

HOUSE BILL NO. 6165

November 26, 2024, Introduced by Reps. Hood, Mentzer, Dievendorf, Weiss, Morgan, Rheingans, Young, Paiz and Brenda Carter and referred to the Committee on Natural Resources, Environment, Tourism and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 35301, 35302, 35303, 35304, 35305, 35306,
35308, 35309, 35310, 35311, 35312, 35313, 35314, 35315, 35316,
35319, 35321, 35323, and 35324 (MCL 324.35301, 324.35302,
324.35303, 324.35304, 324.35305, 324.35306, 324.35308, 324.35309,
324.35310, 324.35311, 324.35312, 324.35313, 324.35314, 324.35315,
324.35316, 324.35319, 324.35321, 324.35323, and 324.35324),
sections 35301, 35302, 35304, 35305, 35306, 35310, 35311, 35312,
35313, 35316, 35319, 35321, and 35323 as amended by 2012 PA 297 and

sections 35303, 35308, 35309, 35314, 35315, and 35324 as added by 1995 PA 59, and by adding sections 35304b and 35326; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 35301. As used in this part:

2 **(a) "Atlas" means "Atlas of Critical Dunes" published by the**
3 **department of natural resources and dated February 17, 1989, as**
4 **updated pursuant to section 35311.**

5 **(b) ~~(a)~~"Contour change" includes any grading, filling,**
6 **digging, or excavating that involves more than 100 square feet or**
7 **that otherwise** significantly alters the physical characteristic of
8 a critical dune area, except that which is involved in sand dune
9 mining as defined in part 637.

10 **(c) ~~(b)~~"Crest" means the line at which the first lakeward**
11 **facing slope of a critical dune ridge breaks to a slope ~~of~~ less**
12 **steep than a 1-foot vertical rise in a 5-1/2-foot horizontal plane**
13 **for a distance of at least 20 feet, if the areal extent where this**
14 **break occurs is greater than 1/10 acre in size.**

15 **(d) ~~(e)~~"Critical dune area" means a geographic area**
16 **designated in the ~~"atlas of critical dune areas" dated February~~**
17 **~~1989 that was prepared by the department of natural~~**
18 **~~resources.~~atlas.**

19 **(e) ~~(d)~~"Department" means the department of ~~environmental~~**
20 **~~quality.~~environment, Great Lakes, and energy.**

21 **(f) "Director" means the director of the department or the**
22 **director's designee.**

23 **(g) ~~(e)~~"Foredune" means 1 or more low linear dune ridges that**
24 **are parallel and adjacent to the shoreline of a Great Lake and are**
25 **rarely greater than 20 feet in height. The lakeward face of a**

1 foredune is often gently sloping and may be vegetated with dune
2 grasses and low shrub vegetation or may have an exposed sand face.

3 ~~(f) "Model zoning plan" means the model zoning plan provided~~
4 ~~for in sections 35304 to 35309 and 35311a to 35324.~~

5 (h) ~~(g)~~ "Permit" means a permit for a use within a critical
6 dune area under this part.

7 ~~(h) "Planning commission" means the body or entity within a~~
8 ~~local government that is responsible for zoning and land use~~
9 ~~planning for the local unit of government.~~

10 (i) "Restabilization" means restoration of the natural
11 contours of a critical dune to the extent practicable, the
12 restoration of the protective vegetative cover of a critical dune
13 through the establishment of ~~indigenous~~ **native** vegetation, and the
14 placement of snow fencing or other temporary sand trapping
15 measures. ~~for the purpose of preventing erosion, drifting, and~~
16 ~~slumping of sand.~~

17 (j) "Special ~~use project~~ **use**" means any of the following:

18 (i) A proposed use in a critical dune area for an industrial or
19 commercial purpose regardless of the size of the site.

20 (ii) A multifamily use of more than 3 acres.

21 (iii) A multifamily use of 3 acres or less if the density of use
22 is greater than 4 individual residences per acre.

23 (iv) A proposed use in a critical dune area, regardless of size
24 of the use, that ~~the planning commission, or the department if a~~
25 ~~local unit of government does not have an approved zoning~~
26 ~~ordinance,~~ determines would damage or destroy features of
27 archaeological, **cultural**, or historical significance.

28 (k) "Use" means ~~a developmental,~~ **any development activity,**
29 **including, but not limited to, industrial, commercial, residential,**

1 **agricultural**, silvicultural, or recreational **development** activity,
 2 ~~done or caused to be done by a person that~~ significantly alters the
 3 physical characteristic of a critical dune area or a contour change
 4 ~~done or caused to be done~~ **made or caused** by a person. Use does not
 5 include sand dune mining as defined in part 637.

6 (l) **"Utility line" means any pipe or pipeline used for the**
 7 **transportation of any gaseous, liquid, liquescent, or slurry**
 8 **substance, for any purpose, and any cable, line, or wire for the**
 9 **transmission for any purpose of electrical energy, telephone or**
 10 **telegraph messages, or internet, radio, or television**
 11 **communication.**

12 (m) ~~(l)~~ **"Zoning ordinance"** means an ordinance of a local unit
 13 of government that regulates the ~~development~~ **use** of critical dune
 14 areas within the local unit of government. ~~pursuant to the~~
 15 ~~requirements of this part.~~

16 Sec. 35302. The legislature finds that:

17 (a) The critical dune areas of this state are a unique,
 18 irreplaceable, and fragile resource that provide significant
 19 recreational, economic, scientific, geological, scenic, botanical,
 20 educational, agricultural, and ecological benefits to the people of
 21 this state and to people from other states and countries who visit
 22 this resource.

23 ~~(b) The purpose of this part is to balance for present and~~
 24 ~~future generations the benefits of protecting, preserving,~~
 25 ~~restoring, and enhancing the diversity, quality, functions, and~~
 26 ~~values of the state's critical dunes with the benefits of economic~~
 27 ~~development and multiple human uses of the critical dunes and the~~
 28 ~~benefits of public access to and enjoyment of the critical dunes.~~
 29 ~~To accomplish this purpose, this part is intended to do all of the~~

1 following:

2 ~~(i) Ensure and enhance the diversity, quality, functions, and~~
 3 ~~values of the critical dunes in a manner that is compatible with~~
 4 ~~private property rights.~~

5 ~~(ii) Ensure sound management of all critical dunes by allowing~~
 6 ~~for compatible economic development and multiple human uses of the~~
 7 ~~critical dunes.~~

8 ~~(iii) Coordinate and streamline governmental decision-making~~
 9 ~~affecting critical dunes through the use of the most comprehensive,~~
 10 ~~accurate, and reliable information and scientific data available.~~

11 **(b) In addition to the department, local units of government**
 12 **should have the opportunity to manage critical dune areas.**

13 **(c) Industrial, commercial, residential, agricultural,**
 14 **silvicultural, or recreational use or alteration of critical dune**
 15 **areas should occur only if the protection of the environment and**
 16 **the ecology of the critical dune areas for the benefit of the**
 17 **present and future generations is assured.**

18 ~~Sec. 35303. (1) As soon as practicable following July 5, 1989,~~
 19 ~~the department shall notify by mail each local unit of government~~
 20 ~~that has within its jurisdiction critical dune areas, and include a~~
 21 ~~copy of the "atlas of critical dune areas" dated February 1989 and~~
 22 ~~a copy of former Act No. 222 of the Public Acts of 1976 with the~~
 23 ~~notice. By October 1, 1989, the department shall mail a copy of the~~
 24 ~~same notice to each property owner of record who owns property~~
 25 ~~within a critical dune area. The notices shall include the~~
 26 ~~following information:~~

27 ~~(1) (a) That designated property within the local unit of~~
 28 ~~government~~ **Upon revision of the atlas, the department shall notify**
 29 **each property owner of record that owns property that has been**

1 newly designated or removed from designation as a critical dune
 2 area that the property is a critical dune area that the use of
 3 which is subject to regulation by the department under former Act
 4 No. 222 of the Public Acts of 1976. **this part.**

5 ~~(b) That a local unit of government may adopt a zoning~~
 6 ~~ordinance that is approved by the department, or, if the local unit~~
 7 ~~of government does not have an approved ordinance, the use of the~~
 8 ~~critical dune area will be regulated by the department under the~~
 9 ~~model zoning plan.~~

10 ~~Upon the request of~~ **If requested by** the department, a
 11 local unit of government shall ~~supply~~ **provide** to the department the
 12 address of each property owner of record who owns property within a
 13 critical dune area within its jurisdiction in a timely manner, ~~that~~
 14 ~~enables to enable~~ the department to provide notice to the property
 15 owners as required under subsection (1).

16 Sec. 35304. (1) A person shall not ~~initiate~~ **undertake** a use
 17 within a critical dune area ~~unless the person obtains a permit from~~
 18 ~~the local unit of government in which the critical dune area is~~
 19 ~~located or the department if the department issues permits as~~
 20 ~~provided under subsection (7). A permit for a use within a critical~~
 21 ~~dune area is subject to all of the following:~~

22 ~~(a) A person proposing a use within a critical dune area shall~~
 23 ~~file an application with the local unit of government, or with the~~
 24 ~~department if the department is issuing permits under the model~~
 25 ~~zoning plan. **except as authorized by a permit issued by the**~~
 26 ~~department pursuant to part 13.~~

27 **(2) Before filing an application, a person may request a**
 28 **meeting with the department as provided in section 35304b.**

29 **(3) The application ~~form~~ for the permit shall include**

1 information necessary to conform with the requirements of this
2 part. If a project proposes the use of more than 1 critical dune
3 area location within a local unit of government, 1 application may
4 be filed for the uses.

5 ~~(b) The local unit of government shall provide notice of an~~
6 ~~application filed under this section to each person who makes a~~
7 ~~written request to the local unit of government for notification of~~
8 ~~pending applications. The local unit of government may charge an~~
9 ~~annual fee for providing this notice. The local unit of government~~
10 ~~shall prepare a monthly list of the applications made during the~~
11 ~~previous month and shall promptly provide copies of the list for~~
12 ~~the remainder of the calendar year to the persons who have~~
13 ~~requested notice. In addition, if the department issues permits~~
14 ~~under this part within a local unit of government, **required by**~~
15 **section 35313. The application shall be accompanied by an**
16 **application fee, in the following amount, subject to subsections**
17 **(4) and (5):**

18 (a) Except as otherwise provided in this subsection,
19 \$2,000.00.

20 (b) For uses meeting the requirements of a minor project
21 category established under subsection (10), \$300.00.

22 (c) For uses meeting the requirements of a general permit
23 category established under subsection (11), \$150.00.

24 (d) For a special use, \$4,000.00.

25 (4) If work has been done in violation of a permit requirement
26 under this part, the department shall consider accepting and may
27 accept an application for a permit if the application is
28 accompanied by a fee equal to twice the application fee otherwise
29 required under this section.

1 (5) Beginning January 1, 2028 and by January 1 every 3 years
 2 after 2028, the department shall adjust the current fees by an
 3 amount, rounded to the nearest 5 dollars, determined by the state
 4 treasurer at the end of the preceding fiscal year to reflect the
 5 cumulative percentage change in the Detroit Consumer Price Index
 6 for the most recent 3-year period for which data is available for
 7 the Detroit area from the United States Department of Labor, Bureau
 8 of Labor Statistics.

9 (6) If, within 30 days after the department notifies the
 10 applicant under section 1305(2), or a longer period agreed to by
 11 the applicant and the department in writing, the applicant fails to
 12 submit the specified information or fee amount requested by the
 13 department, the department may consider the application to be
 14 withdrawn and the application to be closed.

15 (7) The department shall post on its publicly accessible
 16 website an updated list of pending permit applications and public
 17 hearings under this part. The department shall establish a process
 18 to provide notice of the list by first-class mail to persons who
 19 request notification. The department shall give notice of an
 20 application ~~shall also be given by first-class mail to all of the~~
 21 following:

- 22 (a) ~~The~~ local conservation district office. ~~the~~
 23 (b) ~~The~~ county clerk. ~~the~~
 24 (c) ~~The~~ county health department. ~~and the~~
 25 (d) ~~The~~ local unit of government in which the ~~property~~
 26 **proposed use is to be** located. ~~The monthly list shall state the~~
 27 ~~name and address of each applicant, the location of the applicant's~~
 28 ~~project, and a summary statement of the purpose of the use. The~~
 29 ~~local unit of government may hold a public hearing on pending~~

1 applications.

2 (e) The owners of property adjacent to or within 500 feet of
3 the property where the proposed use is located.

4 (8) ~~(e) The notice~~ **Notice under subsection (7)** shall state
5 that, unless a written request is filed with the ~~local unit of~~
6 ~~government~~ **department** within 20 days after the notice is sent, the
7 ~~local unit of government~~ **department** may grant the application
8 without a public hearing. ~~Upon~~ **However, the department may issue a**
9 **conditional permit before the expiration of the 20-day period if**
10 **emergency conditions warrant a use to protect property or the**
11 **public health, safety, or welfare.**

12 (9) On the **timely** written request of 2 or more persons ~~who~~
13 ~~that~~ own real property **or reside** within ~~2 miles of the project, the~~
14 **local unit of government where the proposed use is to be located or**
15 **an adjacent local unit of government,** the ~~local unit of government~~
16 **department** shall hold a public hearing ~~pertaining to~~ **on** a permit
17 application.

18 ~~(d) At~~ **The department shall give at least 10 days' notice of a**
19 **the time, date, location, and purpose of the hearing to be held**
20 ~~pursuant to this section shall be given by publication in 1 or more~~
21 newspapers of general circulation in the county in which the
22 proposed use is to be located. ~~, And by providing~~ **In addition, the**
23 **department shall give notice of the hearing to all of the**
24 **following:**

25 (a) **The persons who have that** requested notice pursuant to
26 ~~subdivision (b) And to the person requesting~~ **subsection (7).**

27 (b) **The persons that requested** the hearing.

28 (c) **The owners of property adjacent to or within 500 feet of**
29 **the property where the proposed use is located.**

1 (10) After providing notice and an opportunity for a public
2 hearing, the department may establish minor project categories of
3 uses that are similar in nature, that have minimal adverse
4 environmental effects when performed separately, and that will have
5 only minimal cumulative adverse effects on the environment. The
6 department may act upon an application for a use within a minor
7 project category without providing notices pursuant to subsection
8 (7) or (9). All other provisions of this part, except subsection
9 (11), are applicable to a minor project.

10 (11) After providing notice and an opportunity for a public
11 hearing, the department may issue general permits on a statewide
12 basis or within a local unit of government for uses that are
13 similar in nature, that will cause only minimal adverse
14 environmental effects when performed separately, and that will only
15 have minimal cumulative adverse effects on the environment. Before
16 authorizing a specific use to proceed under a general permit, the
17 department may provide notice pursuant to subsection (7) but shall
18 not hold a public hearing and shall not typically require a site
19 inspection. A general permit issued under this subsection shall not
20 be valid for more than 5 years.

21 (12) The department may issue, deny, or impose conditions on a
22 use authorized under a minor project category or a general permit
23 if the conditions are designed to remove an impairment to the
24 critical dune area or to mitigate the effects of the project. The
25 department may also establish a reasonable time when the proposed
26 use is to be completed or terminated.

27 (13) If the department determines that a project, although
28 within a minor project category or a general permit, is likely to
29 cause more than minimal adverse environmental effects, the

1 department may require that the application be processed as
2 provided in subsection (9).

3 (14) If, within 30 days after receiving notice under
4 subsection (7), a local unit of government with authority over
5 zoning notifies the department in writing that it opposes the
6 issuance of a permit based on the criteria in section 35316, the
7 department shall deny the application for the permit, subject to
8 section 1307(6). The department shall not make a decision on the
9 application within the 30-day period unless the local unit of
10 government with authority over zoning has commented on the
11 application or waived its opportunity to comment, in writing.

12 ~~(c) After the filing of an application, the local unit of~~
13 ~~government shall grant or deny the permit within 60 days, or within~~
14 ~~90 days if a public hearing is held. If a permit is denied, the~~
15 ~~local unit of government shall provide to the applicant a concise~~
16 ~~written statement of its reasons for denial of the permit, and if~~
17 ~~it appears that a minor modification of the application would~~
18 ~~result in the granting of the permit, the nature of the~~
19 ~~modification shall be stated. In an emergency, the local unit of~~
20 ~~government may issue a conditional permit before the expiration of~~
21 ~~the 20-day period referred to in subdivision (c).~~

22 ~~(f) The local unit of government shall base a decision to~~
23 ~~grant or deny a permit under this section on the model zoning plan~~
24 ~~or on any existing ordinance that is in effect in the local unit of~~
25 ~~government that provides a substantially equivalent level of~~
26 ~~protection for critical dune areas and that is approved by the~~
27 ~~department.~~

28 ~~(g) Subject to section 35316, a permit shall be approved~~
29 ~~unless the local unit of government or the department determines~~

~~1 that the use will significantly damage the public interest on the
2 privately owned land, or, if the land is publicly owned, the public
3 interest in the publicly owned land, by significant and
4 unreasonable depletion or degradation of any of the following:~~

~~5 (i) The diversity of the critical dune areas within the local
6 unit of government.~~

~~7 (ii) The quality of the critical dune areas within the local
8 unit of government.~~

~~9 (iii) The functions of the critical dune areas within the local
10 unit of government.~~

~~11 (2) The decision of the local unit of government or the
12 department with respect to a permit shall be in writing and shall
13 be based upon evidence that would meet the standards in section 75
14 of the administrative procedures act of 1969, 1969 PA 306, MCL
15 24.275. A decision denying a permit shall document, and any review
16 upholding the decision shall determine, all of the following:~~

~~17 (a) That the local unit of government or the department has
18 met the burden of proof under subsection (1).~~

~~19 (b) That the decision is based upon sufficient facts or data.~~

~~20 (c) That the decision is the product of reliable scientific
21 principles and methods.~~

~~22 (d) That the decision has applied the principles and methods
23 reliably to the facts.~~

~~24 (e) That the facts or data upon which the decision is based
25 are recorded in the file.~~

~~26 (3) A permit shall not be granted that authorizes construction
27 of a dwelling or other permanent building on the first lakeward
28 facing slope of a critical dune area or foredune except on a lot of
29 record that was recorded prior to July 5, 1989 that does not have~~

1 ~~sufficient buildable area landward of the crest to construct the~~
 2 ~~dwelling or other permanent building as proposed by the applicant.~~
 3 ~~The proposed construction, to the greatest extent possible, shall~~
 4 ~~be placed landward of the crest. The portion of the development~~
 5 ~~that is lakeward of the crest shall be placed in the location that~~
 6 ~~has the least impact on the critical dune area.~~

7 ~~(4) Except as provided in subsection (3), a permit shall~~
 8 ~~provide that a use that is a structure shall be constructed behind~~
 9 ~~the crest of the first landward ridge of a critical dune area that~~
 10 ~~is not a foredune. However, if construction occurs within 100 feet~~
 11 ~~measured landward from the crest of the first landward ridge that~~
 12 ~~is not a foredune, the use shall meet all of the following~~
 13 ~~requirements:~~

14 ~~(a) The structure and access to the structure shall be in~~
 15 ~~accordance with a site plan prepared for the site by a registered~~
 16 ~~professional architect or a licensed professional engineer and the~~
 17 ~~site plan shall provide for the disposal of storm waters without~~
 18 ~~serious soil erosion and without sedimentation of any stream or~~
 19 ~~other body of water.~~

20 ~~(b) Access to the structure shall be from the landward side of~~
 21 ~~the dune.~~

22 ~~(c) The dune shall be restabilized with indigenous vegetation.~~

23 ~~(d) The crest of the dune shall not be reduced in elevation.~~

24 ~~(5) As soon as possible following adoption of a zoning~~
 25 ~~ordinance enacted pursuant to this part, the local unit of~~
 26 ~~government shall submit to the department a copy of the ordinance~~
 27 ~~that it determines meets the requirements of this part. If the~~
 28 ~~local unit of government has an existing ordinance that it contends~~
 29 ~~is substantially equivalent to the model zoning plan, that~~

1 ~~ordinance may be submitted to the department at any time. The~~
2 ~~department shall review zoning ordinances submitted under this~~
3 ~~section to assure compliance with this part. If the department~~
4 ~~finds that an ordinance is not in compliance with this part, the~~
5 ~~department shall work with the local unit of government to bring~~
6 ~~the ordinance into compliance and inform the local unit of the~~
7 ~~failure to comply and in what ways the submitted ordinance is~~
8 ~~deficient. Unless a local unit of government receives notice,~~
9 ~~within 180 days after submittal of the ordinance to the department~~
10 ~~under this subsection, that the ordinance is not in compliance with~~
11 ~~this part, the ordinance shall be considered to be approved by the~~
12 ~~department.~~

13 ~~(6) A local unit of government may adopt, submit to the~~
14 ~~department, and obtain approval of a zoning ordinance based on the~~
15 ~~model zoning plan or an equivalent ordinance as provided in this~~
16 ~~section by June 30, 1990. If a local unit does not have an approved~~
17 ~~ordinance by June 30, 1990, the department shall implement the~~
18 ~~model zoning plan for that local unit of government in the same~~
19 ~~manner and under the same circumstances as provided in subsection~~
20 ~~(1). Notwithstanding any other provision of this part, a local unit~~
21 ~~of government may adopt a zoning ordinance at any time, and upon~~
22 ~~the approval of the department, that ordinance shall take the place~~
23 ~~of the model zoning plan implemented by the department.~~

24 ~~(7) If a local unit of government in which a proposed use is~~
25 ~~to be located does not elect to issue permits or does not receive~~
26 ~~department approval of a zoning ordinance that regulates critical~~
27 ~~dune areas, the department shall implement the model zoning plan in~~
28 ~~the place of the local unit of government and issue special~~
29 ~~exceptions in the same circumstances as provided in this part for~~

1 ~~the issuance of variances by local units of government, and issue~~
 2 ~~permits pursuant to subsection (1) and part 13.~~

3 ~~(8) The department shall assist local units of government in~~
 4 ~~developing ordinances that meet the requirements of this part.~~

5 **Sec. 35304b. (1)** If a preapplication meeting is requested in
 6 writing by a landowner or another person who is authorized in
 7 writing by the landowner, the department shall meet with the person
 8 or the person's representatives to review a proposed use or a
 9 proposed permit application under this part in its entirety. The
 10 preapplication meeting shall take place at the department's
 11 district office for the district that includes the use site or at
 12 the use site itself, as specified in the request.

13 (2) A request for a preapplication meeting shall be
 14 accompanied by a fee. The fee for a preapplication meeting at the
 15 district office is \$150.00. The fee for a preapplication meeting at
 16 the use site is \$300.00 for the first acre or portion of an acre of
 17 use area, plus \$50.00 for each acre or portion of an acre in excess
 18 of the first acre, but not to exceed a fee of \$2,500.00. If the
 19 location of the use is a single-family residential lot that is less
 20 than 1 acre in size, there is a \$50.00 fee for a preapplication
 21 meeting at the district office, and the fee for a preapplication
 22 meeting at the use site is \$200.00. Fees under this subsection are
 23 subject to adjustment as provided in section 35304(5).

24 (3) If the person withdraws the request at least 24 hours
 25 before the preapplication meeting, the department may agree with
 26 the person to reschedule the meeting or shall promptly refund the
 27 fee and need not meet as provided in this section. Otherwise, if,
 28 after agreeing to the time and place for a preapplication meeting,
 29 the person requesting the meeting is not represented at the

1 meeting, the person shall forfeit the fee for the meeting. If,
 2 after agreeing to the time and place for a preapplication meeting,
 3 the department is not represented at the meeting, the department
 4 shall refund the fee and send a representative to a rescheduled
 5 meeting to be held within 10 days after the first scheduled meeting
 6 date.

7 (4) Any written agreement provided by the department as a
 8 result of the preapplication meeting regarding the need to obtain a
 9 permit under this part is binding on the department for 2 years
 10 after the date of the agreement.

11 Sec. 35305. (1) ~~If an applicant for a permit or a special~~
 12 ~~exception or the owner of the property immediately adjacent to the~~
 13 ~~proposed use~~ **a person** is aggrieved by a decision of the department
 14 in regard to the issuance or denial of a permit ~~or special~~
 15 ~~exception~~ under this part, the ~~applicant or owner~~ **person** may
 16 request a formal hearing on the matter. ~~involved.~~ The hearing shall
 17 be conducted by the department as a contested case hearing in the
 18 manner provided for in the administrative procedures act of 1969,
 19 1969 PA 306, MCL 24.201 to 24.328.

20 (2) Following the hearing provided for under subsection (1), a
 21 decision of the department in regard to the issuance or denial of a
 22 permit ~~or special exception~~ under this part is subject to judicial
 23 review as provided for in the administrative procedures act of
 24 1969, 1969 PA 306, MCL 24.201 to 24.328.

25 Sec. 35306. (1) The lawful use of land or a structure, as
 26 existing and lawful within a critical dune area ~~at the time the~~
 27 ~~department implements the model zoning plan for a local unit of~~
 28 ~~government,~~ **on July 5, 1989,** may be continued. ~~although the use of~~
 29 ~~that land or structure does not conform to the model zoning plan.~~

1 ~~The continuance, completion, restoration, reconstruction,~~
 2 ~~extension, or substitution of existing nonconforming uses of land~~
 3 ~~or a structure may continue upon reasonable terms that are~~
 4 ~~consistent, to the extent possible, with the applicable zoning~~
 5 ~~provisions of the local unit of government in which the use is~~
 6 ~~located.~~

7 ~~(2) The lawful use of land or a structure, as existing and~~
 8 ~~lawful within a local unit of government that has a zoning~~
 9 ~~ordinance approved by the department, may, but is not required by~~
 10 ~~this part to, be continued subject to the law pertaining to~~
 11 ~~existing uses within the act that enables that local unit of~~
 12 ~~government to zone and the applicable zoning provisions of the~~
 13 ~~local unit of government.~~

14 ~~(3) A use needed to obtain or maintain a permit or license~~
 15 ~~that is required by law to continue operating an electric utility~~
 16 ~~generating facility that is in existence on July 5, 1989 shall not~~
 17 ~~be precluded under this part.~~

18 ~~(2) (4) A use needed to maintain, repair, or replace existing~~
 19 ~~utility lines, pipelines, or other utility facilities~~ **a utility**
 20 **line** within a critical dune area ~~that were~~ **if the utility line was**
 21 **in existence on July 5, 1989, or were** ~~was~~ **constructed in accordance**
 22 **compliance** with a permit under this part, is exempt **from this part**
 23 **and rules promulgated under this part** for purposes for which the
 24 permit was issued ~~from the operation of this part or a local~~
 25 ~~ordinance approved under this part if the maintenance, repair, or~~
 26 ~~replacement is completed~~ **if the person undertaking the use does**
 27 **both of the following:**

28 **(a) Notifies the department in writing not less than 30 days**
 29 **before commencing the work. If the work is time sensitive, the**

1 department may provide written approval to commence work before the
2 30-day period ends.

3 (b) Performs the work in compliance with all of the following:

4 (i) ~~(a)~~ Vehicles shall not be driven on ~~slopes greater~~ a slope
5 steeper than a 1-foot vertical rise in a 3-foot horizontal plane.

6 (ii) ~~(b)~~ All disturbed areas shall be immediately stabilized
7 and revegetated with native vegetation following completion of work
8 to prevent erosion.

9 (iii) ~~(c)~~ Any removal of woody vegetation shall be done in a
10 manner to ~~assure~~ ensure that any adverse effect on the dune will be
11 minimized and will not significantly alter the physical
12 characteristics or stability of the dune.

13 (iv) ~~(d)~~ To accomplish replacement of replace a utility pole,
14 the new pole shall be placed adjacent to the existing pole, and the
15 existing pole shall be removed by cutting at ground level.

16 (v) ~~(e)~~ In the case of repair of Repair or replacement of an
17 underground utility wires, the repair wire shall be limited to
18 accomplished by the minimal excavation necessary to replace the
19 wires by plowing, small trench excavation, or directional boring
20 only. Replacement However, repair or replacement of wires on slopes
21 an underground utility wire on a slope steeper than a 1-foot
22 vertical rise in a 4-foot horizontal plane shall be limited to
23 installation by plowing, if the distance is not more than 1,000
24 feet, or directional boring only.

25 (vi) ~~(f)~~ In the case of repair Repair or replacement of an
26 underground pipelines, pipeline shall be accomplished by the
27 minimal necessary directional boring shall be utilized, and if
28 only. However, if excavation is necessary to access and bore the
29 pipeline, the excavation area shall be located on slopes not

1 **steeper than a** 1-foot vertical rise in a 4-foot horizontal plane.
 2 ~~or less.~~

3 ~~(5) Uses that have received all necessary permits from the~~
 4 ~~state or the local unit of government in which the proposed use is~~
 5 ~~located by July 5, 1989, are exempt for purposes for which a permit~~
 6 ~~is issued from the operation of this part or local ordinances~~
 7 ~~approved under this part. Such uses shall be regulated pursuant to~~
 8 ~~local ordinances in effect by that date.~~

9 Sec. 35308. (1) Except as provided in subsection (2), the
 10 following uses ~~shall be~~**are** prohibited in a critical dune area:

11 (a) A surface drilling operation that is utilized for the
 12 purpose of exploring for or producing hydrocarbons or natural brine
 13 or for the disposal of the waste or by-products of the operation.

14 (b) Production facilities regulated under ~~parts~~**part** 615 ~~and~~
 15 **or** 625.

16 (2) Uses described in subsection (1) that are lawfully in
 17 existence at a site on July 5, 1989 may be continued. ~~The~~
 18 ~~continuance, completion, restoration, reconstruction, extension, or~~
 19 ~~substitution of those existing uses shall be permitted upon~~
 20 ~~reasonable terms prescribed by the department.~~

21 Sec. 35309. ~~(1) A local unit of government, or the department~~
 22 ~~if the local unit of government does not have an approved zoning~~
 23 ~~ordinance, may establish a use permit and inspection fee.~~

24 **(1)** ~~(2)~~The department shall forward all fees it collects
 25 under this ~~section~~**part** to the state treasurer for deposit in the
 26 land and water management permit fee fund created in part 301.

27 **(2)** ~~(3)~~Fees collected by a local unit of government **under a**
 28 **zoning ordinance described in section 35312** shall be credited to
 29 the treasury of the local unit of government ~~to be~~**and** used to

1 defray the cost of administering uses under a zoning ordinance.

2 ~~(3) (4) In addition to fees provided for in this section, a~~
 3 ~~soil-~~**A** conservation district may charge a separate fee to cover the
 4 actual expense of providing services under this part and for
 5 providing technical assistance and advice to individuals who seek
 6 assistance in matters pertaining to compliance under this part.

7 ~~(4) (5) A local unit of government ,~~**with a zoning ordinance**
 8 **described in section 35312** or the department ~~if the local unit of~~
 9 ~~government does not have an approved zoning ordinance,~~ may require
 10 the holder of a permit issued by ~~a~~**the** local unit of government or
 11 the department, **respectively**, to file with the local unit of
 12 government or the department, **respectively**, a bond executed by an
 13 approved surety in this state in an amount necessary to ~~assure~~
 14 ~~faithful conformance~~**ensure compliance** with the permit.

15 Sec. 35310. (1) If the department finds that a person is not
 16 in compliance with ~~the model zoning plan if the department is~~
 17 ~~implementing the plan, or if the department is involved in the~~
 18 ~~modification or reversal of a decision regarding a special use~~
 19 ~~project as provided in section 35322,~~ **a permit issued under this**
 20 **part**, the department may suspend or revoke the permit.

21 (2) At the request of the department **or another person**, the
 22 attorney general may institute an action for a restraining order or
 23 injunction or other appropriate remedy to prevent ~~or preclude a~~
 24 violation of ~~the model zoning plan if the department is~~
 25 ~~implementing the provisions of the plan or if the department is~~
 26 ~~involved in the modification or reversal of a decision regarding a~~
 27 ~~special use project as provided in section 35322. At the request of~~
 28 ~~the governing body of a local unit of government, the county~~
 29 ~~prosecutor may institute an action for a restraining order or~~

1 ~~injunction or other proper remedy to prevent a violation of a~~
 2 ~~zoning ordinance approved under this part. This shall be **this part.**~~
 3 **The authority provided under this subsection is** in addition to the
 4 ~~rights **that** provided in part 17, and as otherwise provided by law.~~
 5 An action under this subsection instituted by the attorney general
 6 may be instituted in the circuit court for the county of Ingham or
 7 in the county in which the defendant is located, resides, or is
 8 doing business.

9 ~~(3) The department shall periodically review the performance~~
 10 ~~of all local units of government that have ordinances approved~~
 11 ~~under this part. If the department determines that the local unit~~
 12 ~~of government is not administering the ordinance in conformance~~
 13 ~~with this part, the department shall notify the local unit of~~
 14 ~~government in writing of its determination, including specific~~
 15 ~~reasons why the local unit of government is not in compliance. The~~
 16 ~~local unit of government has 60 days to respond to the department.~~
 17 ~~If the department determines that the local unit of government has~~
 18 ~~not made sufficient changes to its ordinance administration or~~
 19 ~~otherwise explained its actions, the department may withdraw the~~
 20 ~~approval of the local ordinance and implement the model zoning plan~~
 21 ~~within that local unit of government. If a local unit disagrees~~
 22 ~~with an action of the department to withdraw approval of the local~~
 23 ~~ordinance, it may appeal that action pursuant to the administrative~~
 24 ~~procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, in the~~
 25 ~~manner provided in that act for contested cases.~~

26 ~~(3) (4)~~—In addition to any other relief provided by this
 27 section, the court may impose on a person ~~who~~**that** violates this
 28 part ~~,~~ or a permit **issued under this part** ~~,~~ a civil fine of not
 29 more than \$5,000.00 for each day of violation, or may order a

1 violator to pay the full cost of restabilization of a critical dune
 2 area or other natural resource that is damaged or destroyed as a
 3 result of a violation, or both.

4 **(4)** ~~(5)~~—A person who violates this part ~~, or a person who~~
 5 ~~violates~~ **or** a permit issued under this part ~~, is~~ guilty of a
 6 misdemeanor, punishable by a fine of not more than \$5,000.00 per
 7 day ~~for each day of violation.~~

8 Sec. 35311. ~~Beginning with the effective date of the 2012 act~~
 9 ~~that amended this section and once every 10 years thereafter, the~~
 10 ~~department may appoint a team of qualified ecologists, who may be~~
 11 ~~employed by the department or may be persons with whom the~~
 12 ~~department enters into contracts, to review "the atlas of critical~~
 13 ~~dune areas" dated February 1989. The review team shall evaluate the~~
 14 ~~accuracy of the designations of critical dune areas within the~~
 15 ~~atlas and shall recommend to the legislature any changes to the~~
 16 ~~atlas or underlying criteria revisions to the atlas that would~~
 17 ~~provide more precise protection to the targeted resource.~~ **After**
 18 **providing notice and an opportunity for a public hearing, the**
 19 **department may issue an update to the atlas to improve the accuracy**
 20 **of the designations of critical dune areas or to revise the**
 21 **underlying criteria to provide more precise protection to dunes.**
 22 **The department shall not update the atlas more than once every 5**
 23 **years. The issuance of an update is subject to appeal under the**
 24 **administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to**
 25 **24.328.**

26 Sec. 35312. (1) **A** ~~After consulting with the local conservation~~
 27 **district, a** local unit of government that has 1 or more critical
 28 dune areas within its jurisdiction may ~~formulate~~ **adopt** a zoning
 29 ordinance **that regulates critical dune areas,** pursuant to the

1 Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to
 2 125.3702. **Regulation of a critical dune area under a zoning**
 3 **ordinance is in addition to regulation under this part.**

4 (2) A zoning ordinance shall ~~consist of all of the provisions~~
 5 ~~of the model zoning plan or comparable provisions that provide~~
 6 ~~substantially equivalent protection~~ **be at least as protective** of
 7 critical dune areas as **this part.** ~~the model zoning plan but shall~~
 8 ~~not be more restrictive than the model zoning plan or the standard~~
 9 ~~of review for permits or variances prescribed in the model zoning~~
 10 ~~plan.~~

11 (3) A local unit of government may ~~by an affirmative vote of~~
 12 ~~its governing body following a public hearing regulate additional~~
 13 ~~lands as critical dune areas under this part as considered~~
 14 ~~appropriate by the planning commission if the lands are determined~~
 15 ~~by the local unit of government to be essential to the hydrology,~~
 16 ~~ecology, topography, or integrity of a critical dune area. A local~~
 17 ~~unit of government shall provide within its zoning ordinance for~~
 18 ~~the protection of lands that are within 250 feet of a critical dune~~
 19 ~~area, if those lands are determined by the local unit of government~~
 20 ~~to be essential to the hydrology, ecology, topography, or integrity~~
 21 ~~of a critical dune area.~~

22 (4) If a local unit of government does not have an approved
 23 zoning ordinance, the department may regulate additional lands
 24 described in subsection (3). However, the lands added by the
 25 department shall not extend more than 250 feet from the landward
 26 boundary of a critical dune area, unless, following a public
 27 hearing, an affirmative vote of the governing body of the local
 28 unit of government authorizes a further extension. If the director
 29 determines that the mapping of a critical dune area designated in

1 ~~the "atlas of critical dune areas" dated February 1989 was~~
 2 ~~inaccurate, the department may regulate additional lands. However,~~
 3 ~~the lands added by the department shall not extend more than 250~~
 4 ~~feet from the landward boundary of a critical dune area.~~

5 (3) The department may regulate additional lands that are not
 6 more than 1,000 feet landward of the existing critical dune area
 7 and that the department determines are essential to the hydrology,
 8 ecology, topography, or integrity of a critical dune area.

9 (4) If the director determines that the mapping of a critical
 10 dune area was inaccurate, the department may designate additional
 11 lands as critical dune area or remove existing lands from critical
 12 dune area designation. The director may make such a determination
 13 on the director's initiative or if a local unit of government or
 14 other person submits to the department a detailed study and report
 15 that supports the determination. The report shall include
 16 information on hydrology, ecology, topography, or other
 17 characteristics of the area that warrant the proposed change in
 18 critical dune area. The department shall notify affected property
 19 owners of the changes as required under section 35303(1).

20 (5) The director shall certify a change in critical dune area
 21 under subsection (4) as an addendum to the atlas. The addendum
 22 shall be incorporated into the body of the atlas when the atlas is
 23 updated under section 35311. However, the addendum itself is
 24 subject to the update process.

25 Sec. 35313. ~~(1) A zoning ordinance shall require that all~~
 26 ~~applications for permits for the use of a critical dune area~~
 27 ~~include in writing~~ **An application for a permit under section 35304**
 28 **shall include** all of the following:

29 (a) ~~That~~ **A copy of a permit for the use under part 91 or a**

1 **written statement from** the county **or municipal** enforcing agency
2 designated pursuant to part 91 ~~finds that the project is in~~
3 ~~compliance with~~ **that a permit is not required under** part 91 ~~and or~~
4 any applicable soil erosion and sedimentation control ordinance
5 that is in effect in the local unit of government.

6 (b) ~~That a~~ **A copy of the county health department's or the**
7 **department's approval of any** proposed sewage treatment or disposal
8 system on the site ~~has been approved by the county health~~
9 ~~department or the department.~~ **property or a written statement from**
10 **the county health department or the department that approval is not**
11 **required.**

12 (c) Assurances that the cutting and removing of trees and
13 other vegetation will be performed according to the ~~"forestry~~
14 ~~management guidelines for Michigan"~~ prepared by the society of
15 American foresters in 1987 as revised in 2010 and may include a
16 ~~program to provide mitigation for the removal of trees or~~
17 ~~vegetation by providing assurances that the applicant will plant on~~
18 ~~the site more trees and other vegetation than were removed by the~~
19 ~~proposed use.~~ **best management practices approved by the department,**
20 **which may require mitigation for the removal of trees and other**
21 **vegetation.**

22 (d) A site plan that contains data ~~required by the planning~~
23 ~~commission concerning the physical development of the site~~ **property**
24 and extent of disruption of the ~~site~~ **property** by the proposed
25 ~~development.~~ **project. The site plan shall include the proposed**
26 **restabilization of the property including vegetation replacement,**
27 **invasive species control, and spoils disposal.**

28 (e) Plans prepared by a licensed professional engineer,
29 **registered professional architect, or licensed professional**

1 landscape architect for all of the following:

2 (i) Any impacts on slopes steeper than a 1-foot vertical rise
3 in a 4-foot horizontal plane.

4 (ii) Any grading, filling, digging, or excavating that is at or
5 below groundwater depth or that is within 1,000 feet of an inland
6 lake or stream as defined in section 30101.

7 (f) A stormwater management plan.

8 (g) An environmental assessment under section 35319 if either
9 of the following applies:

10 (i) The use is a special use.

11 (ii) The environmental assessment is requested by the
12 department.

13 ~~(2) A local unit of government or the department shall not~~
14 ~~require an environmental site assessment or environmental impact~~
15 ~~statement as part of a permit application except for a special use~~
16 ~~project.~~

17 Sec. 35314. ~~(1) A zoning ordinance shall provide for all of~~
18 ~~the following:~~

19 ~~(a) Lot size, width, density, and front and side setbacks.~~

20 ~~(b) Storm water drainage that provides for disposal of~~
21 ~~drainage water without serious erosion.~~

22 ~~(c) Methods for controlling erosion from wind and water.~~

23 ~~(d) Restabilization.~~

24 ~~(2) Each zoning ordinance shall provide that a use that~~
25 ~~proposes a subdivision development shall be reviewed by the local~~
26 ~~unit of government to assure compliance with all of the model~~
27 ~~zoning plan.~~

28 (1) A permit issued under this part is valid for a term
29 specified in the permit, but not more than 5 years.

1 (2) The department may establish a reasonable time when the
2 construction, development, or use authorized under any permit
3 issued under this part is to be completed or terminated.

4 (3) The department may impose on a permit, or authorization
5 under a general permit under this part, conditions designed to
6 remove, reduce, or mitigate an impairment to critical dune area
7 benefits that would otherwise result from the project.

8 Sec. 35315. ~~A zoning ordinance~~**The department** shall not permit
9 either of the following uses in a critical dune area:

10 (a) The disposal of sewage on-site unless the standards of
11 applicable sanitary codes are met or exceeded.

12 (b) A use that does not comply with the minimum setback
13 requirements required by rules that are promulgated under part 323.

14 Sec. 35316. ~~(1) Unless a variance is granted pursuant to~~
15 ~~section 35317, a zoning ordinance shall not permit the following~~
16 ~~uses in a critical dune area:~~

17 ~~(a) A structure and access to the structure on a slope within~~
18 ~~a critical dune area that has a slope that measures from a 1-foot~~
19 ~~vertical rise in a 4-foot horizontal plane to less than a 1-foot~~
20 ~~vertical rise in a 3-foot horizontal plane, unless the structure~~
21 ~~and access to the structure are in accordance with a site plan~~
22 ~~prepared for the site by a registered professional architect or a~~
23 ~~licensed professional engineer and the site plan provides for the~~
24 ~~disposal of storm waters without serious soil erosion and without~~
25 ~~sedimentation of any stream or other body of water.~~

26 ~~(b) A use on a slope within a critical dune area that has a~~
27 ~~slope steeper than a 1-foot vertical rise in a 3-foot horizontal~~
28 ~~plane.~~

29 ~~(c) A use involving a contour change if the local unit of~~

1 ~~government or the department determines that it is more likely than~~
2 ~~not to increase erosion or decrease stability.~~

3 ~~(d) Silvicultural practices, as described in the "forest~~
4 ~~management guidelines for Michigan", prepared by the society of~~
5 ~~American foresters as revised in 2010, if the local unit of~~
6 ~~government or the department determines that they are more likely~~
7 ~~than not to increase erosion or decrease stability.~~

8 ~~(e) A use that involves a vegetation removal if the local unit~~
9 ~~of government or the department determines that it is more likely~~
10 ~~than not to increase erosion or decrease stability.~~

11 (1) A person shall not undertake a use in a critical dune area
12 without a permit from the department.

13 (2) A permit shall not be approved under this part unless the
14 department determines all of the following:

15 (a) An unacceptable disruption will not result to the benefits
16 the critical dune area provides.

17 (b) A feasible and prudent alternative does not exist.

18 (c) Issuance of the permit is in the public interest.

19 (3) In determining whether or not a use is in the public
20 interest, the benefits that reasonably may be expected to accrue
21 from the use shall be balanced against the reasonably foreseeable
22 detriments. The following general criteria shall be considered:

23 (a) The extent and permanence of the beneficial or detrimental
24 effects that the use may have on the public and private uses to
25 which the area is suited, including the benefits the critical dune
26 area provides.

27 (b) The availability of feasible and prudent alternative
28 locations and methods.

29 (c) The probable effects of each proposal in relation to the

1 cumulative effects created by other existing and anticipated
2 activities.

3 (d) The probable effects on recognized historic, cultural,
4 scenic, ecological, socioeconomic, and recreational values.

5 (e) The extent to which slopes steeper than a 1-foot vertical
6 rise in a 4-foot horizontal plane and hydrology are impacted.

7 (f) Impacts to the coastal processes that support the health
8 of the critical dune area.

9 (g) The human health and safety need for the proposed
10 activity.

11 (h) The number, types, and rare or imperiled status of the
12 natural communities present on the property.

13 (i) Fragmentation and other impacts on natural communities.

14 (j) The presence of threatened and endangered species.

15 (k) Hydrological and/or hydrogeological impacts.

16 (l) The natural plant communities present on the property and
17 the extent of proposed vegetation removal.

18 (m) The extent of existing development of the property.

19 (n) The presence or absence of invasive species.

20 (o) The size and orientation of proposed structures and
21 driveways relative to sensitive features.

22 (p) Proposed stormwater control measures.

23 (q) The extent of soil disturbance and of proposed grade
24 change.

25 (r) Elements of the proposed use that would impede the free
26 movement of sand.

27 (4) A permit shall not be issued by the department for a
28 building or other permanent structure on the first lakeward slope
29 of a critical dune area or foredune.

1 (5) A use that is a structure shall be constructed behind the
2 crest of the first landward ridge of a critical dune area that is
3 not a foredune. However, if construction occurs within 100 feet
4 measured landward from the crest of the first landward ridge that
5 is not a foredune, the applicant shall demonstrate that the
6 proposed use meets all of the following requirements:

7 (a) The use will not destabilize the critical dune area.

8 (b) Contour changes and vegetative removal are limited to that
9 essential to siting the structure and access to the structure.

10 (c) Access to the structure is from the landward side of the
11 dune.

12 (d) The dune is restabilized with native vegetation.

13 (e) Construction techniques and methods are employed that
14 mitigate the impact on the dune.

15 (f) The elevation of the crest of the dune is not affected.

16 (6) ~~(2)~~ If the ~~local unit of government~~ **department** is not
17 certain of the degree of slope on a property for which a use permit
18 is sought, the ~~local unit~~ **department** may require that the applicant
19 supply contour maps of the ~~site~~ **property** with 5-foot intervals at
20 or near any proposed structure or roadway **or consult with the local**
21 **conservation district regarding the degree of slope.**

22 (7) ~~(3)~~ The department shall develop guidelines to describe
23 the method by which the department ~~and local units of government~~
24 ~~measure~~ **measures** slopes ~~to implement the requirements of the zoning~~
25 ~~ordinance or the model zoning plan.~~ **under this part.**

26 (8) ~~(4)~~ If a person is ordered by the department ~~, or by a~~
27 ~~local unit of government that is enforcing a zoning ordinance~~
28 ~~authorized under this part,~~ to restore a critical dune area that
29 has been degraded by that person, the department ~~or local unit of~~

1 ~~government~~ shall establish a procedure by which the restoration of
 2 the critical dune area is monitored to ~~assure~~ **ensure** that the
 3 restoration is completed in a satisfactory manner.

4 Sec. 35319. ~~The zoning ordinance shall provide that if~~ **If** an
 5 environmental assessment is required under section 35313, ~~that~~
 6 ~~assessment~~ **it** shall include the following information concerning
 7 the ~~site~~ **property that is the location** of the proposed use:

8 (a) The name and address of the applicant.

9 (b) A description of the applicant's proprietary interest in
 10 the ~~site~~ **property**.

11 (c) The name, address, and professional qualifications of the
 12 person preparing the environmental assessment. ~~and his or her~~
 13 ~~opinion as to whether the proposed development of the site is~~
 14 ~~consistent with protecting features of environmental sensitivity~~
 15 ~~and archaeological or historical significance that may be located~~
 16 ~~on the site.~~

17 (d) **A legal description of the property.**

18 (e) **A physical description of the property, including its**
 19 **dominant characteristics, its vegetative character, its present**
 20 **use, and other relevant information.**

21 (f) ~~(d)~~ **The** ~~A~~ description and **the** purpose of the proposed use.

22 ~~(e)~~ ~~The location of existing utilities and drainageways.~~

23 (g) **A summary of the features of environmental sensitivity and**
 24 **archaeological, historical, and cultural significance on the**
 25 **property and the impact of the proposed use on those features.**

26 (h) **An invasive species site review including survey, methods**
 27 **of containment during and after construction, decontamination**
 28 **procedures, and prevention and monitoring measures.**

29 (i) **A natural hazards review consisting of a list of natural**

1 hazards, such as periodic flooding, poor soil bearing conditions,
2 and any other hazards peculiar to the property.

3 (j) An analysis of the impacts to the coastal processes that
4 support the health of the critical dune area.

5 (k) A proposed vegetation plan to stabilize and control the
6 impacted surface areas to prevent wind erosion and the blowing of
7 surface material

8 (l) A site plan including all of the following:

9 (i) A topographic survey with 5-foot contour intervals.

10 (ii) Existing physical and natural features.

11 (iii) Proposed changes of land forms, such as terracing or
12 excavation.

13 (iv) The approximate location and type of existing and proposed
14 surface drainage patterns.

15 (v) ~~(f)~~ The ~~general~~ location and approximate dimensions of
16 existing and proposed structures, utilities, roads, open space,
17 vegetation management, spoils disposal, and any other uses.

18 ~~(g) Major proposed change of land forms such as new lakes,~~
19 ~~terracing, or excavating.~~

20 ~~(h) Sketches showing the scale, character, and relationship of~~
21 ~~structures, streets or driveways, and open space.~~

22 ~~(i) Approximate location and type of proposed drainage, water,~~
23 ~~and sewage facilities.~~

24 ~~(j) Legal description of property.~~

25 ~~(k) A physical description of the site, including its dominant~~
26 ~~characteristics, its vegetative character, its present use, and~~
27 ~~other relevant information.~~

28 ~~(l) A natural hazards review consisting of a list of natural~~
29 ~~hazards such as periodic flooding, poor soil bearing conditions,~~

1 ~~and any other hazards peculiar to the site.~~

2 ~~(m) An erosion review showing how erosion control will be~~
3 ~~achieved and illustrating plans or programs that may be required by~~
4 ~~any existing soil erosion and sedimentation ordinance.~~

5 ~~Sec. 35321. A zoning ordinance shall provide that, in~~
6 ~~reviewing a site plan required under section 35313(1)(d), the~~
7 ~~planning commission shall do both of the following:~~

8 ~~(a) Determine whether the requirements of the zoning ordinance~~
9 ~~have been met and whether the plan is consistent with existing~~
10 ~~laws.~~

11 ~~(b) Recommend alterations of a proposed development to~~
12 ~~minimize adverse effects anticipated if the development is approved~~
13 ~~and to assure compliance with all applicable state and local~~
14 ~~requirements.~~

15 **(1) The department may make minor revisions in a permit issued**
16 **under this part if all of the following apply:**

17 **(a) The use is in compliance with the permit and this part.**

18 **(b) The minor revisions are requested by the permittee in**
19 **writing.**

20 **(c) The request is accompanied by a fee of \$500.00, or, for**
21 **uses that are within a minor project category or general permit**
22 **category, \$100.00. Fees under this subdivision are subject to**
23 **adjustment as provided in section 35304(5).**

24 **(d) If the request is for a transfer of the permit, the**
25 **request is accompanied by a written agreement between the current**
26 **and new owners or operators containing a specific date for transfer**
27 **of responsibility, coverage, and liability under the permit.**

28 **(2) The department shall approve or deny the request within 20**
29 **business days. However, if the only minor revision requested is a**

1 transfer under subsection (4) (a), the department shall approve or
 2 deny the request within 10 business days. If the department fails
 3 to approve or deny the request within the time required by this
 4 subsection, the department shall refund the fee.

5 (3) If the department determines that none of the changes
 6 requested are minor revisions, the department shall retain the fee
 7 but the permittee may apply the fee toward a new permit for a use
 8 at that site.

9 (4) As used in this section, "minor revision" means either of
 10 the following with respect to a permit issued under this part:

11 (a) A transfer.

12 (b) A revision that does not increase the overall impact of a
 13 use on critical dunes and that is within the scope of the use as
 14 described in the original permit.

15 Sec. 35323. ~~A~~ **If** a structure or use located in a critical dune
 16 area ~~that~~ is destroyed by fire, other than arson for which the
 17 owner is found to be responsible, or an act of nature, except for
 18 erosion, **the rebuilding or replacement of the structure or use** is
 19 exempt from ~~the operation of this part or a zoning ordinance under~~
 20 ~~this part for the purpose of rebuilding or replacing the structure~~
 21 ~~or use,~~ if **all of the following apply:**

22 (a) **The** structure or use was lawful at the time it was
 23 constructed or commenced. ~~A replacement structure and its use may~~
 24 ~~differ from that which was destroyed if it~~

25 (b) **The structure** does not exceed in size or scope that which
 26 was destroyed.

27 (c) **The structure does not vary from its prior use.**

28 Sec. 35324. ~~Federally owned land, to~~ **To** the extent allowable
 29 by law, ~~and state~~ **federally** owned land within critical dune areas

1 shall be managed by the federal ~~or state~~ government ~~, respectively,~~
2 in a manner that is consistent with ~~the model zoning plan.~~**this**
3 **part.**

4 **Sec. 35326. The department may promulgate rules to implement**
5 **this part under the administrative procedures act of 1969, 1969 PA**
6 **306, MCL 24.201 to 24.328.**

7 Enacting section 1. Sections 35307, 35311a, 35311b, 35317,
8 35320, 35322, and 35325 of the natural resources and environmental
9 protection act, 1994 PA 451, MCL 324.35307, 324.35311a, 324.35311b,
10 324.35317, 324.35320, 324.35322, and 324.35325, are repealed.