

HOUSE BILL No. 4296

February 23, 1989, Introduced by Reps. Jondahl, Hillegonds, Scott, DeBeaussaert, Johnson, Hoffman, Pitoniak, Sikkema, DeMars, Gubow, Miller, Runco, Bartnik, Krause, Berman, Ciaramitaro, Martin, Bandstra, Brown, Gire, Honigman, Jonker, Emerson, Dolan, Perry Bullard, Crandall, Murphy, and Hertel and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend the title and sections 2, 10, and 11 of Act No. 222 of the Public Acts of 1976, entitled "Sand dune protection and management act," section 11 as amended by Act No. 94 of the Public Acts of 1987, being sections 281.652, 281.660, and 281.661 of the Michigan Compiled Laws; to add sections 1a, 2b, 15a, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 25a, 26, 27, 28, and 29; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 2, 10, and 11 of Act
2 No. 222 of the Public Acts of 1976, section 11 as amended by Act
3 No. 94 of the Public Acts of 1987, being sections 281.652,
4 281.660, and 281.661 of the Michigan Compiled Laws, are amended
5 and sections 1a, 2b, 15a, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25,
6 25a, 26, 27, 28, and 29 are added to read as follows:

1 TITLE

2 An act to provide for THE study, protection, management,
3 REGULATION, and reclamation of ~~Great Lakes~~ sand ~~dunes~~ DUNE
4 AREAS AND CRITICAL DUNE AREAS; to prescribe powers and duties of
5 ~~the department of natural resources~~ CERTAIN STATE AGENCIES AND
6 LOCAL UNITS OF GOVERNMENT; TO PROVIDE FOR THE ISSUANCE OF PER-
7 MITS, LOCAL ZONING, AND A COMMISSION PLAN REGULATING CRITICAL
8 DUNE AREA USES; to prescribe fees for the administration and
9 enforcement of this act AND PROVIDE FOR THE DISPOSITION OF THOSE
10 FEES; and to ~~provide~~ PRESCRIBE penalties AND PROVIDE REMEDIES.

11 SEC. 1A. THE LEGISLATURE FINDS THAT:

12 (A) THE CRITICAL DUNE AREAS OF THIS STATE ARE A UNIQUE,
13 IRREPLACEABLE, AND FRAGILE RESOURCE THAT PROVIDE SIGNIFICANT REC-
14 REATIONAL, ECONOMIC, SCIENTIFIC, GEOLOGICAL, SCENIC, BOTANICAL,
15 EDUCATIONAL, AGRICULTURAL, AND ECOLOGICAL BENEFITS TO THE PEOPLE
16 OF THIS STATE AND TO PEOPLE FROM OTHER STATES AND COUNTRIES WHO
17 VISIT THIS RESOURCE.

18 (B) THE CRITICAL DUNE AREAS ARE SUBJECT TO INDUSTRIAL, COM-
19 MERCIAL, AND RESIDENTIAL USES, AND ALTERATIONS THAT WILL IMPAIR
20 THIS RESOURCE WITHOUT PROPER PLANNING AND MANAGING OF ALL OF THE
21 FOLLOWING:

22 (i) THE DESIGN AND LOCATION OF PROPOSED DEVELOPMENT, USE, OR
23 ALTERATIONS.

24 (ii) THE COMPATIBILITY AND PROXIMITY OF DIFFERENT USES.

25 (iii) THE CUMULATIVE IMPACT OF PROPOSED AND EXISTING USES.

1 (C) LOCAL UNITS OF GOVERNMENT SHOULD HAVE THE OPPORTUNITY TO
2 EXERCISE THE PRIMARY ROLE IN PROTECTING AND MANAGING CRITICAL
3 DUNE AREAS IN ACCORDANCE WITH THIS ACT.

4 (D) THE BENEFITS DERIVED FROM ALTERATION, INDUSTRIAL, RESI-
5 DENTIAL, COMMERCIAL, AGRICULTURAL, SILVICULTURAL, AND THE RECREA-
6 TIONAL USE OF CRITICAL DUNE AREAS SHALL OCCUR ONLY WHEN THE PRO-
7 TECTION OF THE ENVIRONMENT AND THE ECOLOGY OF THE CRITICAL DUNE
8 AREAS FOR THE BENEFIT OF THE PRESENT AND FUTURE GENERATIONS IS
9 ASSURED.

10 Sec. 2. As used in this act:

11 (a) "Barrier dune" means the first landward sand dune forma-
12 tion along the shoreline of a Great Lake or a sand dune formation
13 designated by the department.

14 (b) "Cell-unit" means a subunit of the total sand dune
15 mining project as determined in size and location by the opera-
16 tor, but which shall not exceed 10 acres in size for new opera-
17 tions or the expansion of existing operations, and which shall
18 not exceed 30 acres in size for existing operations.

19 (c) "Commission" means the COMMISSION OF natural resources.
20 ~~commission.~~

21 (D) "CONTOUR CHANGE" INCLUDES ANY GRADING, FILLING, DIGGING,
22 OR EXCAVATING THAT SIGNIFICANTLY ALTERS THE PHYSICAL CHARACTERIS-
23 TIC OF A CRITICAL DUNE AREA, EXCEPT THAT WHICH IS INVOLVED IN
24 SAND DUNE MINING.

25 (E) "CRITICAL DUNE AREA" MEANS ALL OF THE FOLLOWING:

26 (i) A GEOGRAPHIC AREA DESIGNATED IN THE ATLAS OF PROPOSED
27 CRITICAL DUNE AREAS DATED FEBRUARY 1989 THAT IS PREPARED BY THE

1 DEPARTMENT AND WHICH IS INCLUDED IN THE ATLAS BECAUSE IT IS 1 OR
2 MORE OF THE FOLLOWING:

3 (A) A BARRIER DUNE.

4 (B) AN AREA WITHIN THE BOUNDARY OF A SAND DUNE AREA SUPPORT-
5 ING 1 OR MORE EXEMPLARY DUNE-ASSOCIATED PLANT COMMUNITIES AS
6 IDENTIFIED BY THE MICHIGAN NATURAL FEATURES INVENTORY.

7 (C) AN AREA CONTIGUOUS TO THE GREAT LAKES SHORELINE COMPOSED
8 PRIMARILY OF DUNE SAND OR DUNE-ASSOCIATED SANDS AS IDENTIFIED IN
9 THE UNITED STATES DEPARTMENT OF AGRICULTURE SOIL SURVEY, AND
10 EXHIBITING 1 OR MORE DUNE-LIKE CHARACTERISTICS IN TERMS OF TOPOG-
11 RAPHY AND VEGETATION, INCLUDING DUNES AT LEAST 20 FEET IN
12 HEIGHT. FOR AN AREA WITHOUT A SOIL SURVEY, THE LANDWARD BOUNDA-
13 RIES SHALL BE DEMARCATED BY A MARKED CHANGE IN TOPOGRAPHY, OR
14 WHERE THIS CHANGE IS NOT EVIDENT, A CHANGE IN SOIL TYPE.

15 (ii) A GEOMORPHIC FEATURE DESIGNATED BY THE DEPARTMENT IN A
16 RULE AS BEING ESSENTIAL IN TERMS OF HYDROLOGY, ECOLOGY, OR TOPOG-
17 RAPHY TO THE INTEGRITY OF A CRITICAL DUNE AREA. AN AREA DESIG-
18 NATED BY THE DEPARTMENT UNDER THIS SUBPARAGRAPH SHALL NOT EXTEND
19 MORE THAN 1,000 FEET FROM THE LANDWARD BOUNDARY OF A CRITICAL
20 DUNE AREA.

21 (F) ~~-(d)-~~ "Department" means the department of natural
22 resources.

23 (G) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OR HIS
24 OR HER AUTHORIZED REPRESENTATIVE.

25 (H) ~~-(e)-~~ "Great Lakes" means any of the Great Lakes which
26 has a shoreline within the state.

1 (I) "LOCAL UNIT OF GOVERNMENT" MEANS A CITY, VILLAGE,
2 TOWNSHIP, OR COUNTY.

3 (J) ~~(f)~~ "Operator" means an owner or lessee of mineral
4 rights or any other person engaged in or preparing to engage in
5 mining operations with respect ~~thereto~~ TO MINERAL RIGHTS within
6 a sand dune area.

7 (K) ~~(g)~~ "Person" means an individual, partnership, firm,
8 corporation, association, city, village, township, county, or
9 other political subdivision of the state, or a state or state
10 agency.

11 (L) "RULE" MEANS A RULE PROMULGATED PURSUANT TO THE ADMINIS-
12 TRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF
13 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED
14 LAWS.

15 (M) ~~(h)~~ "Sand dune area" means that area designated by the
16 department which includes those geomorphic features composed pri-
17 marily of sand, whether windblown or of other origin and which
18 lies within 2 miles of the ordinary high-water mark on a Great
19 Lake as defined in section 2 of the Great Lakes submerged lands
20 act, Act No. 247 of the Public Acts of 1955, as amended, being
21 section 322.702 of the Michigan Compiled Laws, AND INCLUDES CRIT-
22 ICAL DUNE AREAS.

23 (N) ~~(i)~~ "Sand dune mining" means the removal of sand from
24 sand dune areas for commercial, or industrial purposes, or both.

25 (O) "USE" MEANS A DEVELOPMENTAL, SILVICULTURAL, OR RECREA-
26 TIONAL ACTIVITY DONE OR CAUSED TO BE DONE BY A PERSON THAT
27 SIGNIFICANTLY ALTERS THE PHYSICAL CHARACTERISTIC OF A CRITICAL

1 DUNE AREA OR A CONTOUR CHANGE DONE OR CAUSED TO BE DONE BY A
2 PERSON, BUT DOES NOT INCLUDE SAND DUNE MINING.

3 SEC. 2B. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT,
4 THE DEPARTMENT SHALL NOT ISSUE A SAND DUNE MINING PERMIT WITHIN A
5 CRITICAL DUNE AREA AFTER THE EFFECTIVE DATE OF THIS SECTION
6 EXCEPT UNDER EITHER OF THE FOLLOWING CIRCUMSTANCES:

7 (A) THE OPERATOR SEEKS TO RENEW OR AMEND A SAND DUNE MINING
8 PERMIT THAT WAS ISSUED PRIOR TO THE EFFECTIVE DATE OF THIS SEC-
9 TION SUBJECT TO THE CRITERIA AND STANDARDS APPLICABLE TO A
10 RENEWAL OR AMENDATORY APPLICATION.

11 (B) THE OPERATOR HOLDS A SAND DUNE MINING PERMIT AND IS
12 SEEKING A MINING PERMIT FOR LAND THAT IS ADJACENT TO PROPERTY THE
13 OPERATOR IS PERMITTED TO MINE, AND PRIOR TO THE EFFECTIVE DATE OF
14 THIS SECTION THE OPERATOR OWNED THE LAND OR OWNED RIGHTS IN THE
15 LAND FOR WHICH THE OPERATOR SEEKS A PERMIT.

16 Sec. 10. The state or an instrumentality of the state shall
17 not engage in the extraction of sand or other minerals from a
18 sand dune area, except as required in the interest of public
19 health and safety in an emergency situation resulting from a
20 ~~natural~~ disaster as defined in section 2 of THE EMERGENCY PRE-
21 PAREDNESS ACT, Act No. ~~+54~~ 390 of the Public Acts of ~~+953~~
22 1976, as amended, being section ~~-30.222-~~ 30.402 of the Michigan
23 Compiled Laws.

24 Sec. 11. (1) For purposes of surveillance, monitoring,
25 administration, and enforcement of this act, an operator is
26 assessed a fee of not more than 10 cents per ton of sand mined
27 from a sand dune area for the calendar year reported as described

1 in subsection (2). ~~, except that for the calendar year reported~~
2 ~~on or before January 31, 1985, an operator shall be assessed a~~
3 ~~fee of not more than 5 cents per ton of sand mined.~~ Funds col-
4 lected by the assessment of the fee shall not exceed the actual
5 costs to the department of implementing THE SECTIONS OF this act
6 THAT PERTAIN TO SAND DUNE MINING. Any fees collected under this
7 subsection that are unexpended at the end of a fiscal year shall
8 be credited to a separate fund of the department and carried over
9 to the succeeding fiscal year and shall be deducted from the
10 amount appropriated for that year for surveillance, monitoring,
11 administration, and enforcement of this act for purposes of com-
12 puting the fee to be assessed for that year.

13 (2) An operator shall file an annual report on or before
14 January 31 of each year. The report shall show the areas mined
15 and describe the progress of restoration and reclamation activi-
16 ties of the operator for the preceding calendar year. The report
17 shall contain:

18 (a) The number of tons of sand mined from a sand dune area.

19 (b) Location of the sand dune area.

20 (3) The fee described in subsection (1) shall be due not
21 more than 30 days after the department sends written notice to
22 the operator of the amount due.

23 (4) The surveillance fee and annual report required by this
24 section shall be confidential and shall not be available for
25 public inspection without the written consent of the person
26 filing the fee and report, except in accordance with judicial
27 order.

1 (5) Failure to submit an annual report in compliance with
2 rules promulgated by the department shall constitute grounds for
3 revocation of a permit.

4 (6) A penalty equal to 10% of the amount due, or \$1,000.00,
5 whichever is greater, shall be assessed against the operator for
6 a fee not paid when due. An unpaid fee and penalty shall consti-
7 tute a debt and become the basis of a judgment against the
8 operator. Penalties paid pursuant to this section shall be used
9 for the implementation, administration, and enforcement of THE
10 SECTIONS OF this act THAT PERTAIN TO SAND DUNE MINING.

11 (7) Records upon which the annual report is based shall be
12 preserved for 3 years and shall be subject to audit by the
13 department.

14 (8) The department shall annually prepare and submit to the
15 house of representatives and senate committees on conservation a
16 report on the sand mining surveillance activities undertaken by
17 the department for the immediately preceding year and the cost of
18 those activities.

19 SEC. 15A. (1) WITHIN 90 DAYS OF THE EFFECTIVE DATE OF THIS
20 SECTION, THE DIRECTOR SHALL NOTIFY BY MAIL EACH LOCAL UNIT OF
21 GOVERNMENT THAT HAS WITHIN ITS JURISDICTION DUNES DESIGNATED IN
22 THE ATLAS OF PROPOSED CRITICAL DUNE AREAS DATED FEBRUARY 1989 AND
23 EACH PROPERTY OWNER OF RECORD WHO OWNS PROPERTY WITHIN THESE
24 AREAS OF ALL OF THE FOLLOWING:

25 (A) THAT THE PROPERTY DESCRIBED IN SUBSECTION (1) IS A CRIT-
26 ICAL DUNE AREA THAT IS SUBJECT TO REGULATION PURSUANT TO RULES
27 PROMULGATED UNDER SECTION 19.

1 (B) THAT THE PROPERTY DESCRIBED IN SUBSECTION (1) IS SUBJECT
2 TO INTERIM REGULATION AS PROVIDED IN SECTION 18.

3 (C) THAT FOLLOWING THE PROMULGATION OF RULES, AS PROVIDED IN
4 SECTION 19, THE LOCAL UNIT OF GOVERNMENT MAY EITHER ADOPT A CRIT-
5 ICAL DUNE AREA ZONING ORDINANCE THAT IS APPROVED PURSUANT TO SEC-
6 TION 21 OR THE USE OF THE CRITICAL DUNE AREA WILL BE REGULATED
7 UNDER THE COMMISSION'S CRITICAL DUNE AREA PLAN PURSUANT TO SEC-
8 TION 22.

9 (2) A PERSON WHO IS NOTIFIED PURSUANT TO THIS SECTION, OR
10 PURSUANT TO SECTION 17, OR THROUGH A RECORDED INSTRUMENT THAT A
11 PARCEL OF HIS OR HER REAL PROPERTY CONTAINS A CRITICAL DUNE AREA
12 SHALL NOT SELL ANY INTEREST IN THAT REAL PROPERTY UNLESS HE OR
13 SHE FIRST PROVIDES WRITTEN NOTICE TO THE PURCHASER THAT THE REAL
14 PROPERTY CONTAINS A CRITICAL DUNE AREA THAT MAY BE REGULATED BY
15 THE COMMISSION'S CRITICAL DUNE AREA PLAN OR BY A CRITICAL DUNE
16 AREA ZONING ORDINANCE ADOPTED BY THE LOCAL UNIT OF GOVERNMENT
17 THAT HAS JURISDICTION OVER THE CRITICAL DUNE AREA. THE WRITTEN
18 NOTICE PROVIDED BY THE SELLER SHALL BE A SEPARATE INSTRUMENT AND,
19 IF THE INSTRUMENT CONVEYING THE INTEREST IN REAL PROPERTY IS
20 RECORDED, THE WRITTEN NOTICE SHALL BE RECORDED WITH THE REGISTER
21 OF DEEDS IN THE APPROPRIATE COUNTY, ALONG WITH THE INSTRUMENT
22 CONVEYING THE INTEREST IN THE REAL PROPERTY. A CONTRACT OR SALE
23 ENTERED INTO IN VIOLATION OF THIS SECTION SHALL BE VOIDABLE AT
24 THE OPTION OF THE PURCHASER.

25 SEC. 16. (1) THE DIRECTOR, WITHIN 1 YEAR OF THE EFFECTIVE
26 DATE OF THIS SECTION, SHALL SUBMIT RULES TO THE JOINT COMMITTEE
27 ON ADMINISTRATIVE RULES TO DESIGNATE CERTAIN AREAS OF THIS STATE

1 AS CRITICAL DUNE AREAS ESSENTIAL TO THE PROTECTION OF THE
2 INTEGRITY OF A BARRIER DUNE.

3 (2) IN ADDITION, THE DIRECTOR, WITHIN 1 YEAR OF THE EFFEC-
4 TIVE DATE OF THIS SECTION, SHALL MAKE OR CAUSE TO BE MADE A COM-
5 PREHENSIVE STUDY THAT SHALL INCLUDE, BUT IS NOT LIMITED TO, ALL
6 OF THE FOLLOWING:

7 (A) A SUMMARY OF EXISTING AND SUITABLE CRITICAL DUNE AREA
8 LAND USES.

9 (B) THE REGULATORY CRITERIA AND LAND USE STANDARDS THAT
10 SHOULD APPLY TO THE DIFFERENT CLASSIFICATIONS OF CRITICAL DUNE
11 AREAS.

12 (C) THE RECOMMENDED DENSITY OF PERMITTED USES WITHIN CRITI-
13 CAL DUNE AREAS.

14 (D) A REPORT ON ECOLOGICAL AND OTHER NATURAL CHARACTERISTICS
15 RELEVANT TO THE PRESERVATION AND MAINTENANCE OF CRITICAL DUNE
16 AREAS, INCLUDING THE MANNER IN WHICH WILDLIFE AND VEGETATION
17 WOULD BE AFFECTED BY DIFFERENT USES.

18 (E) HISTORICAL, CULTURAL, ARCHAEOLOGICAL, AND NATURAL CHAR-
19 ACTERISTICS OF CRITICAL DUNE AREAS.

20 (F) EROSION-PRONE AREAS AND AREAS OF GEOLOGICAL
21 SIGNIFICANCE.

22 (G) A SUMMARY OF OPINION THAT IS SUBMITTED TO THE DEPARTMENT
23 FROM PERSONS AFFECTED BY, OR INTERESTED IN, THE PRESERVATION,
24 MANAGEMENT, PROTECTION, REGULATION, DEVELOPMENT, OR USE OF CRITI-
25 CAL DUNE AREAS.

26 (H) POSITION STATEMENTS SUBMITTED TO THE DEPARTMENT BY LOCAL
27 UNITS OF GOVERNMENT RELATED TO THE CHARACTERISTICS AND USE OF

1 CRITICAL DUNE AREAS WITHIN OR ADJACENT TO THEIR AREAS OF
2 JURISDICTION.

3 (1) ADDITIONAL INFORMATION INCLUDING REPORTS RELEVANT TO THE
4 PRESERVATION, MANAGEMENT, PROTECTION, OR REGULATION OF CRITICAL
5 DUNE AREAS.

6 (3) TO ENCOURAGE THE PARTICIPATION OF LOCAL UNITS OF GOVERN-
7 MENT AND OTHER INTERESTED PERSONS, THE DIRECTOR SHALL SOLICIT
8 POSITION STATEMENTS FROM ALL LOCAL UNITS OF GOVERNMENT THAT HAVE
9 CRITICAL DUNE AREAS WITHIN THEIR JURISDICTION, AND SHALL PROVIDE
10 PUBLIC NOTICE IN THE MANNER SELECTED BY THE DIRECTOR AS BEST CAL-
11 CULATED TO GIVE NOTICE TO OTHER PERSONS LIKELY TO BE INTERESTED
12 IN KNOWING THE TIME AND PLACE TO FILE WRITTEN OPINIONS OR POSI-
13 TION STATEMENTS. IN ADDITION, THE DIRECTOR SHALL SUBMIT A COPY
14 OF THE NOTICE TO THE LEGISLATIVE SERVICE BUREAU FOR PUBLICATION
15 IN THE MICHIGAN REGISTER.

16 SEC. 17. WITHIN 60 DAYS OF THE PROMULGATION OF THE RULES
17 REQUIRED UNDER SECTION 16(1), THE DIRECTOR SHALL NOTIFY BY MAIL
18 EACH LOCAL UNIT OF GOVERNMENT THAT HAS CRITICAL DUNE AREAS DESIG-
19 NATED BY RULE UNDER SECTION 16(1) WITHIN ITS JURISDICTION AND
20 EACH PROPERTY OWNER OF RECORD WHO OWNS PROPERTY WITHIN THESE
21 AREAS OF ALL OF THE FOLLOWING:

22 (A) THAT RULES PROMULGATED BY THE DEPARTMENT ESTABLISH THAT
23 CERTAIN AREAS WITHIN THE JURISDICTION OF THE LOCAL UNIT OF GOV-
24 ERNMENT ARE CRITICAL DUNE AREAS THAT MAY BE SUBJECT TO REGULATION
25 PURSUANT TO RULES PROMULGATED UNDER SECTION 19.

26 (B) THAT THESE CRITICAL DUNE AREAS ARE SUBJECT TO INTERIM
27 REGULATION AS PROVIDED IN SECTION 18.

1 (C) THAT FOLLOWING THE PROMULGATION OF RULES, AS PROVIDED IN
2 SECTION 19, THE LOCAL UNIT OF GOVERNMENT MAY EITHER ADOPT A CRIT-
3 ICAL DUNE AREA ZONING ORDINANCE THAT IS APPROVED PURSUANT TO SEC-
4 TION 21 OR THE USE OF THE CRITICAL DUNE AREA WILL BE REGULATED
5 UNDER THE COMMISSION'S CRITICAL DUNE AREA PLAN PURSUANT TO SEC-
6 TION 22.

7 SEC. 18. (1) FOLLOWING MAILING OF THE NOTICE TO LOCAL UNITS
8 OF GOVERNMENT AND PROPERTY OWNERS REQUIRED UNDER SECTION 15A OR
9 SECTION 17 AND UNTIL EITHER A LOCAL UNIT OF GOVERNMENT ZONING
10 ORDINANCE IS APPROVED BY THE COMMISSION PURSUANT TO SECTION 21 OR
11 A COMMISSION ZONING PLAN IS ADOPTED PURSUANT TO SECTION 22, A
12 PERSON PROPOSING ANY NEW USE WITHIN A CRITICAL DUNE AREA DURING
13 THIS INTERIM PERIOD SHALL OBTAIN A PERMIT FROM THE DEPARTMENT
14 UNLESS THE LOCAL UNIT OF GOVERNMENT IN WHICH A PROPOSED USE IS TO
15 BE LOCATED ELECTS TO PROCESS APPLICATIONS AND ISSUE PERMITS
16 DURING THIS INTERIM PERIOD.

17 (2) A LOCAL UNIT OF GOVERNMENT THAT ELECTS TO ISSUE PERMITS
18 DURING THE INTERIM PERIOD DESCRIBED IN SUBSECTION (1) SHALL
19 NOTIFY THE DEPARTMENT OF ITS DECISION AND SHALL REFLECT THIS
20 DECISION BY PASSAGE OF A RESOLUTION OF ITS GOVERNING BODY AND
21 ENACTMENT OF AN INTERIM ORDINANCE THAT IS AT LEAST AS RESTRICTIVE
22 AS THE REGULATORY REQUIREMENTS OF SUBDIVISIONS (G) AND (H), OR BY
23 PROVIDING DOCUMENTATION TO THE DEPARTMENT THAT AN EXISTING LOCAL
24 ORDINANCE MEETS OR EXCEEDS THE REQUIREMENTS OF SUBDIVISIONS (G)
25 AND (H). FOLLOWING THE PASSAGE OF THE RESOLUTION, A LOCAL UNIT
26 OF GOVERNMENT MAY ISSUE PERMITS DURING THE INTERIM PERIOD IN
27 ACCORD WITH THE FOLLOWING PROCEDURES AND CRITERIA:

1 (A) A PERSON PROPOSING ANY USE WITHIN A CRITICAL DUNE AREA
2 SHALL FILE AN APPLICATION WITH THE LOCAL UNIT OF GOVERNMENT. THE
3 APPLICATION FORM SHALL INCLUDE ANY INFORMATION THAT MAY BE NECES-
4 SARY TO CONFORM WITH THE REQUIREMENTS OF THIS SECTION. IF A
5 PROJECT PROPOSES THE USE OF MORE THAN 1 CRITICAL DUNE AREA LOCA-
6 TION WITHIN THE LOCAL UNIT OF GOVERNMENT, 1 APPLICATION MAY BE
7 FILED FOR THE USES.

8 (B) NOTICE OF AN APPLICATION FILED UNDER THIS SECTION SHALL
9 BE SENT TO ANY PERSON WHO MAKES A WRITTEN REQUEST TO THE LOCAL
10 UNIT OF GOVERNMENT FOR NOTIFICATION OF PENDING APPLICATIONS
11 ACCOMPANIED BY AN ANNUAL FEE ESTABLISHED BY THE LOCAL UNIT OF
12 GOVERNMENT. THE LOCAL UNIT OF GOVERNMENT SHALL PREPARE A MONTHLY
13 LIST OF THE APPLICATIONS MADE DURING THE PREVIOUS MONTH AND SHALL
14 PROMPTLY MAIL COPIES OF THE LIST FOR THE REMAINDER OF THE CALEN-
15 DAR YEAR TO THE PERSONS WHO HAVE REQUESTED NOTICE. THE MONTHLY
16 LIST SHALL STATE THE NAME AND ADDRESS OF EACH APPLICANT, THE
17 LOCATION OF THE APPLICANT'S PROJECT, AND A SUMMARY STATEMENT OF
18 THE PURPOSE OF THE USE. THE LOCAL UNIT OF GOVERNMENT MAY HOLD A
19 PUBLIC HEARING ON PENDING APPLICATIONS.

20 (C) THE NOTICE SHALL STATE THAT UNLESS A WRITTEN REQUEST IS
21 FILED WITH THE LOCAL UNIT OF GOVERNMENT WITHIN 20 DAYS AFTER THE
22 NOTICE IS MAILED, THE LOCAL UNIT OF GOVERNMENT MAY GRANT THE
23 APPLICATION WITHOUT A PUBLIC HEARING. UPON THE WRITTEN REQUEST
24 OF 2 OR MORE PERSONS, THE LOCAL UNIT OF GOVERNMENT SHALL HOLD A
25 PUBLIC HEARING PERTAINING TO A PERMIT APPLICATION.

26 (D) AT LEAST 10 DAYS' NOTICE OF A HEARING TO BE HELD
27 PURSUANT TO THIS SECTION SHALL BE GIVEN BY THE PUBLICATION IN 1

1 OR MORE NEWSPAPERS OF GENERAL CIRCULATION IN THE COUNTY IN WHICH
2 THE PROPOSED USE IS TO BE LOCATED, AND IN OTHER PUBLICATIONS, IF
3 APPROPRIATE, TO GIVE NOTICE TO PERSONS LIKELY TO BE AFFECTED BY
4 THE PROPOSED USE, AND BY MAILING COPIES OF THE NOTICE TO THE PER-
5 SONS WHO HAVE REQUESTED NOTICE PURSUANT TO SUBSECTION (1) AND THE
6 PERSON REQUESTING THE HEARING.

7 (E) AFTER THE FILING OF AN APPLICATION, THE LOCAL UNIT OF
8 GOVERNMENT SHALL GRANT OR DENY THE PERMIT WITHIN 60 DAYS, OR
9 WITHIN 90 DAYS IF A PUBLIC HEARING IS HELD. WHEN A PERMIT IS
10 DENIED, THE LOCAL UNIT OF GOVERNMENT SHALL PROVIDE TO THE APPLI-
11 CANT A CONCISE WRITTEN STATEMENT OF ITS REASONS FOR DENIAL OF THE
12 PERMIT, AND IF IT APPEARS THAT A MINOR MODIFICATION OF THE APPLI-
13 CATION WOULD RESULT IN THE GRANTING OF THE PERMIT, THE NATURE OF
14 THE MODIFICATION SHALL BE STATED. IN AN EMERGENCY, THE LOCAL
15 UNIT OF GOVERNMENT MAY ISSUE A CONDITIONAL PERMIT BEFORE THE
16 EXPIRATION OF THE 20-DAY PERIOD REFERRED TO IN SUBDIVISION (C).

17 (F) THE LOCAL UNIT OF GOVERNMENT SHALL BASE A DECISION TO
18 GRANT OR DENY A PERMIT REQUIRED BY THIS SECTION ON THE RESTRIC-
19 TIONS SET FORTH IN SUBDIVISIONS (G) AND (H) OR ON ANY EXISTING
20 ORDINANCE THAT IS IN EFFECT IN THE LOCAL UNIT OF GOVERNMENT THAT
21 PROVIDES THE SAME OR A GREATER LEVEL OF PROTECTION FOR CRITICAL
22 DUNE AREAS THAN THAT FOUND IN SUBDIVISIONS (G) AND (H).

23 (G) THE LOCAL UNIT OF GOVERNMENT SHALL NOT PERMIT A USE
24 WITHIN A CRITICAL DUNE AREA THAT DOES NOT COMPLY WITH THE MINIMUM
25 SETBACK REQUIREMENTS REQUIRED BY RULES PROMULGATED UNDER THE
26 SHORELANDS PROTECTION AND MANAGEMENT ACT OF 1970, ACT NO. 245 OF
27 THE PUBLIC ACTS OF 1970, BEING SECTIONS 281.631 TO 281.644 OF THE

1 MICHIGAN COMPILED LAWS, UNLESS A SPECIAL EXCEPTION HAS BEEN
2 GRANTED PURSUANT TO THAT ACT.

3 (H) UNLESS A VARIANCE IS GRANTED PURSUANT TO THIS SECTION,
4 THE LOCAL UNIT OF GOVERNMENT SHALL NOT PERMIT ANY OF THE FOLLOW-
5 ING USES WITHIN A CRITICAL DUNE AREA:

6 (i) A USE THAT IS LAKEWARD OF A MINIMUM SETBACK. A MINIMUM
7 SETBACK SHALL BE 100 FEET MEASURED LANDWARD FROM THE CREST OF THE
8 FIRST LANDWARD RIDGE OF A CRITICAL DUNE AREA THAT IS NOT A
9 FOREDUNE.

10 (ii) A USE ON ANY SLOPE THAT IS GREATER THAN 25%.

11 (iii) A USE INVOLVING A CONTOUR CHANGE THAT IS LIKELY TO
12 INCREASE EROSION, DECREASE STABILITY, OR IS MORE EXTENSIVE THAN
13 REQUIRED TO IMPLEMENT A USE FOR WHICH A PERMIT IS REQUESTED.

14 (iv) THE CLEAR CUTTING OF TIMBER THAT IS LIKELY TO INCREASE
15 EROSION, DECREASE STABILITY, OR IS MORE EXTENSIVE THAN REQUIRED
16 TO IMPLEMENT A USE FOR WHICH A PERMIT IS REQUESTED. "TIMBER", AS
17 USED IN THIS SUBPARAGRAPH, MEANS TREES THAT ARE PRIMARILY
18 INTENDED FOR BUILDING, STRUCTURAL, MANUFACTURING, PROCESSING, OR
19 ENERGY PURPOSES, AND DOES NOT INCLUDE FRUIT TREES, CHRISTMAS
20 TREES, OR OTHER TREES THAT ARE GROWN FOR ORNAMENTAL OR AESTHETIC
21 USE.

22 (v) A USE THAT INVOLVES A VEGETATION REMOVAL THAT IS LIKELY
23 TO INCREASE EROSION, DECREASE STABILITY, OR IS MORE EXTENSIVE
24 THAN REQUIRED TO IMPLEMENT A USE FOR WHICH A PERMIT IS
25 REQUESTED.

26 (vi) A USE THAT IS NOT IN THE PUBLIC INTEREST. IN
27 DETERMINING WHETHER A PROPOSED USE IS OR IS NOT IN THE PUBLIC

1 INTEREST, THE LOCAL UNIT OF GOVERNMENT SHALL CONSIDER BOTH OF THE
2 FOLLOWING:

3 (A) THE AVAILABILITY OF FEASIBLE AND PRUDENT ALTERNATIVE
4 LOCATIONS OR METHODS, OR BOTH, TO ACCOMPLISH THE BENEFITS
5 EXPECTED FROM THE USE.

6 (B) THE IMPACT THAT IS EXPECTED TO OCCUR TO THE CRITICAL
7 DUNE AREA, AND THE EXTENT TO WHICH THE IMPACT MAY BE MINIMIZED.

8 (3) IF THE GOVERNING BODY OF A LOCAL UNIT OF GOVERNMENT IN
9 WHICH A PROPOSED USE IS TO BE LOCATED DOES NOT ELECT TO ISSUE
10 PERMITS DURING THE INTERIM PERIOD DESCRIBED IN SUBSECTION (1),
11 THE DEPARTMENT SHALL PROCESS APPLICATIONS FOR PERMITS, ISSUE PER-
12 MITS IN THE PLACE OF THE LOCAL UNIT OF GOVERNMENT, AND ISSUE SPE-
13 CIAL EXCEPTIONS IN THE SAME CIRCUMSTANCES UNDER WHICH VARIANCES
14 MAY BE GRANTED SUBJECT TO THE SAME PROCEDURES, TIME RESTRAINTS,
15 AND CRITERIA THAT ARE APPLICABLE WHEN LOCAL UNITS OF GOVERNMENT
16 PROCESS APPLICATIONS FOR PERMITS AND ISSUE PERMITS PURSUANT TO
17 SUBSECTION (2).

18 (4) A LOCAL UNIT OF GOVERNMENT, OR THE DEPARTMENT WHEN A
19 LOCAL UNIT OF GOVERNMENT DOES NOT ELECT TO PROCESS APPLICATIONS
20 AND ISSUE PERMITS DURING THE INTERIM PERIOD DESCRIBED IN SUBSEC-
21 TION (1), MAY ESTABLISH AN INTERIM PERMIT AND INSPECTION FEE PUR-
22 SUANT TO SECTION 26.

23 (5) WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THIS SECTION,
24 THE DIRECTOR SHALL DEVELOP PERMIT APPLICATION FORMS AND OTHER
25 PROCEDURES NECESSARY TO IMPLEMENT THIS SECTION.

26 (6) THE INTERIM REGULATORY SYSTEM DESCRIBED IN THIS SECTION
27 SHALL BE IMPLEMENTED FOR DUNES DESIGNATED IN THE ATLAS OF

1 PROPOSED CRITICAL DUNE AREAS DATED FEBRUARY 1989 WITHOUT REGARD
2 TO WHEN RULES SUBMITTED PURSUANT TO SECTION 16(1) ARE
3 PROMULGATED. HOWEVER, THE REGULATORY SYSTEM DESCRIBED IN THIS
4 SECTION SHALL BE IMPLEMENTED FOR CRITICAL DUNE AREAS THAT ARE
5 DEFINED IN RULES WHEN THOSE RULES ARE PROMULGATED.

6 (7) A LOCAL UNIT OF GOVERNMENT MAY GRANT VARIANCES FROM A
7 CRITICAL DUNE AREA USE RESTRICTION DESCRIBED IN SUBSECTION
8 (2)(H), SUBJECT TO ALL OF THE FOLLOWING:

9 (A) A VARIANCE SHALL NOT BE GRANTED FROM A SETBACK REQUIRE-
10 MENT UNLESS THE PROPERTY FOR WHICH THE VARIANCE IS REQUESTED IS A
11 NONCONFORMING LOT OF RECORD THAT IS RECORDED PRIOR TO THE EFFEC-
12 TIVE DATE OF THIS SECTION, OR IS A LOT LEGALLY CREATED AFTER THE
13 EFFECTIVE DATE OF THIS SECTION THAT LATER BECOMES NONCONFORMING
14 DUE TO NATURAL SHORELINE EROSION.

15 (B) A VARIANCE SHALL NOT BE GRANTED THAT AUTHORIZES CON-
16 STRUCTION OF A DWELLING OR OTHER PERMANENT BUILDING ON THE FIRST
17 LAKEWARD FACING SLOPE OF A CRITICAL DUNE AREA OR A FOREDUNE
18 UNLESS THE PROPOSED CONSTRUCTION IS NEAR THE BASE OF THE LAKEWARD
19 FACING SLOPE OF THE CRITICAL DUNE ON A SLOPE OF LESS THAN 12% ON
20 A NONCONFORMING LOT OF RECORD THAT IS RECORDED PRIOR TO THE
21 EFFECTIVE DATE OF THIS SECTION WHICH HAS BORDERS THAT LIE
22 ENTIRELY ON THE FIRST LAKEWARD FACING SLOPE OF THE CRITICAL DUNE
23 AREA THAT IS NOT A FOREDUNE. IF A LOCAL UNIT OF GOVERNMENT
24 DETERMINES THAT GRANTING A VARIANCE UNDER THIS SUBDIVISION IS
25 APPROPRIATE, THE LOCAL UNIT OF GOVERNMENT SHALL SUBMIT THE PRO-
26 POSAL TO THE DEPARTMENT. IF THE DEPARTMENT FINDS THAT THE

1 DETERMINATION IS CONTRARY TO THIS ACT OR ITS INTENT, THE
2 DEPARTMENT MAY WITHIN 60 DAYS OF SUBMITTAL DENY THE REQUEST.

3 (C) A VARIANCE SHALL NOT BE GRANTED UNLESS A LOCAL UNIT OF
4 GOVERNMENT FINDS THAT THERE ARE CONDITIONS REGARDING THE SITE
5 THAT INDICATE BOTH OF THE FOLLOWING:

6 (i) THAT UNREASONABLE HARDSHIP WILL OCCUR TO THE OWNER OF
7 THE SITE IF A VARIANCE IS NOT GRANTED.

8 (ii) THAT THE GRANTING OF THE VARIANCE IS CONSISTENT WITH
9 THIS ACT AND ITS INTENT.

10 (D) IF A REQUESTED VARIANCE IS FOR A SINGLE-FAMILY DWELLING,
11 THE LOCAL UNIT OF GOVERNMENT SHALL MAINTAIN FOR 5 YEARS ITS
12 RECORDS PERTAINING TO THE REQUESTED VARIANCE. THESE RECORDS
13 SHALL BE MADE AVAILABLE TO THE DEPARTMENT UPON REQUEST.

14 (E) IF A PROPOSED MULTI-FAMILY DWELLING OR AN INDUSTRIAL OR
15 COMMERCIAL DEVELOPMENT REQUIRES REZONING OR APPROVAL OF A SITE
16 PLAN BY A LOCAL UNIT OF GOVERNMENT, THE LOCAL UNIT OF GOVERNMENT
17 SHALL SUBMIT THE PROPOSAL TO THE DEPARTMENT. THE DEPARTMENT
18 SHALL REVIEW THE PROPOSAL AND MAY PROVIDE COMMENTS TO THE LOCAL
19 UNIT OF GOVERNMENT WITHIN 45 DAYS AFTER RECEIVING THE PROPOSAL.
20 THE LOCAL UNIT OF GOVERNMENT SHALL CONSIDER THESE COMMENTS IN
21 RENDERING A DECISION AND SHALL NOTIFY THE DEPARTMENT OF ITS
22 DECISION. IF, AFTER REVIEWING THIS DECISION, THE DEPARTMENT
23 DETERMINES THAT THE DECISION IS CONTRARY TO THIS ACT OR ITS
24 INTENT, THE DEPARTMENT MAY WITHIN 90 DAYS ISSUE, MODIFY, OR DENY
25 THE REQUEST SUBJECT TO THE SAME PROCEDURES, TIME RESTRAINTS, AND
26 CRITERIA THAT ARE APPLICABLE WHEN LOCAL UNITS OF GOVERNMENT
27 PROCESS APPLICATIONS FOR PERMITS AND ISSUE PERMITS.

1 (8) IF THE DEPARTMENT GRANTS PERMITS UNDER SECTION 18 IN
2 LIEU OF A LOCAL UNIT OF GOVERNMENT, THE DEPARTMENT MAY GRANT SPE-
3 CIAL EXCEPTIONS FROM A CRITICAL DUNE AREA USE RESTRICTION
4 DESCRIBED IN SUBSECTION (2)(H) SUBJECT TO ALL OF THE FOLLOWING:

5 (A) A SPECIAL EXCEPTION SHALL NOT BE GRANTED FROM A SETBACK
6 REQUIREMENT UNLESS THE PROPERTY FOR WHICH THE VARIANCE IS
7 REQUESTED IS A NONCONFORMING LOT OF RECORD THAT IS RECORDED PRIOR
8 TO THE EFFECTIVE DATE OF THIS SECTION, OR IS A LOT LEGALLY CRE-
9 ATED AFTER THE EFFECTIVE DATE OF THIS SECTION THAT LATER BECOMES
10 NONCONFORMING DUE TO NATURAL SHORELINE EROSION.

11 (B) A SPECIAL EXCEPTION SHALL NOT BE GRANTED THAT AUTHORIZES
12 THE CONSTRUCTION OF A DWELLING OR OTHER PERMANENT BUILDING ON THE
13 FIRST LAKEWARD FACING SLOPE OF A CRITICAL DUNE AREA OR A FOREDUNE
14 UNLESS THE PROPOSED CONSTRUCTION IS NEAR THE BASE OF THE LAKEWARD
15 FACING SLOPE OF THE CRITICAL DUNE ON A SLOPE OF LESS THAN 12% ON
16 A NONCONFORMING LOT OF RECORD THAT IS RECORDED PRIOR TO THE
17 EFFECTIVE DATE OF THIS SECTION WHICH HAS BORDERS THAT LIE
18 ENTIRELY ON THE FIRST LAKEWARD FACING SLOPE OF THE DUNE THAT IS
19 NOT A FOREDUNE.

20 (C) A SPECIAL EXCEPTION SHALL NOT BE GRANTED UNLESS THE
21 DEPARTMENT FINDS THAT THERE ARE CONDITIONS REGARDING THE SITE
22 THAT INDICATE BOTH OF THE FOLLOWING:

23 (i) THAT UNREASONABLE HARDSHIP WILL OCCUR TO THE OWNER OF
24 THE SITE IF A SPECIAL EXCEPTION IS NOT GRANTED.

25 (ii) THAT THE GRANTING OF THE SPECIAL EXCEPTION IS CONSIS-
26 TENT WITH THIS ACT AND ITS INTENT.

1 SEC. 19. (1) WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF
2 THIS SECTION, THE DIRECTOR SHALL SUBMIT RULES TO THE JOINT
3 COMMITTEE ON ADMINISTRATIVE RULES THAT ESTABLISH MODEL REGULATORY
4 CRITERIA AND LAND USE STANDARDS FOR CRITICAL DUNE AREAS THAT MAY
5 BE INCORPORATED IN THE ORDINANCES OF LOCAL UNITS OF GOVERNMENT AS
6 PROVIDED FOR IN SECTION 20. THE DIRECTOR SHALL PROVIDE THE REP-
7 RESENTATIVES OF LOCAL UNITS OF GOVERNMENT AND OTHER INTERESTED
8 PARTIES THE OPPORTUNITY TO PARTICIPATE IN THE DEVELOPMENT OF
9 THESE RULES. IN THE ABSENCE OF AN APPROVED LOCAL ORDINANCE, THE
10 RULES SHALL BE APPLIED BY THE COMMISSION TO FORMULATE A PLAN TO
11 REGULATE CRITICAL DUNE AREA USE.

12 (2) THE RULES SHALL AUTHORIZE OR ESTABLISH DIFFERENT LEVELS
13 OF REGULATORY CRITERIA AND DIFFERENT LAND USE STANDARDS AND VARI-
14 ANCES THAT ARE APPLICABLE TO DIFFERENT CLASSIFICATIONS OF CRITI-
15 CAL DUNE AREAS FOUND WITHIN THIS STATE. EXCEPT AS OTHERWISE PRO-
16 VIDED IN THIS ACT, THE RULES, AT A MINIMUM, SHALL NOT PERMIT ANY
17 OF THE USES DESCRIBED IN SECTION 18(2)(G) OR (H)(i) TO (vi) AND
18 SHALL BE FORMULATED TO INSURE THAT THE ENVIRONMENT AND THE ECOL-
19 OGY OF THE CRITICAL DUNE AREAS AND THE BENEFITS THAT CRITICAL
20 DUNE AREAS OFFER TO THE PRESENT AND FUTURE GENERATIONS ARE
21 MAINTAINED. THE RULES SHALL INCLUDE:

22 (A) THE CIRCUMSTANCES UNDER WHICH RESIDENTIAL, COMMERCIAL,
23 INDUSTRIAL USE, AND OTHER PHYSICAL ALTERATIONS MAY OCCUR.

24 (B) THE CIRCUMSTANCES UNDER WHICH RECREATIONAL AND TOURISM
25 USE MAY OCCUR.

26 (C) THE CIRCUMSTANCES UNDER WHICH THE USE OF AN AREA SHALL
27 BE RESTRICTED.

1 (3) BEFORE THE PROCESSING OF A RULE AS DEFINED IN SECTION 5
2 OF THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE
3 PUBLIC ACTS OF 1969, BEING SECTION 24.205 OF THE MICHIGAN
4 COMPILED LAWS, UNDER THIS SECTION, THE DIRECTOR SHALL FORM AN
5 ADVISORY GROUP OF PERSONS WHO REPRESENT INTERESTS THAT THE DIREC-
6 TOR DETERMINES MAY REASONABLY BE EXPECTED TO BE AFFECTED BY THE
7 PROPOSED RULES. THE ADVISORY GROUP SHALL INCLUDE, AT A MINIMUM,
8 REPRESENTATIVES FROM EACH OF THE FOLLOWING:

- 9 (A) THE PUBLIC.
10 (B) THE MICHIGAN TOWNSHIP ASSOCIATION.
11 (C) THE MICHIGAN MUNICIPAL LEAGUE.
12 (D) A CONSERVATION ORGANIZATION.
13 (E) AN ENVIRONMENTAL PROTECTION ORGANIZATION.
14 (F) LAND DEVELOPMENT INTERESTS.
- 15 (4) THE DEPARTMENT SHALL NOTIFY MEMBERS OF THE ADVISORY
16 GROUP OF THE PROPOSED RULE MAKING AND SHALL INVITE THE FULL PAR-
17 TICIPATION OF ALL MEMBERS OF THE ADVISORY GROUP.
- 18 (5) THE DEPARTMENT SHALL INCLUDE A SUMMARY OF EACH MAJOR
19 UNRESOLVED ISSUE RAISED DURING ADVISORY GROUP MEETINGS AND THE
20 RESPONSE OF THE DEPARTMENT IN ITS SUBMISSION OF PROPOSED RULES TO
21 THE JOINT COMMITTEE ON ADMINISTRATIVE RULES.

22 (6) ADVISORY GROUP MEMBERS SHALL NOT RECEIVE COMPENSATION
23 FOR THEIR PARTICIPATION AS ADVISORY GROUP MEMBERS.

24 SEC. 20. (1) FOLLOWING THE PROMULGATION OF RULES PURSUANT
25 TO SECTION 19, A LOCAL UNIT OF GOVERNMENT, IN ACCORDANCE WITH
26 THOSE RULES, MAY AT ANY TIME FORMULATE A PLAN TO ZONE A CRITICAL
27 DUNE AREA WITHIN ITS JURISDICTION AS FOLLOWS:

1 (A) A COUNTY MAY ZONE AS PROVIDED IN THE COUNTY RURAL ZONING
2 ENABLING ACT, ACT NO. 183 OF THE PUBLIC ACTS OF 1943, BEING SEC-
3 TIONS 125.201 TO 125.232 OF THE MICHIGAN COMPILED LAWS.

4 (B) A CITY OR VILLAGE MAY ZONE AS PROVIDED IN ACT NO. 207 OF
5 THE PUBLIC ACTS OF 1921, BEING SECTIONS 125.581 TO 125.592 OF THE
6 MICHIGAN COMPILED LAWS.

7 (C) A TOWNSHIP MAY ZONE AS PROVIDED IN THE TOWNSHIP RURAL
8 ZONING ACT, ACT NO. 184 OF THE PUBLIC ACTS OF 1943, BEING SEC-
9 TIONS 125.271 TO 125.301 OF THE MICHIGAN COMPILED LAWS.

10 (2) A ZONING PLAN OF A LOCAL UNIT OF GOVERNMENT THAT IS
11 APPROVED BY THE COMMISSION PURSUANT TO SECTION 21 SHALL TAKE THE
12 PLACE OF A COMMISSION PLAN ADOPTED PURSUANT TO SECTION 22 FOR
13 THAT LOCAL UNIT OF GOVERNMENT.

14 (3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, A LOCAL
15 UNIT OF GOVERNMENT MAY ISSUE A VARIANCE FROM A REQUIREMENT OF A
16 ZONING ORDINANCE APPROVED PURSUANT TO SECTION 21, SUBJECT TO ALL
17 OF THE FOLLOWING:

18 (A) A VARIANCE SHALL NOT BE GRANTED FROM A SETBACK REQUIRE-
19 MENT IN THE ORDINANCE UNLESS THE PROPERTY FOR WHICH THE VARIANCE
20 IS REQUESTED IS A NONCONFORMING LOT OF RECORD THAT IS RECORDED
21 PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, OR IS A LOT LEGALLY
22 CREATED AFTER THE EFFECTIVE DATE OF THIS SECTION THAT LATER
23 BECOMES NONCONFORMING DUE TO NATURAL SHORELINE EROSION.

24 (B) A VARIANCE SHALL NOT BE GRANTED THAT AUTHORIZES CON-
25 STRUCTION OF A DWELLING OR OTHER PERMANENT BUILDING ON THE FIRST
26 LAKEWARD FACING SLOPE OF A CRITICAL DUNE AREA OR A FOREDUNE
27 UNLESS THE PROPOSED CONSTRUCTION IS NEAR THE BASE OF THE LAKEWARD

1 FACING SLOPE OF THE CRITICAL DUNE ON A SLOPE OF LESS THAN 12% ON
2 A NONCONFORMING LOT OF RECORD THAT IS RECORDED PRIOR TO THE
3 EFFECTIVE DATE OF THIS SECTION WHICH HAS BOUNDARIES THAT LIE
4 ENTIRELY ON THE FIRST LAKEWARD FACING SLOPE OF THE DUNE THAT IS
5 NOT A FOREDUNE. IF A LOCAL UNIT OF GOVERNMENT DETERMINES THAT
6 GRANTING A VARIANCE UNDER THIS SECTION IS APPROPRIATE, THE LOCAL
7 UNIT OF GOVERNMENT SHALL SUBMIT THE PROPOSAL TO THE DEPARTMENT.
8 IF THE DEPARTMENT FINDS THAT THE DECISION IS CONTRARY TO THIS ACT
9 OR ITS INTENT OR THE RULES PROMULGATED UNDER THIS ACT, THE
10 DEPARTMENT MAY WITHIN 90 DAYS OF SUBMITTAL DENY THE REQUEST.

11 (C) A VARIANCE SHALL NOT BE GRANTED UNLESS A LOCAL UNIT OF
12 GOVERNMENT FINDS THAT THERE ARE CONDITIONS REGARDING THE SITE
13 THAT INDICATE BOTH OF THE FOLLOWING:

14 (i) THAT UNREASONABLE HARDSHIP WILL OCCUR TO THE OWNER OF
15 THE SITE IF A VARIANCE IS NOT GRANTED.

16 (ii) THAT THE GRANTING OF THE VARIANCE IS CONSISTENT WITH
17 THIS ACT AND ITS INTENT AND THE RULES PROMULGATED UNDER THIS
18 ACT.

19 (D) IF A REQUESTED VARIANCE IS FOR A SINGLE-FAMILY DWELLING,
20 THE LOCAL UNIT OF GOVERNMENT SHALL MAINTAIN FOR 5 YEARS ITS
21 RECORDS PERTAINING TO THE REQUESTED VARIANCE. THESE RECORDS
22 SHALL BE MADE AVAILABLE TO THE DEPARTMENT UPON REQUEST.

23 (E) IF A PROPOSED MULTI-FAMILY DWELLING OR AN INDUSTRIAL OR
24 COMMERCIAL DEVELOPMENT REQUIRES REZONING OR APPROVAL OF A SITE
25 PLAN, THE LOCAL UNIT OF GOVERNMENT SHALL SUBMIT THE PROPOSAL TO
26 THE DEPARTMENT. THE DEPARTMENT SHALL REVIEW AND PROVIDE
27 COMMENTS, IF ANY, TO THE LOCAL UNIT OF GOVERNMENT WITHIN 45

1 DAYS. THE LOCAL UNIT OF GOVERNMENT SHALL CONSIDER THESE COMMENTS
2 IN RENDERING A DECISION AND SHALL NOTIFY THE DEPARTMENT OF ITS
3 DECISION. IF, AFTER REVIEWING THIS DECISION, THE DEPARTMENT
4 DETERMINES THAT THE DECISION IS CONTRARY TO THIS ACT OR ITS
5 INTENT OR THE RULES PROMULGATED UNDER THIS ACT, THE DEPARTMENT
6 MAY WITHIN 90 DAYS ISSUE, MODIFY, OR DENY THE REQUEST.

7 SEC. 21. (1) A ZONING ORDINANCE, OR MODIFICATION OF AN
8 EXISTING ZONING ORDINANCE, THAT REGULATES CRITICAL DUNE AREA USES
9 SHALL BE SUBMITTED TO THE COMMISSION FOR ITS APPROVAL OR
10 DISAPPROVAL. WITHIN 120 DAYS OF RECEIPT OF AN ORDINANCE, THE
11 COMMISSION SHALL ISSUE A WRITTEN NOTICE APPROVING OR DISAPPROVING
12 THE SUBMITTED ORDINANCE. THE COMMISSION SHALL NOT APPROVE A
13 ZONING ORDINANCE UNLESS THE COMMISSION DETERMINES THAT, EXCEPT
14 FOR VARIANCES ISSUED PURSUANT TO THIS ACT, THE ORDINANCE DOES NOT
15 PERMIT ANY OF THE USES DESCRIBED IN SECTION 18(2)(H)(i) TO (vi)
16 AND PROVIDES THE SAME OR A GREATER LEVEL OF PROTECTION FOR CRITI-
17 CAL DUNE AREAS AS THAT FOUND IN THE COMMISSION RULES.

18 (2) AN ORDINANCE, OR MODIFICATION OF AN EXISTING ORDINANCE,
19 SUBMITTED PURSUANT TO SUBSECTION (1) THAT IS APPROVED BY THE COM-
20 MISSION SHALL BE GIVEN IMMEDIATE EFFECT. AN ORDINANCE SHALL NOT
21 BECOME EFFECTIVE WITHOUT THE APPROVAL OF THE COMMISSION.

22 (3) ANY PROPOSED MODIFICATION OF AN ORDINANCE THAT HAS BEEN
23 PREVIOUSLY APPROVED BY THE COMMISSION SHALL BE RESUBMITTED TO THE
24 COMMISSION FOR REVIEW AND SHALL BE PROCESSED IN THE MANNER PRO-
25 VIDED FOR IN SUBSECTIONS (1) AND (2).

26 (4) A LOCAL UNIT OF GOVERNMENT MAY ADOPT A ZONING ORDINANCE
27 THAT INCLUDES REGULATORY CRITERIA AND LAND USE STANDARDS THAT

1 PROVIDE THE SAME OR A GREATER LEVEL OF PROTECTION FOR CRITICAL
2 DUNE AREAS AS THAT FOUND IN THE COMMISSION RULES.

3 (5) THE DEPARTMENT SHALL ASSIST LOCAL UNITS OF GOVERNMENT IN
4 DEVELOPING ZONING ORDINANCES THAT MEET THE REQUIREMENTS OF THIS
5 ACT.

6 (6) THE DEPARTMENT SHALL PERIODICALLY REVIEW THE PERFORMANCE
7 OF ALL LOCAL UNITS OF GOVERNMENT THAT HAVE ORDINANCES APPROVED
8 UNDER THIS SECTION. IF THE DEPARTMENT DETERMINES THAT THE LOCAL
9 UNIT OF GOVERNMENT IS NOT ADMINISTERING THE ORDINANCE IN CON-
10 FORMANCE WITH THIS ACT AND ITS INTENT AND RULES PROMULGATED UNDER
11 THIS ACT, THE DEPARTMENT SHALL NOTIFY THE LOCAL UNIT OF GOVERN-
12 MENT IN WRITING OF ITS DETERMINATION, INCLUDING SPECIFIC REASONS
13 WHY THE LOCAL UNIT OF GOVERNMENT IS NOT IN COMPLIANCE. THE LOCAL
14 UNIT OF GOVERNMENT SHALL HAVE 30 DAYS TO RESPOND TO THE
15 DEPARTMENT. IF THE DEPARTMENT DETERMINES THAT THE LOCAL UNIT OF
16 GOVERNMENT HAS NOT MADE SUFFICIENT CHANGES TO ITS ORDINANCE
17 ADMINISTRATION OR OTHERWISE EXPLAINED ITS ACTIONS, THE DIRECTOR
18 SHALL WITHDRAW THE APPROVAL OF THE LOCAL ORDINANCE, THE COMMIS-
19 SION SHALL ADOPT A CRITICAL DUNE AREA ZONING PLAN PURSUANT TO
20 SECTION 22, AND THE DEPARTMENT SHALL ASSUME AUTHORITY FOR REGU-
21 LATING THE USE OF CRITICAL DUNE AREAS WITHIN THE JURISDICTION.

22 SEC. 22. (1) A LOCAL UNIT OF GOVERNMENT MAY ADOPT A CRITI-
23 CAL DUNE AREA ZONING ORDINANCE IN ACCORDANCE WITH SECTION 21
24 WITHIN 1 YEAR FOLLOWING THE PROMULGATION OF RULES UNDER SECTION
25 19. IF A LOCAL UNIT OF GOVERNMENT FAILS TO ADOPT A CRITICAL DUNE
26 AREA ZONING ORDINANCE OR IF, PRIOR TO THAT DATE, THE LOCAL UNIT
27 OF GOVERNMENT NOTIFIES THE DIRECTOR OF ITS INTENT TO WAIVE ITS

1 OPTION TO ADOPT AND SEEK COMMISSION APPROVAL FOR A CRITICAL DUNE
2 AREA ZONING ORDINANCE AS PROVIDED IN SECTION 21, THE COMMISSION
3 SHALL ADOPT A CRITICAL DUNE AREA ZONING PLAN APPLYING TO THE
4 CRITICAL DUNE AREAS WITHIN THAT LOCAL UNIT OF GOVERNMENT. THE
5 PLAN SHALL BE IN ACCORDANCE WITH THE RULES PROMULGATED BY THE
6 COMMISSION PURSUANT TO SECTION 19. THESE RULES SHALL BE APPLIED
7 AND UTILIZED BY THE COMMISSION IN DEVELOPING SITE SPECIFIC LOCAL
8 PLANS.

9 (2) BEFORE A ZONING PLAN IS ADOPTED BY THE COMMISSION, THE
10 DIRECTOR SHALL:

11 (A) MAIL A COPY OF THE ZONING PLAN TO THE GOVERNING BODY OF
12 EACH LOCAL UNIT OF GOVERNMENT LOCATED IN THE CRITICAL DUNE AREA.

13 (B) CONDUCT A PUBLIC HEARING IN THE COUNTY SEAT OF EACH
14 COUNTY IN WHICH A PORTION OF THE CRITICAL DUNE AREA IS LOCATED.
15 NOTICES OF THE HEARING SHALL BE PUBLISHED AT LEAST TWICE, ONCE 30
16 TO 45 DAYS PRIOR TO THE HEARING AND AGAIN 10 TO 15 DAYS PRIOR TO
17 THE HEARING. THE NOTICES SHALL BE PUBLISHED IN 1 OR MORE NEWSPA-
18 PERS OF GENERAL CIRCULATION WITHIN THE COUNTY IN WHICH A PORTION
19 OF THE CRITICAL DUNE AREA IS LOCATED, AND IN OTHER PUBLICATIONS,
20 IF APPROPRIATE, TO GIVE NOTICE TO PERSONS LIKELY TO BE AFFECTED
21 BY THE COMMISSION'S CRITICAL DUNE AREA ZONING PLAN. THE NOTICE
22 SHALL SPECIFY THAT A CRITICAL DUNE AREA ZONING PLAN HAS BEEN PRE-
23 PARED AND THAT IT IS ON FILE WITH THE COUNTY CLERK AND THE DIREC-
24 TOR, AND THAT CERTAIN PROPERTY OWNERS MAY BE SUBJECT TO REGULA-
25 TION UNDER THIS ACT. IN ADDITION, EACH PROPERTY OWNER OF RECORD
26 WHO OWNS PROPERTY WITHIN THE CRITICAL DUNE AREA TO BE ZONED SHALL
27 BE GIVEN NOTICE BY MAIL.

1 (C) PROVIDE COPIES OF THE PROPOSED COMMISSION ZONING PLAN TO
2 MEMBERS OF THE PUBLIC EXPRESSING INTEREST IN THE PROPOSED PLAN.

3 (3) NOTWITHSTANDING SUBSECTION (1), A LOCAL UNIT OF GOVERN-
4 MENT MAY ADOPT A CRITICAL DUNE AREA ZONING ORDINANCE PURSUANT TO
5 THIS ACT AT ANY TIME, AND UPON THE APPROVAL OF THAT PLAN BY THE
6 COMMISSION PURSUANT TO SECTION 21, THAT PLAN SHALL TAKE THE PLACE
7 OF THE COMMISSION'S CRITICAL DUNE AREA ZONING PLAN.

8 (4) THE COMMISSION MAY PROMULGATE RULES PROVIDING FOR THE
9 GRANTING OF SPECIAL EXCEPTIONS FROM A COMMISSION CRITICAL DUNE
10 AREA ZONING PLAN SUBJECT TO ALL OF THE FOLLOWING:

11 (A) A SPECIAL EXCEPTION SHALL NOT BE GRANTED FROM A SETBACK
12 REQUIREMENT IN THE COMMISSION CRITICAL DUNE AREA ZONING PLAN
13 UNLESS THE PROPERTY FOR WHICH THE SPECIAL EXCEPTION IS REQUESTED
14 IS A NONCONFORMING LOT OF RECORD THAT IS RECORDED PRIOR TO THE
15 EFFECTIVE DATE OF THIS SECTION, OR IS A LOT LEGALLY CREATED AFTER
16 THE EFFECTIVE DATE OF THIS SECTION THAT LATER BECOMES NONCONFORM-
17 ING DUE TO NATURAL SHORELINE EROSION.

18 (B) A SPECIAL EXCEPTION SHALL NOT BE GRANTED THAT AUTHORIZES
19 THE CONSTRUCTION OF A DWELLING OR OTHER PERMANENT BUILDING ON THE
20 FIRST LAKEWARD FACING SLOPE OF A CRITICAL DUNE AREA OR A FOREDUNE
21 UNLESS THE PROPOSED CONSTRUCTION IS NEAR THE BASE OF THE LAKEWARD
22 FACING SLOPE OF THE CRITICAL DUNE ON A SLOPE OF LESS THAN 12% ON
23 A NONCONFORMING LOT OF RECORD THAT IS RECORDED PRIOR TO THE
24 EFFECTIVE DATE OF THIS SECTION WHICH HAS BOUNDARIES THAT LIE
25 ENTIRELY ON THE FIRST LAKEWARD FACING SLOPE OF THE DUNE THAT IS
26 NOT A FOREDUNE.

1 (C) A VARIANCE SHALL NOT BE GRANTED UNLESS THE DEPARTMENT
2 FINDS THAT THERE ARE CONDITIONS REGARDING THE SITE THAT INDICATE
3 BOTH OF THE FOLLOWING:

4 (i) THAT UNREASONABLE HARDSHIP WILL OCCUR TO THE OWNER OF
5 THE SITE IF A VARIANCE IS NOT GRANTED.

6 (ii) THAT THE GRANTING OF A VARIANCE IS CONSISTENT WITH THIS
7 ACT AND ITS INTENT AND THE RULES PROMULGATED UNDER THIS ACT.

8 SEC. 23. (1) UPON ADOPTION OF A COMMISSION CRITICAL DUNE
9 AREA ZONING PLAN PURSUANT TO SECTION 22, THAT PLAN SHALL BE IN
10 EFFECT IN THE CRITICAL DUNE AREAS COVERED BY THE PLAN. PRIOR TO
11 COMMENCING ANY USE OF A CRITICAL DUNE AREA, A PERSON SHALL OBTAIN
12 A PERMIT FROM THE DEPARTMENT FOR THE PROPOSED USE.

13 (2) WITHIN 60 DAYS OF THE PROMULGATION OF RULES UNDER
14 SECTION 19, THE DIRECTOR SHALL ESTABLISH PERMIT APPLICATION AND
15 REVIEW PROCEDURES AS MAY BE NECESSARY TO IMPLEMENT THIS SECTION.
16 THE PUBLIC SHALL BE PROVIDED REASONABLE NOTICE OF PERMIT APPLICA-
17 TIONS FOR PERMITS FILED UNDER THIS SECTION AND AN OPPORTUNITY TO
18 COMMENT ON THE APPLICATIONS. THE DIRECTOR SHALL NOTIFY THE LOCAL
19 UNIT OF GOVERNMENT IN WHICH THE PROPOSED CRITICAL DUNE AREA USE
20 IS TO BE LOCATED AND SHALL SOLICIT AND CONSIDER THE COMMENTS AND
21 CONCERNS OF THE LOCAL UNIT OF GOVERNMENT BEFORE PERMITTING A PRO-
22 POSED USE. THE DIRECTOR SHALL MAKE A DECISION ON A PERMIT APPLI-
23 CATION WITHIN 60 DAYS OF RECEIPT OF A COMPLETED APPLICATION OR
24 WITHIN 90 DAYS IF A PUBLIC HEARING IS HELD.

25 SEC. 24. (1) THE LAWFUL USE OF LAND OR A STRUCTURE, AS
26 EXISTING AND LAWFUL WITHIN A CRITICAL DUNE AREA AT THE TIME A
27 COMMISSION PLAN IS ADOPTED PURSUANT TO SECTION 22, MAY BE

1 CONTINUED ALTHOUGH THE USE OF THAT LAND OR STRUCTURE DOES NOT
2 CONFORM TO THE PROVISIONS OF THE PLAN. THE COMMISSION SHALL PRO-
3 VIDE IN THE PLAN FOR THE CONTINUANCE, COMPLETION, RESTORATION,
4 RECONSTRUCTION, EXTENSION, OR SUBSTITUTION OF EXISTING NONCON-
5 FORMING USES OF LAND OR A STRUCTURE UPON REASONABLE TERMS.
6 DIFFERENT CLASSES OF NONCONFORMING USES MAY BE ESTABLISHED IN THE
7 PLAN WITH DIFFERENT REGULATIONS APPLICABLE TO EACH CLASS. THE
8 LAWFUL USE OF LAND OR A STRUCTURE, AS EXISTING AND LAWFUL WITHIN
9 A LOCAL UNIT OF GOVERNMENT THAT HAS A CRITICAL DUNE AREA ZONING
10 ORDINANCE APPROVED BY THE COMMISSION UNDER SECTION 21, MAY BE
11 CONTINUED SUBJECT TO THE PROVISIONS OF LAW PERTAINING TO EXISTING
12 USES WITHIN THE ACT THAT ENABLES THAT LOCAL UNIT OF GOVERNMENT TO
13 ZONE.

14 (2) STATE OWNED LAND LOCATED WITHIN A CRITICAL DUNE AREA
15 SHALL BE MANAGED AND ADMINISTERED IN ACCORDANCE WITH THIS ACT AND
16 THE RULES PROMULGATED PURSUANT TO SECTION 19.

17 (3) A USE NEEDED TO OBTAIN OR MAINTAIN A PERMIT OR LICENSE
18 THAT IS REQUIRED BY LAW TO CONTINUE OPERATING AN ELECTRIC UTILITY
19 GENERATING FACILITY THAT IS IN EXISTENCE ON THE EFFECTIVE DATE OF
20 THIS SECTION SHALL NOT BE PRECLUDED UNDER THIS ACT.

21 (4) USES DESCRIBED IN SECTION 25A THAT ARE LAWFULLY IN EXIS-
22 TENCE AT A SITE WHEN THE SITE BECOMES SUBJECT TO THIS ACT AS A
23 CRITICAL DUNE AREA MAY BE CONTINUED. THE CONTINUANCE, COMPLE-
24 TION, RESTORATION, RECONSTRUCTION, EXTENSION, OR SUBSTITUTION OF
25 THOSE EXISTING USES SHALL BE PERMITTED UPON REASONABLE TERMS PRE-
26 SCRIBED BY THE DIRECTOR.

1 SEC. 25. UPON ADOPTION OF A CRITICAL DUNE AREA ZONING
2 ORDINANCE APPROVED PURSUANT TO SECTION 21 OR A COMMISSION PLAN
3 ADOPTED PURSUANT TO SECTION 22, CERTIFIED COPIES OF THE MAPS
4 SHOWING CRITICAL DUNE AREAS, EXISTING DEVELOPMENT AND USES, AND
5 RESTRICTIONS ON USE SHALL BE FILED BY THE DIRECTOR WITH THE STATE
6 TAX COMMISSION AND THE ASSESSING OFFICE, PLANNING COMMISSION, AND
7 GOVERNING BOARD OF THE LOCAL UNIT OF GOVERNMENT.

8 SEC. 25A. EXCEPT AS PROVIDED IN SECTION 24, THE FOLLOWING
9 USES SHALL BE PROHIBITED IN A CRITICAL DUNE AREA:

10 (A) A SURFACE DRILLING OPERATION THAT IS UTILIZED FOR THE
11 PURPOSE OF EXPLORING FOR OR PRODUCING HYDROCARBONS OR NATURAL
12 BRINE OR FOR THE DISPOSAL OF THE WASTE OR BY-PRODUCTS OF THE
13 OPERATION.

14 (B) PRODUCTION FACILITIES REGULATED PURSUANT TO THE MINERAL
15 WELL ACT, ACT NO. 315 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS
16 319.211 TO 319.236 OF THE MICHIGAN COMPILED LAWS, AND ACT NO. 61
17 OF THE PUBLIC ACTS OF 1939, BEING SECTIONS 319.1 TO 319.27 OF THE
18 MICHIGAN COMPILED LAWS.

19 SEC. 26. (1) A LOCAL UNIT OF GOVERNMENT OR THE COMMISSION
20 MAY ESTABLISH A USE PERMIT AND INSPECTION FEE. THE FEE ESTAB-
21 LISHED SHALL NOT EXCEED THE COSTS OF INSPECTION AND THE COSTS OF
22 PROCESSING AN APPLICATION FOR A PERMIT.

23 (2) FEES COLLECTED BY THE COMMISSION UNDER THIS SECTION
24 SHALL BE DEPOSITED IN THE STATE TREASURY AND CREDITED TO THE GEN-
25 ERAL FUND TO BE USED TO DEFRAY THE COST OF ADMINISTERING THE SEC-
26 TIONS OF THIS ACT THAT DO NOT PERTAIN TO SAND DUNE MINING.

1 (3) FEES COLLECTED BY A LOCAL UNIT OF GOVERNMENT SHALL BE
2 CREDITED TO THE TREASURY OF THE LOCAL UNIT OF GOVERNMENT TO BE
3 USED TO DEFRAY THE COST OF ADMINISTERING USES UNDER THIS ACT.

4 (4) A LOCAL UNIT OF GOVERNMENT OR THE DIRECTOR MAY REQUIRE
5 THE HOLDER OF A PERMIT GRANTED UNDER THIS SECTION TO FILE WITH
6 THE DIRECTOR A BOND EXECUTED BY AN APPROVED SURETY IN THIS STATE
7 IN AN AMOUNT NECESSARY TO ASSURE FAITHFUL CONFORMANCE WITH THE
8 PERMIT.

9 SEC. 27. (1) IF THE DIRECTOR FINDS THAT A PERSON IS NOT IN
10 COMPLIANCE WITH THIS ACT, THE RULES PROMULGATED UNDER THIS ACT,
11 OR A PROVISION OF A PERMIT ISSUED UNDER THIS ACT, THE DIRECTOR
12 MAY SUSPEND OR REVOKE THE PERMIT.

13 (2) AT THE REQUEST OF THE DIRECTOR OR ANY PERSON, THE ATTOR-
14 NEY GENERAL MAY INSTITUTE AN ACTION FOR A RESTRAINING ORDER OR
15 INJUNCTION OR OTHER APPROPRIATE REMEDY TO PREVENT OR PRECLUDE A
16 VIOLATION OF THIS ACT, THE RULES PROMULGATED UNDER THIS ACT, A
17 PERMIT, OR A CRITICAL DUNE AREA ZONING ORDINANCE APPROVED PURSU-
18 ANT TO SECTION 21. THIS SHALL BE IN ADDITION TO THE RIGHTS PRO-
19 VIDED IN THE THOMAS J. ANDERSON, GORDON ROCKWELL ENVIRONMENTAL
20 PROTECTION ACT OF 1970, ACT NO. 127 OF THE PUBLIC ACTS OF 1970,
21 BEING SECTIONS 691.1201 TO 691.1207 OF THE MICHIGAN COMPILED
22 LAWS, AND AS OTHERWISE PROVIDED BY LAW. AN ACTION UNDER THIS
23 SUBSECTION MAY BE INSTITUTED IN THE CIRCUIT COURT FOR THE COUNTY
24 OF INGHAM OR IN THE COUNTY IN WHICH THE DEFENDANT IS LOCATED,
25 RESIDES, OR IS DOING BUSINESS.

26 (3) IN ADDITION TO ANY OTHER RELIEF PROVIDED BY THIS
27 SECTION, THE COURT MAY IMPOSE ON A PERSON WHO VIOLATES THIS ACT,

1 A RULE PROMULGATED UNDER THIS ACT, A PROVISION OF A PERMIT, OR A
2 CRITICAL DUNE AREA ZONING ORDINANCE APPROVED PURSUANT TO
3 SECTION 21 A CIVIL FINE OF NOT MORE THAN \$5,000.00 FOR EACH DAY
4 OF VIOLATION OR ORDER A VIOLATOR TO PAY THE FULL COST OF RESTORA-
5 TION OR THE REPLACEMENT OF ANY CRITICAL DUNE AREA OR OTHER NATU-
6 RAL RESOURCE THAT IS DAMAGED OR DESTROYED AS A RESULT OF A VIOLA-
7 TION, OR BOTH.

8 SEC. 28. THE COMMISSION OR LOCAL UNITS OF GOVERNMENT MAY
9 ACQUIRE LANDS OR INTERESTS IN LANDS IN CRITICAL DUNE AREAS FOR
10 THE PURPOSE OF MAINTAINING OR IMPROVING THE CRITICAL DUNE AREAS
11 AND ITS ENVIRONMENT IN CONFORMANCE WITH THE PURPOSES OF THE COM-
12 MISSION RULES. INTERESTS THAT MAY BE ACQUIRED MAY INCLUDE EASE-
13 MENTS DESIGNED TO PROVIDE FOR THE PRESERVATION OF CRITICAL DUNE
14 AREAS AND TO LIMIT OR ELIMINATE DEVELOPMENT IN CRITICAL DUNE
15 AREAS.

16 SEC. 29. (1) PRIVATE PROPERTY SHALL NOT BE TAKEN FOR PUBLIC
17 USE WITHOUT JUST COMPENSATION BEING MADE TO THE OWNER.

18 (2) FOR THE PURPOSE OF DETERMINING IF PRIVATE PROPERTY HAS
19 BEEN TAKEN FOR PUBLIC USE WITHOUT JUST COMPENSATION UNDER THIS
20 ACT, AN OWNER OF PROPERTY WHO HAS SOUGHT AND BEEN DENIED A
21 PERMIT, WHO HAS HAD A PERMIT APPLICATION MODIFIED OR CONDITIONS
22 ATTACHED TO A PERMIT, OR WHO IS AGGRIEVED BY AN ACTION OR INAC-
23 TION OF THE DEPARTMENT MAY FILE AN ACTION IN A COURT OF COMPETENT
24 JURISDICTION.

25 (3) IF THE COURT DETERMINES THAT AN ACTION OF THE DEPARTMENT
26 PURSUANT TO THIS ACT RESULTS IN TAKING PRIVATE PROPERTY FOR A
27 PUBLIC USE WITHOUT JUST COMPENSATION, THEN THE COURT SHALL AWARD

1 REASONABLE ATTORNEY FEES, COSTS, AND DISBURSEMENTS AND SHALL
2 ORDER THE DEPARTMENT TO DO 1 OR MORE OF THE FOLLOWING:

3 (A) COMPENSATE THE PROPERTY OWNER FOR THE FULL AMOUNT OF THE
4 LOST VALUE.

5 (B) PURCHASE THE PROPERTY IN THE PUBLIC INTEREST AS DETER-
6 MINED BEFORE ITS VALUE WAS AFFECTED BY THIS ACT OR THE
7 DEPARTMENT'S ACTION OR INACTION PURSUANT TO THIS ACT.

8 (C) MODIFY ITS ACTION OR INACTION WITH RESPECT TO THE PROP-
9 ERTY SO AS TO MINIMIZE THE DETRIMENTAL EFFECT TO THE PROPERTY'S
10 VALUE.

11 Section 2. Section 14 of Act No. 222 of the Public Acts of
12 1976, being section 281.664 of the Michigan Compiled Laws, is
13 repealed.