg, and between Owosso and St. Charles.

(3) The specific terms of a sale will be as determined by the department except for the following required conditions:

(a) Each purchase agreement shall require that the purchase price shall be not less than the net liquidation value of the rail line or lines.

(b) Each purchase agreement shall require that the purchaser provide at a minimum the average level of service adjusted for traffic levels for 3 years after the date of sale unless otherwise mutually agreed upon between the purchaser and shippers that existed on that line on the effective date of the amendatory act that added this subsection, and that rates on the segment purchased from the state will not increase more than the average percentage increase in the Detroit consumer price index for the 12-month period each year for the base rate in effect on January 1, 1996 for 3 years after the date of sale.

(c) Trackage in the segments sold by the state shall be maintained at not less than the federal railway administration class of track standards for each segment as of January 1, 1998.

(d) In the case of the sale of the segment described in subsection (2)(d), the purchaser shall be required to charge reasonable freight rates for that section between Durand and Ann Arbor and honor all existing freight rate agreements and trackage rights for 3 years after the date of sale.

(e) Any existing lease or agreement for operation of a segment in effect on the effective date of this act shall be extended at the same terms and conditions until a sale or lease is executed.

(4) If there are no acceptable offers to purchase, the property shall be offered for a lease of not less than 10 years, by the department to the following parties in descending order:

(a) Current operator.

(b) Current shippers on that segment.

(c) Governmental entities.

(d) Other railroad companies.

(5) If the purchaser or lessee fails to comply with the conditions of sale or lease, the property shall revert back to the department and shall then be offered for sale or lease to the following parties in descending order:

(a) Current shippers on that segment.

(b) Governmental entities.

(c) Other railroad companies.

(6) Before the execution of a purchase agreement, the potential purchaser shall submit to the department its most recent financial statement and a proposed operation plan including tributary lines and including known potential sublease agreements. As used in this subsection, "tributary lines" means spur rail lines that only intersect with a rail line owned by the state on the effective date of the 1998 amendments to this section.

(7) If during the first 10 years after purchase the purchaser abandons service and sells the segment or any portion of the segment that does not involve main line track, or any rails, ties, or ballast, excluding normal salvage, 95% of the proceeds from the sale shall be returned to the state as additional purchase price. A segment or a portion of a segment may be sold with the approval of the department.

(8) A party aggrieved by the performance or failure to perform under the terms of a purchase agreement may bring an action in the circuit court where the party resides or where the property is located for appropriate relief.

(9) The specific terms of a lease will be as determined by the department except for the following required conditions:

(a) Each lease agreement shall require that the lessee provide at a minimum the average level of service adjusted for traffic levels for 3 years after the date of the lease agreement unless otherwise mutually agreed upon between the lessee and shippers that existed on that line on the effective date of the amendatory act that added this subsection, and

that rates on that segment leased from the state will not increase more than the average percentage increase in the Detroit consumer price index for the 12-month period each year for the base rate in effect on January 1, 1996 for 3 years after the date of the lease.

(b) Not less than 50% of trackage rights revenues shall be reinvested in eligible expenditures. As used in this subdivision, "eligible expenditures" includes the material and direct expenses required for the installation of railroad ties, track, ballast, crossing improvements, ditch and drainage repair or improvements, brush trimming, and the expenses required to conduct track and signal inspections as specified in federal regulations.

(c) Trackage in the segments leased by the state shall be maintained at not less than the federal railway administration class of track standards for each segment as of January 1, 1998.

(d) In the case of a lease of the segment described in subsection (2)(d), the lessee shall be required to charge reasonable freight rates for that section between Durand and Ann Arbor and honor all existing freight rate agreements and trackage rights for 3 years after the date of sale.

(10) A party aggrieved by the performance or failure to perform under the terms of a lease agreement may bring an action in the circuit court where the party resides or where the property is located for appropriate relief.

(11) Upon acquisition of a right-of-way, the department may preserve the right-of-way for future use as a railroad line and, if preserving it for that use, shall not permit any action which would render it unsuitable for future rail use. However, if the department determines a right-of-way or other property acquired under this act is no longer necessary for railroad transportation purposes, the department may preserve and utilize the right-of-way for other transportation purposes or may dispose of the right-of-way or other property acquired under this act for the purposes described in section 6, or may dispose of or lease the right-of-way or other property for other purposes, as appropriate. However, the department shall not dispose of or lease a right-of-way without first

offering to transfer the right-of-way to the department of natural resources. If the department of natural resources desires to lease or purchase the right-of-way, the department of natural resources must indicate their desire within 60 days and accept the offered transfer within 1 year after the offer is made. If the department of natural resources does not indicate their desires within 60 days, the department may dispose of or lease the right-of-way as otherwise provided for in this act. If the department of natural resources does not accept the offered transfer within 1 year after indicating their desire to lease or purchase the right-of-way, the department may dispose of or lease the right-of-way as otherwise provided for in this act. When appropriate, a right-of-way or other property shall be transferred or leased to a public or private entity with appropriate reimbursement, as determined by the department.

(12) In preserving a right-of-way for future rail use, the department may do 1 or more of the following:

(a) Develop the right-of-way for use as a commuter trail where the use is feasible and needed or lease the right-of-way to a county, city, village, or township expressing a desire to develop the right-of-way as a commuter trail. The lease shall be for an indefinite period of time, cancelable by the department only if the right-of-way is needed for rail usage. The trails, unless leased to a county, city, village, or township, shall remain under the jurisdiction of the department.

(b) Transfer, for appropriate reimbursement, the right-of-way to the department of natural resources for use as a Michigan trailway pursuant to part 721 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.72101 to 324.72112, if the deed includes restrictions on the use of the property that assure that the property remains viable for future rail usage, and includes a clause that provides that the department of natural resources shall transfer, for appropriate reimbursement, the right-of-way to the department, upon a determination of the director of the department that the right-of-way is needed for use as a railroad line.

(c) Lease the right-of-way to the department of natural resources, or upon approval of the department of natural resources, to a county, city, village, or township for use as a recreational trail. The lease shall be for an indefinite period of time, cancelable by the department only if the right-of-way is needed for rail usage. A recreational trail shall be reserved for non-motorized forms of recreation or snowmobiling only. Snowmobiling shall not be allowed on more than 50% of the mileage of the recreational trails established pursuant to this act.

(d) In cases where a trail serves both a significant commuter and recreation function, authorize the joint development of the trail by the department and the department of natural resources, or the department and any interested county, city, village, or township. Administration of the trail shall be determined jointly by the department and the department of natural resources.

History: 1976, Act 295, Eff. Nov. 15, 1976 ;-- Am. 1984, Act 210, Imd. Eff. July 9, 1984 ;-- Am. 1993, Act 28, Imd. Eff. Apr. 21, 1993 ;-- Am. 1998, Act 235, Imd. Eff. July 3, 1998

SPORT SHOOTING RANGES
Act 269 of 1989

AN ACT to provide civil immunity to persons who operate or use certain sport shooting ranges; and to regulate the application of state and local laws, rules, regulations, and ordinances regarding sport shooting ranges.

History: 1989, Act 269, Imd. Eff. Dec. 26, 1989

The People of the State of Michigan enact:

691.1541 Definitions.
Sec. 1. As used in this act:

(a) "Generally accepted operation practices" means those practices adopted by the commission of natural resources that are established by a nationally recognized nonprofit membership organization that provides voluntary firearm safety programs that include training individuals in the

safe handling and use of firearms, which practices are developed with consideration of all information reasonably available regarding the operation of shooting ranges. The generally accepted operation practices shall be reviewed at least every 5 years by the commission of natural resources and revised as the commission considers necessary. The commission shall adopt generally accepted operation practices within 90 days of the effective date of section 2a.

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

(c) "Person" means an individual, proprietorship, partnership, corporation, club, governmental entity, or other legal entity.

(d) "Sport shooting range" or "range" means an area designed and operated for the use of archery, rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting.

History: 1989, Act 269, Imd. Eff. Dec. 26, 1989 ;-- Am. 1994, Act 250, Imd. Eff. July 5, 1994

691.1542 Sport shooting ranges; civil liability or criminal prosecution; state rules or regulations.

Sec. 2. (1) Notwithstanding any other provision of law, and in addition to other protections provided in this act, a person who owns or operates or uses a sport shooting range that conforms to generally accepted operation practices in this state is not subject to civil liability or criminal prosecution in any matter relating to noise or noise pollution resulting from the operation or use of the range if the range is in compliance with any noise control laws or ordinances that applied to the range and its operation at the time of construction or initial operation of the range.

(2) In addition to other protections provided in this act, a person who owns, operates, or uses a sport shooting range that conforms to generally accepted operation practices is not subject to an action for nuisance, and a court of the state shall not enjoin or restrain the use or operation of a range on the basis of noise or noise pollution, if the range is in

compliance with any noise control laws or ordinances that applied to the range and its operation at the time of construction or initial operation of the range.

(3) Rules or regulations adopted by any state department or agency for limiting levels of noise in terms of decibel level which may occur in the outdoor atmosphere do not apply to a sport shooting range exempted from liability under this act. However, this subsection does not restrict the application of any provision of the generally accepted operation practices.

History: 1989, Act 269, Imd. Eff. Dec. 26, 1989 ;-- Am. 1994, Act 250, Imd. Eff. July 5, 1994

691.1542a Continuation of preexisting sport shooting ranges.
Sec. 2a. (1) A sport shooting range that is operated and is not in violation of existing law at the time of the enactment of an ordinance shall be permitted to continue in operation even if the operation of the sport shooting range at a later date does not conform to the new ordinance or an amendment to an existing ordinance.

(2) A sport shooting range that is in existence as of the effective date of this section and operates in compliance with generally accepted operation practices, even if not in compliance with an ordinance of a local unit of government, shall be permitted to do all of the following within its preexisting geographic boundaries if in compliance with generally accepted operation practices:

(a) Repair, remodel, or reinforce any conforming or nonconforming building or structure as may be necessary in the interest of public safety or to secure the continued use of the building or structure.

(b) Reconstruct, repair, restore, or resume the use of a nonconforming building damaged by fire, collapse, explosion, act of god, or act of war occurring after the effective date of this section. The reconstruction, repair, or restoration shall be completed within 1 year following the date of the damage or settlement of any property damage claim. If

reconstruction, repair, or restoration is not completed within 1 year, continuation of the nonconforming use may be terminated in the discretion of the local unit of government.

(c) Do anything authorized under generally accepted operation practices, including, but not limited to:

(i) Expand or increase its membership or opportunities for public participation.

(ii) Expand or increase events and activities.

History: Add. 1994, Act 250, Imd. Eff. July 5, 1994

691.1543 Local regulation.

Sec. 3. Except as otherwise provided in this act, this act does not prohibit a local unit of government from regulating the location, use, operation, safety, and construction of a sport shooting range.

History: 1989, Act 269, Imd. Eff. Dec. 26, 1989 ;-- Am. 1994, Act 250, Imd. Eff. July 5, 1994

691.1544 Acceptance of risk.

Sec. 4. Each person who participates in sport shooting at a sport shooting range that conforms to generally accepted operation practices accepts the risks associated with the sport to the extent the risks are obvious and inherent. Those risks include, but are not limited to, injuries that may result from noise, discharge of a projectile or shot, malfunction of sport shooting equipment not owned by the shooting range, natural variations in terrain, surface or subsurface snow or ice conditions, bare spots, rocks, trees, and other forms of natural growth or debris.

History: Add. 1994, Act 251, Imd. Eff. July 5, 1994

CORRECTIONS CODE OF 1953 (EXCERPTS)
Act 232 of 1953

791.204 State department of corrections; jurisdiction.
Sec. 4. Subject to constitutional powers vested in the executive and judicial departments of the state, the department shall have exclusive jurisdiction over all of the following:

(a) Probation officers of this state, and the administration of all orders of probation.

(b) Pardons, reprieves, commutations, and paroles.

(c) Penal institutions, correctional farms, probation recovery camps, prison labor and industry, wayward minor programs, and youthful trainee institutions and programs for the care and supervision of youthful trainees.

(d) The lifetime electronic monitoring program established under section 85.

History: 1953, Act 232, Eff. Oct. 2, 1953 ;-- Am. 1966, Act 210, Imd. Eff. July 11, 1966 ;-- Am. 2006, Act 172, Eff. Aug. 28, 2006
Popular Name: Department of Corrections Act

791.216 Establishment of correctional facility; determination of need; comprehensive plan; notice of proposal; local advisory board; public hearing required; procedure; public notice of hearings; minutes of hearing; finding and notice of final site selection; option to lease, purchase, or use property.
Sec. 16. (1) The department shall develop a comprehensive plan for determining the need for establishing various types of correctional facilities, for selecting the location of a correctional facility, and for determining the size of the correctional facility. The comprehensive plan shall not be implemented until the legislature, by concurrent resolution adopted by a majority of those elected and serving in each house by a record roll call vote, approves the comprehensive plan.

(2) The department shall determine the need for a correctional facility based upon the comprehensive plan developed pursuant to subsection (1).

(3) The department shall publish a notice that it proposes to establish a correctional facility in a particular city, village, or township. The notice shall appear in a newspaper of general circulation in the area. In addition, the department shall notify the following officials:

(a) The state senator and the state representative representing the district in which the correctional facility is to be located.

(b) The president of each state supported college or university whose campus is located within 1 mile of the proposed correctional facility.

(c) The chief elected official of the city, village, or township in which the correctional facility is to be located.

(d) Each member of the governing body of the city, village, or township in which the correctional facility is to be located.

(e) Each member of the county board of commissioners in which the correctional facility is to be located.

(f) The president of the local school board of the local school district in which the correctional facility is to be located.

(g) The president of the intermediate school board of the intermediate school district in which the correctional facility is to be located.

(4) With the notice, the department shall request the chairperson of the county board of commissioners of the county in which the correctional facility is to be located and the person notified pursuant to subsection (3)(c) to create a local advisory board to assist in the identification of potential sites for the correctional facility, to act as a liaison between the department and the local community, and to ensure that the comprehensive plan is being followed by the department. The officials

requested to create a local advisory board pursuant to this subsection shall serve as co-chairpersons of that local advisory board.

(5) After the requirements of subsections (1), (2), (3), and (4) are completed and the department has selected a potential site, the department shall hold a public hearing in the city, village, or township in which the potential site is located. The department shall participate in the hearing and shall make a reasonable effort to respond in writing to concerns and questions raised on the record at the hearing. The hearing shall not be held until the local advisory board created by subsection (4) has organized, or sooner than 30 days after the notice is sent pursuant to subsection (3), whichever occurs first.

(6) Hearings the department shall conduct under subsection (5) shall be open to the public and shall be held in a place available to the general public. Any person shall be permitted to attend a hearing except as otherwise provided in this section. A person shall not be required as a condition to attendance at a hearing to register or otherwise provide his or her name or other information or otherwise to fulfill a condition precedent to attendance. A person shall be permitted to address the hearing under written procedures established by the department. A person shall not be excluded from a hearing except for a breach of the peace actually committed at the meeting.

(7) The following provisions shall apply with respect to public notice of hearings required under this section:

(a) A public notice shall always contain the name of the department, its telephone number, and its address.

(b) A public notice shall always be posted at the department's principal office and other locations considered appropriate by the department.

(c) The required public notice for a hearing shall be posted in the office of the county clerk of the county in which the facility is to be located and shall be published in a newspaper of general circulation in the county in which the facility is to be located.

(d) A public notice stating the date, time, and place of the hearing shall be posted at least 10 days before the hearing.

(8) Minutes of each hearing required under this section shall be kept showing the date, time, place, members of the local advisory board present, members of the local advisory board absent, and a summary of the discussions at the hearing. The minutes shall be public records open to public inspection and shall be available at the address designated on posted public notices pursuant to subsection (7). Copies of the minutes shall be available from the department to the public at the reasonable estimated cost for printing and copying.

(9) On the basis of the information developed by the department during the course of the site selection process, and after community concerns have been responded to by the department pursuant to subsection (5), the commission shall make a final site determination for the correctional facility. The commission shall make a finding that the site determination was made in compliance with this section. This finding and notice of final site selection shall be transmitted in writing by the commission to the local advisory board, the officials described in subsection (3), and the chairpersons of the senate and house appropriations committees.

(10) An option to lease, purchase, or use property may be obtained but shall not be exercised by the state for a correctional facility until the commission has made a final site determination and has transmitted a notice of final site selection as required in subsection (9).

History: Add. 1980, Act 303, Imd. Eff. Nov. 26, 1980
Popular Name: Department of Corrections Act