

SUBSTITUTE FOR
SENATE BILL NO. 894

A bill to amend 2006 PA 110, entitled
"Michigan zoning enabling act,"
by amending sections 205 and 514 (MCL 125.3205 and 125.3514),
section 205 as amended by 2012 PA 389 and section 514 as added by
2012 PA 143.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 205. (1) A zoning ordinance is subject to all of the
2 following:

3 (a) The electric transmission line certification act, 1995 PA
4 30, MCL 460.561 to 460.575.

5 (b) The regional transit authority act, 2012 PA 387, MCL
6 124.541 TO 124.558.

7 (c) **THE SMALL WIRELESS COMMUNICATIONS FACILITIES DEPLOYMENT**
8 **ACT.**

9 (2) A county or township shall not regulate or control the

1 drilling, completion, or operation of oil or gas wells or other
2 wells drilled for oil or gas exploration purposes and shall not
3 have jurisdiction with reference to the issuance of permits for the
4 location, drilling, completion, operation, or abandonment of such
5 wells.

6 (3) An ordinance shall not prevent the extraction, by mining,
7 of valuable natural resources from any property unless very serious
8 consequences would result from the extraction of those natural
9 resources. Natural resources shall be considered valuable for the
10 purposes of this section if a person, by extracting the natural
11 resources, can receive revenue and reasonably expect to operate at
12 a profit.

13 (4) A person challenging a zoning decision under subsection
14 (3) has the initial burden of showing that there are valuable
15 natural resources located on the relevant property, that there is a
16 need for the natural resources by the person or in the market
17 served by the person, and that no very serious consequences would
18 result from the extraction, by mining, of the natural resources.

19 (5) In determining under this section whether very serious
20 consequences would result from the extraction, by mining, of
21 natural resources, the standards set forth in ~~Silva v Ada Township,~~
22 **Silva v Ada Township**, 416 Mich 153 (1982), shall be applied and all
23 of the following factors may be considered, if applicable:

24 (a) The relationship of extraction and associated activities
25 with existing land uses.

26 (b) The impact on existing land uses in the vicinity of the
27 property.

1 (c) The impact on property values in the vicinity of the
2 property and along the proposed hauling route serving the property,
3 based on credible evidence.

4 (d) The impact on pedestrian and traffic safety in the
5 vicinity of the property and along the proposed hauling route
6 serving the property.

7 (e) The impact on other identifiable health, safety, and
8 welfare interests in the local unit of government.

9 (f) The overall public interest in the extraction of the
10 specific natural resources on the property.

11 (6) Subsections (3) to (5) do not limit a local unit of
12 government's reasonable regulation of hours of operation, blasting
13 hours, noise levels, dust control measures, and traffic, not
14 preempted by part 632 of the natural resources and environmental
15 protection act, 1994 PA 451, MCL 324.63201 to 324.63223. However,
16 such regulation shall be reasonable in accommodating customary
17 mining operations.

18 (7) This act does not limit state regulatory authority under
19 other statutes or rules.

20 Sec. ~~3514.~~**514.** (1) Wireless communications equipment is a
21 permitted use of property and is not subject to special land use
22 approval or any other approval under this act if all of the
23 following requirements are met:

24 (a) The wireless communications equipment will be collocated
25 on an existing wireless communications support structure or in an
26 existing equipment compound.

27 (b) The existing wireless communications support structure or

1 existing equipment compound is in compliance with the local unit of
2 government's zoning ordinance or was approved by the appropriate
3 zoning body or official for the local unit of government.

4 (c) The proposed collocation will not do any of the following:

5 (i) Increase the overall height of the wireless communications
6 support structure by more than 20 feet or 10% of its original
7 height, whichever is greater.

8 (ii) Increase the width of the wireless communications support
9 structure by more than the minimum necessary to permit collocation.

10 (iii) Increase the area of the existing equipment compound to
11 greater than 2,500 square feet.

12 (d) The proposed collocation complies with the terms and
13 conditions of any previous final approval of the wireless
14 communications support structure or equipment compound by the
15 appropriate zoning body or official of the local unit of
16 government.

17 (2) Wireless communications equipment that meets the
18 requirements of subsection (1) (a) and (b) but does not meet the
19 requirements of subsection (1) (c) or (d) is a permitted use of
20 property if it receives special land use approval under subsections
21 (3) to (6).

22 (3) An application for special land use approval of wireless
23 communications equipment described in subsection (2) shall include
24 all of the following:

25 (a) A site plan as required under section 501, including a map
26 of the property and existing and proposed buildings and other
27 facilities.

1 (b) Any additional relevant information that is specifically
2 required by a zoning ordinance provision described in section
3 502(1) or 504.

4 (4) After an application for a special land use approval is
5 filed with the body or official responsible for approving special
6 land uses, the body or official shall determine whether the
7 application is administratively complete. Unless the body or
8 official proceeds as provided under subsection (5), the application
9 shall be considered to be administratively complete when the body
10 or official makes that determination or 14 business days after the
11 body or official receives the application, whichever is first.

12 (5) If, before the expiration of the 14-day period under
13 subsection (4), the body or official responsible for approving
14 special land uses notifies the applicant that the application is
15 not administratively complete, specifying the information necessary
16 to make the application administratively complete, or notifies the
17 applicant that a fee required to accompany the application has not
18 been paid, specifying the amount due, the running of the 14-day
19 period under subsection (4) is tolled until the applicant submits
20 to the body or official the specified information or fee amount
21 due. The notice shall be given in writing or by electronic
22 notification. A fee required to accompany any application shall not
23 exceed the local unit of government's actual, reasonable costs to
24 review and process the application or \$1,000.00, whichever is less.

25 (6) The body or official responsible for approving special
26 land uses shall approve or deny the application not more than 60
27 days after the application is considered to be administratively

1 complete. If the body or official fails to timely approve or deny
2 the application, the application shall be considered approved and
3 the body or official shall be considered to have made any
4 determination required for approval.

5 (7) Special land use approval of wireless communications
6 equipment described in subsection (2) may be made expressly
7 conditional only on the wireless communications equipment's meeting
8 the requirements of other local ordinances and of federal and state
9 laws before the wireless communications equipment begins operation.

10 (8) If a local unit of government requires special land use
11 approval for wireless communications equipment that does not meet
12 the requirements of subsection (1)(a) or for a wireless
13 communications support structure, subsections (4) to (6) apply to
14 the special land use approval process, except that the period for
15 approval or denial under subsection (6) is 90 days.

16 (9) A local unit of government may authorize wireless
17 communications equipment as a permitted use of property not subject
18 to a special land use approval.

19 **(10) THIS SECTION DOES NOT APPLY TO AN ACTIVITY OR USE THAT IS**
20 **REGULATED BY THE SMALL CELL WIRELESS COMMUNICATIONS FACILITIES**
21 **DEPLOYMENT ACT.**

22 (11) ~~(10)~~ As used in this section:

23 (a) ~~"Collocate"~~ **"COLOCATE"** means to place or install wireless
24 communications equipment on an existing wireless communications
25 support structure or in an existing equipment compound.

26 "Collocation" has a corresponding meaning.

27 (b) "Equipment compound" means an area surrounding or adjacent

1 to the base of a wireless communications support structure and
2 within which wireless communications equipment is located.

3 (c) "Wireless communications equipment" means the set of
4 equipment and network components used in the provision of wireless
5 communications services, including, but not limited to, antennas,
6 transmitters, receivers, base stations, equipment shelters,
7 cabinets, emergency generators, power supply cables, and coaxial
8 and fiber optic cables, but excluding wireless communications
9 support structures.

10 (d) "Wireless communications support structure" means a
11 structure that is designed to support, or is capable of supporting,
12 wireless communications equipment, including a monopole, self-
13 supporting lattice tower, guyed tower, water tower, utility pole,
14 or building.

15 Enacting section 1. The amendment to the indicated section
16 number of section 514 of the Michigan zoning enabling act, 2006 PA
17 110, MCL 125.3514, made by this amendatory act corrects a technical
18 error in 2012 PA 143.

19 Enacting section 2. This amendatory act takes effect 90 days
20 after the date it is enacted into law.

21 Enacting section 3. This amendatory act does not take effect
22 unless Senate Bill No. 637 of the 99th Legislature is enacted into
23 law.