



## The Long List of Michigan Statutes Regulating Townships: Sorting out the Tangled Web

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As most of you are surely aware by now, the Governor recently signed Senate Bill 206 unifying the three current planning acts for municipalities, townships, and counties into a single Michigan Planning Enabling Act. About two years ago, the Governor signed a similar bill to consolidate the several zoning enabling acts that existed into a single Zoning Enabling Act. These consolidations are commendable, as they aim to simplify and clarify the powers townships have and procedures to follow when planning and zoning.

If only running a township were as simple as following the new Planning Enabling Act and Zoning Enabling Act. As most township officials know, there are numerous other laws in Michigan that regulate township activity. While the above consolidations reduce the number of laws impacting townships, the reality is that the list of laws impacting townships is still quite long. Although that list is far too long for this short article, this article will summarize some of the more familiar laws – as well as identify and summarize some of the perhaps not-so-familiar laws – that are relevant to townships to help township officials sort out the tangled web of state laws impacting townships and perhaps highlight a law that a township may find useful to achieve a goal in this challenging time.

### **SUMMARY OF SOME OF THE MANY LAWS IMPACTING TOWNSHIPS**

#### **A. PLANNING AND ZONING**

##### **Planning Enabling Act (2008 Public Act 33)**

Effective September 1, 2008, the new Planning Enabling Act will consolidate the currently-existing three planning acts for municipalities, townships, and counties into a single Act.<sup>1</sup> The Act regulates everything planning – i.e., from how to create a planning commission, to how to adopt a master plan, to how to address conflicts of interest that may arise in planning commissioners' exercise of their official duties.

#### **PRACTICE AREAS**

Freedom of Information Act

Open Meetings Act

Zoning & Land Use



**Zoning Enabling Act (2006 Public Act 110)<sup>2</sup>**

Like its "cousin" the Planning Enabling Act, the Zoning Enabling Act consolidated into a single unified Act the several zoning enabling acts that were in existence in 2006. The Zoning Enabling Act regulates "all things zoning:" from how to adopt a zoning ordinance or zoning ordinance amendment; to the role of a planning commission and township board in enacting and enforcing zoning regulations; to the process and standards to issue a special use permit; to zoning board of appeals' creation and powers; and to the process and standards by which to grant a variance.

**B. PUBLIC RECORDS AND PUBLIC MEETING OBLIGATIONS**

**Freedom of Information Act (1976 Public Act 442)<sup>3</sup>**

The FOIA's purpose is to ensure that all persons are entitled to full and complete information regarding governmental affairs and a governmental body's official acts. The FOIA identifies a governmental body's documents that a person may obtain copies of; how a person goes about getting copies of such documents; and what documents are exempt from disclosure. The FOIA provides specific timelines for townships to respond to FOIA requests, and also provides the procedures to appeal a township's response to a FOIA request.

**Open Meetings Act (1976 Public Act 267)<sup>4</sup>**

The OMA dictates how a township must conduct its public meetings. It requires that certain meetings of certain public bodies be open to the public. It also contains additional requirements, such as requiring notices and minutes of public meetings. Finally, it provides avenues to enforce OMA violations and penalties for such violations.

**C. SPECIAL ASSESSMENT LAWS**

**The General Township Improvement Special Assessment Act (1954 Public Act 188)<sup>5</sup>**

Commonly called "Act 188," this Act is the most commonly used law to enact a special assessment and create a special assessment district. Generally speaking, Act 188 authorizes a township board to make any improvement specified in Act 188 and to pay for that improvement through either bonds or a special assessment against the property that the improvement benefits. Act 188 sets forth a specific list of permitted improvements – including bicycle paths; driveway approaches; aquatic weeds and plants; elevated structures for foot travel over public roads; erosion control structures; garbage collection; lighting systems; private roads; public parks; public roads; sidewalks; storm or sanitary sewers; tree removal; and water systems.

Act 188 then sets forth a very detailed procedure required to properly create a special assessment district and special assessment. That procedure requires public hearings; notices of those hearings; preparing plans and costs estimates; and adopting resolutions.



**Police and Fire Protection Act (1951 Public Act 33)**<sup>6</sup>

This Act gives townships certain options to provide police and fire protection in its boundaries. Among other things, the Act allows townships to contract for such protection or buy fire and police equipment and defray the cost by special assessments. Further, it authorizes townships to collect fees for providing certain emergency services. As with Act 188, this Act sets forth a detailed procedure to properly enact an assessment and create an assessment district for police and fire protection.

**Ambulance Special Assessments (1918 Public 368)**<sup>7</sup>

There is a portion of the Public Health Code that authorizes townships to create a special assessment district to pay for the costs of providing ambulance services. Under this law, a township that operates an ambulance operation or a non-transport pre-hospital life support operation (or is a party to a contract or interlocal agreement for such) may defray all or part of the costs by either (a) collecting fees for service; or (b) a special assessment created, levied, and collected pursuant to a procedure that conforms to 1951 Public Act 33.

**Township and Village Public Improvement and Public Service Act (1923 Public Act 116)**<sup>8</sup>

This Act authorizes certain township or village public improvements. Among other things, it authorizes townships to borrow money (not exceeding 5% of the assessed valuation of the township according to the assessed valuation of all the real and personal property of the township for the preceding December 31) on the township's full faith and credit. It may then issue bonds to repay that money to (a) acquire a site for, erecting, and furnishing a township hall, fire station, or library; (b) make an addition or improvement to an existing site, township hall, fire station, library, or other township building; or (c) buy and furnish a building to be used for a township hall, fire station, library, or other township building.

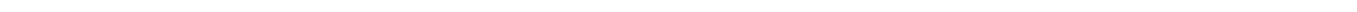
**D. MISCELLANEOUS OTHER APPLICABLE LAWS REGARDING TOWNSHIPS**

In addition to laws regarding planning and zoning, openness of public documents and meetings, and special assessments, there are yet numerous other laws that may be relevant to a particular township function or goal. Below we have summarized a few.

**Revised Municipal Finance Act (2001 Public Act 34)**<sup>9</sup>

This Act concerns borrowing money and issuing certain debt and securities; provides for tax levies and sinking funds; imposes various filing fees on political subdivisions of this State; and authorizes issuance of certain debt and securities. Among other things, this Act contains detailed regulations regarding when and how a township may issue a municipal security and the oversight the Michigan Department of Treasury has on issuances.

**Installment Purchase Agreements (2002 Public Act 545)**<sup>10</sup>





This Act authorizes a township to enter into an installment purchase agreement for real or personal property that will be used for public purposes. Such agreements may not exceed 15 years, but they are not subject to the Revised Municipal Finance Act (see above). A loan under this Act cannot be collateralized, and is subject to other limitations, but it is a great financing vehicle for a Township to use.

**Township Park Act (1905 Public Act 157)<sup>11</sup>**

This Act sets forth the procedures by which a township may acquire, manage, and control township parks, resorts, bathing beaches, and recreation places. It also regulates the amount a township may charge for entrance into a park, and allows a citizen to petition a township to create a township parks commission. Township parks commissions also have authority to condemn land to acquire, manage, and control a township park.

**Township Ordinance Act (1945 Public Act 246)<sup>12</sup>**

This is the Act that authorizes a township to adopt police power ordinances (i.e., to adopt an ordinance that is not a zoning ordinance). This Act specifically allows a township to adopt an ordinance to regulate the public health, safety, and welfare of persons and property, specifically identifying ordinances concerning fire protection, licensing or use of bicycles, traffic, parking of vehicles, sidewalk maintenance and repairs, licensing businesses, licensing public amusements, and regulating public nudity. This Act gives a specific procedure to adopt a police power ordinance – which is far simpler than that needed to adopt a zoning ordinance.

This Act further allows a township to employ and establish a police department to enforce township ordinances and state laws. If state laws are to be enforced, the township must have a law enforcement department or may by resolution appropriate funds and request the county sheriff, state police, or other law enforcement agency to provide police protection and enforce the township's ordinances.

**E. CONCLUSION**

Managing a township can be challenging, perhaps more now than ever given today's economic climate. In addition to the financial challenges townships face, townships are also faced with numerous laws impacting their operations. A sound understanding of those laws is critical to township operations, and in some cases may actually provide townships with a tool to get relief financially (such as through special assessments or other financing) or otherwise (such as through adopting an ordinance).

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<sup>1</sup>The Michigan Planning Enabling Act repeals the previous Municipal Planning Act (1931 PA 285), County Planning Act (1945 PA 282), and Township Planning Act (1959 PA 168).

<sup>2</sup>MCL 125.3101 *et seq.*

<sup>3</sup>MCL 15.231 *et seq.*

<sup>4</sup>MCL 15.261 *et seq.*

<sup>5</sup>MCL 41.721 *et seq.*

<sup>6</sup>MCL 41.801 *et seq.*



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<sup>7</sup>MCL 333.20948.

<sup>8</sup>MCL 41.411 *et seq.*

<sup>9</sup>MCL 141.2101 *et seq.*

<sup>10</sup>MCL 123.721 *et seq.*

<sup>11</sup>MCL 41.421 *et seq.*

<sup>12</sup>MCL 41.181 *et seq.*