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CLARE COUNTY  
COOPERATIVE EXTENSION SERVICE  
COURTHOUSE, HARRISON, MICH.

# *Your Community and* TOWNSHIP ZONING

By Louis A. Wolfanger

*"If you are planning for one year, grow grain,  
If you are planning for ten years, grow trees,  
If you are planning for a hundred years, grow men."* ✓  
—Chinese Proverb

MICHIGAN STATE COLLEGE :: AGRICULTURAL EXPERIMENT STATION  
SECTIONS OF SOIL SCIENCE AND CONSERVATION INSTITUTE  
EAST LANSING

(See page 2 for explanation of this aerial photograph.)





A committee of local leaders discussing community land-use problems.

(Photo: A. W. Otterbein)

*Aerial Photograph on Page 1: Aerial view of an agricultural area near a city in southern Michigan in the process of developing as a rural residence community. The surface is undulating to gently rolling. The productive soils favored the early use of this land for agriculture, and rectangular fields, it may be noted, still occupy the greater part of the area. However, the construction of a truck-line highway across the northern part of the area, the rolling surface, and the urge of many city workers to have a home in the suburbs have stimulated the growth of rural residence, both in "linear communities" along the highways and in subdivisions and compacts immediately off or near the truck-line highway.*

(Photo: Agricultural Adjustment Administration)



## MY COMMUNITY, AFTER THIS WAR

*What will it be like? It will be different than it was before the war. It will be different than it is today. It is changing daily, week by week, month by month, because change is a law of life.*

*Some of my former friends and neighbors will be returning. Newcomers will be moving in. Some people will be leaving. Some uses of land will be abandoned. New uses of land will be undertaken. New businesses, new industries and other new activities will spring up. New homes, stores, churches, schools, public buildings and roads will be built.*

*Will my community develop into the kind of place I have been hoping, struggling, dreaming it would be for my children and their children?*

*Whether I wish it or not, changes will take place in my neighborhood. But by sitting down with my neighbors, by talking over our problems and hopes, by agreeing upon plans, by starting to take appropriate action now, I can give some intelligent direction to the manner in which many of the changes will take place, and help make my community the kind of place I would like to have it become.*

*I must assume that responsibility myself, not leave it to another. And I must shoulder it today, not tomorrow. My harvest of tomorrow will be the fruit of the seeds I sow today.*



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community—those priceless and intrinsic values upon which their life and welfare and the well-being of their descendants are fundamentally based. Obviously, the best time for any community to study and weigh zoning is today. Tomorrow, there will be less to conserve. The day after tomorrow, still less. If the provisions of the new zoning act are carried out faithfully, with justice and common sense, zoning offers a means for putting a good land use and conservation program into effect in any community.

Whether to zone and when to zone are questions which only the people of a township can decide for themselves. The answer to the question will largely hinge upon whether a community feels its future is better left mainly to chance or to some intelligent direction by the people of the community itself insofar as such direction is possible. Most communities that have zoned—be they city, village, township or county—express the wish they had zoned years ago. The wish arises from an appreciation that problems are easier to attack *before* they happen or become too large than afterwards. The clock can never be turned back to relive a lost day.

In many ways zoning is a kind of community well-being insurance that is better taken out while conditions are still healthy and wholesome in the community. Of course, some people feel they never will be ill, or that the day for health preservation can somehow be postponed. Some people think that way about the land and resource problems of their community. They believe that provision for the immediate day is ample. They give little thought for the morrow, and still less thought for the day after tomorrow.

The problems of one's community are not always easy to see without some thought or a sharpened eye. Some of the problems are only in the making. Others do not affect our own personal lives in any direct manner. Nor are problems the same everywhere. However, the upheaval which the war has caused and the new conditions of living which the post-war years will usher in are sowing the seeds of many new problems for every community in the state.

Rural leaders are coming to believe that the community which leaves its future to chance and which fails to plan and conserve the basic things upon which its well-being is founded is failing in its duty to its citizens, present as well as future. Such a community is permitting the peculiar advantages it has for living, work and play—three of the basic essentials of life—to run down, or to be exploited, or even be destroyed. The result is to impose unnecessary and all too costly handicaps upon its people and their descendants.

\* \* \* \* \*

Men have never been highly successful in living together in any numbers, and in building permanent, solid and durable communities without some intelligent planning and direction.

The new township zoning act merits the careful thinking and discussion of all people living in rural areas in the state interested in the future of their community. Michigan State College is neither advocating nor promoting

zoning on the part of any township. Zoning is strictly a home-rule measure. Although the College is glad to supply fact and information on zoning, it believes that the initiative and decision of whether to zone should lie entirely in the hands of the local people. Whatever action people take should, of course, be based upon a full understanding of the problems of their community and of the way in which zoning, as well as other measures, may be used to develop and conserve their interests and resources.

# Your Community and Township Zoning

By LOUIS A. WOLFANGER

## THE LAND PROBLEM: HOW SHALL WE LIVE TOGETHER?

### WE MULTIPLY

**1840** If all the land of Michigan had been equally divided and occupied one hundred years ago, each family of four would have had one section of land or one square mile *for its own use*, and each geographical or standard township (36 square miles) would have had only 134 people living in it.<sup>1</sup>

**1890** Fifty years later, if all the land had been equally divided, each family of four would no longer have had a square mile for itself, but would have been forced to *share* its square mile *with eight other families* of four. And each standard township would have had 1,322 people!

**1940** Today each square mile would have to be shared by 23 such families, and the average township would have 3,318 people!<sup>2</sup>

From an average of 134 to 1,322 to 3,318 people per standard township in a century. We have increased astonishingly.

### YESTERDAY AND TODAY

A hundred years ago no one felt particularly crowded or cared much how his neighbor was using his broad acres of land. There was more than enough room for all.

<sup>1</sup>Of course many families were larger than four in those days; therefore, each family would probably have had at least two sections of land apiece. However, since the average family of Michigan today contains approximately four persons comparisons with our own times will be rendered easier if we use the number four.

<sup>2</sup>This is counting city as well as country people. However, city people also get their living from the land even though less directly and even though their homes may not actually be located in rural areas. They likewise turn to the land for recreation and draw upon its resources for the satisfaction of many other wants in addition to mere "living." Looked at in this way, the average figure, 3,318 people per township, is a significant measure of the general pressure of population on the land and other resources of the state, even though it is recognized that it is not evenly distributed over the state, nor was it 100 years ago.

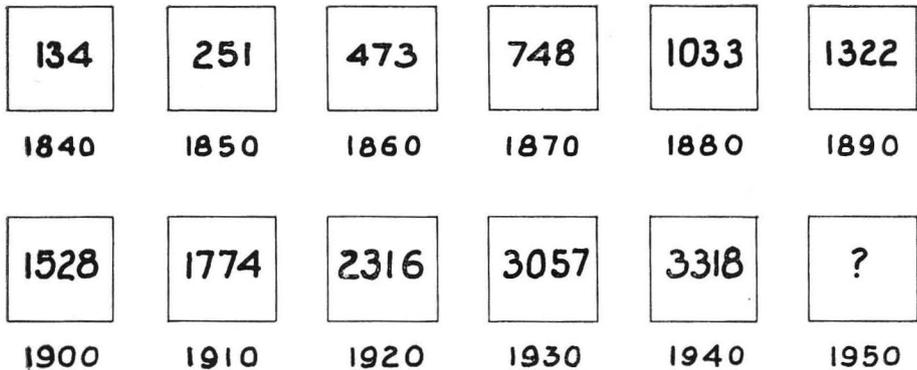
But even if we leave out the city population, we would find that nearly one-half (47%) of the 1,262 political townships into which the state is now organized had an *actual* population of 1,000 or more in 1940. Only 3 percent (36) of our political townships still have less people than the "average" township of 1840. Nearly every other political township has at least doubled, tripled, quadrupled (and so on up) the "average" of a century ago.

The following table shows the number of political townships having the larger populations:

Number	Population	Number	Population
107	3,000 and over	15	10,000 and over
42	6,000 and over	5	20,000 and over

But today, men are beginning to feel crowded; some only a trifle, others a great deal—1,000, 3,000, 6,000, 10,000 or 20,000 or more per township! (see footnote 2). There is increasing need for the people of a township to get together and agree upon how they can best live together.

Furthermore, it should be noted that the census enumerates only the people who reside or sleep in a township as its "population." But our people are highly mobile, and the non-resident and daytime people are quite as important as the "sleepers"—the people that spend a week, a month or the



*Fig. 1. Average increase in population of standard townships in Michigan by decades during the last one hundred years.*

*Each square represents a standard or geographical township (36 square miles). The number under each square stands for a census year. The number inside each square is the number of people who would have had to share the township if all the land had been equally divided between the population of the state at each census year.*

*In 1840, only 134 people would have had to share a standard township. Fifty years later, the number would have been 10 times greater. Today, it would be 25 times more than a century ago. We are crowding together in amazing numbers considering these are only average figures. (See footnote 2.)*

summer at a resort or in a cottage, or week-ends at winter sports; the bird and deer hunters; the summer and winter fishermen; the part-time farm worker, woods-worker, or mine-worker; the seasonal employee of the service industries (hotel, restaurant, guide). The use which all these people make of the land varies greatly in intensity, as some types of activity involve much more acreage than others. But nevertheless, the use is real and these people "live" in the township, while they are there, quite as much as the resident who calls it his home. Even the smaller populated townships have some land that is being increasingly used in some manner or another during some period of the year either by the local people or by some part of our non-resident, week-end or seasonal population.

### THE THIRD MIGRATION

The first quarter of the 20th century marked the close of two epoch-making migrations of the American people and the beginning of a third: (1) The mighty pioneer sweep from the eastern seaboard which led to

*Fig. 2. Aerial view of a comparatively simple rural community in southern Michigan. The land is flat except for narrow, gently undulating strips which border the natural drainageways.*

*Rectangular fields and pastures, interspersed with woodlands, form the chief type of land use. Dwellings and farm buildings are located near the roads, where they appear as tiny black-and-white rectangles. Each of the larger squares outlined by the roads is a square mile of surface.*

*The future stability of this type of community should be secured by a sound planning and zoning program.*



Photo: Agricultural Adjustment Administration

complete occupation of the United States (including Michigan) within little more than a hundred years, and (2) the great city-ward surge of people during the last half-century, which by 1940 had built 1,000 cities of 10,000 population and more over the country. Michigan has 43.

We are now in the midst of a third major migration, a live-on-the-land movement, set in motion by the motor-driven vehicle which personalized transportation. The motor vehicle freed the individual from the railroad and the interurban railway. It gave him the opportunity to choose just where he wanted to live, to work or to play. Since the advent of the motor vehicle, he has been turning back to the land in ever increasing numbers, until now most of our cities are either slowing down, or standing still, or even losing population. One-half of our so-called rural population are no longer farm people, but chiefly "non-farm" folk who make their homes on the land but do not earn more than a small part, if any, of their living by farming. If not working in some neighboring town or city, or living in retirement, they are engaged in some business enterprise other than farming that is merely located in and taking advantage of the rural environment. In turn, a number of people who were born and brought up on farms are abandoning or reducing their farming and working in town for a greater or lesser part of the year, but maintaining their home on "the farm."

### ***The Struggle for Space and Land***

What are some of the more important effects of the third migration?

Among other things, the migration has set in motion a new and widespread struggle for space and land. With the freedom of movement the automobile has brought to the city-born individual, he has been expanding into many types of rural locations—along or near the main highways, on bus lines, on pleasant hills and lake shores, along the rivers, on flat and sandy lands, on level clay lands, in wooded retreats, in new rural subdivisions.

There is keen demand for land for many uses: for agriculture, residence, business, industry, commerce, wood production, recreation, hunting, wildlife, airports, education, religion, the business of government —. And not only for one, but for many kinds of agriculture (general farming, dairying, fruit farms, truck farms, and so on) and for many kinds of industry, business, recreation and classes of residence.

### ***The Urban-Rural Fringe***

The struggle for land reaches its highest intensity in the unincorporated urban-rural fringe which surrounds both our small and large cities. This fringe develops a great variety of land uses that presently become all entangled without apparent order or plan: dairy, truck, fruit and poultry farms; string-along-the-road homes; areas of city dwellings of big and little houses; retail businesses and service establishments like restaurants, garages and filling

stations; amusement enterprises; half-acre (or one-acre, two-acre, five-acre) country homes; parks, churches, schools, public buildings, private and public institutions, and many others.

The crowding and struggle for land is creating serious problems in many fields—good water, proper sewage disposal, fire protection, police protection, enough light, air and space, health in general, transportation, education, religious service, utility service, social service, government—a long and growing list.

### *After the War*

This movement of population, temporarily slackened by the war, is one of the most significant phenomena of our times. It is changing the use of land by introducing new uses and shifting old ones. It is creating new styles of living, business, education, transportation, thinking—changing the whole fabric of society.

The current scene of the titanic struggle for land and resources in Europe and Asia is now some thousands of miles from our home communities. The close of the war, however, will shift the front lines of a struggle for space and land to our own front doors. To be sure it will be a different type of struggle, but the rivalry will nonetheless be real and in dead earnest as thousands of war-industry workers and fighting men again seek a place to live and work, a haven, a new opportunity, upon their ancient mother, the land.

During the war we have been moving men and materials under climatic conditions ranging from the hot Tropics to the cold Arctics and over terrain varying from the sands of the Sahara to rough mountainous land. We have stepped up our knowledge of water transportation. Air transportation has been revolutionized and re-revolutionized. When these experiences are translated into civilian life, an even greater impetus to the third migration, to the live-on-the-land movement of people may be expected, for it will be easier to live, carry on work, or play over even greater areas. Our people will be more mobile than men have ever been.

## MIXED LAND USES

As people press into a community and bring about the varied mixtures of land use, the effect on the community as a whole and upon each individual resident may either be beneficial, prove detrimental, or be of little or no consequence.

Some mixtures are helpful to one another or go logically together, such as schools, dwellings and playgrounds; or farms, rural villages and rural parks; or forests, summer camps and hunting areas. Other mixtures are illogical, inefficient or even contain land uses that are harmful to one another, as, for example, business establishments mixed with dwellings; or big homes

with little homes; or industry pouring its noise, dirt and fumes into homes, schools and playgrounds.

In rural areas, the quiet and charm of a farm community and the stability of its land values are frequently upset by a mushroom subdivision, or by a straggling of roadside homes built by people working in some neighboring towns. Or a new super-highway, built at great cost to the state to relieve traffic congestion, becomes strewn and crowded with all kinds of new businesses, homes, recreation attractions and other uses that spring up on adjacent property and soon destroy the fundamental usefulness of the highway. It becomes as congested as a city street.

### ***A Place for Everything***

Uses that are injurious to one another should not, and need not, be mixed. There is a proper place for everything. In late years, we have come to exercise increasing care that our crops are grown on land and in locations adapted to their peculiar needs, and that we do not associate plants that are harmful to one another, such as locating apple trees too near red cedars. But we have not been exercising the same care to insure that *each use of land*—agricultural, residential, commercial, recreational, and all the other types—is confined to its own proper place and associations in the community. Most communities seem to prefer letting matters drift, and put off taking positive action until some intolerable condition develops.

### ***The Price of Discord***

Communities gradually deteriorate in which the uses of land are not in harmony with the nature of the land and with one another and in which the residents have not taken due account of the site. Such communities provide less satisfactory conditions for living, work and play. They lack stability in property values. They frequently go through rapid changes in land use, owing to the lack of stability in land values. What is good farm land presently becomes idle and speculative, or becomes bespattered with a hodge-podge of unrelated homes and business establishments in every stage of growth and decay.

Such communities commonly yield low taxes that are too far out of proportion to the costs of public services (roads, streets, schools, health), thus throwing the burden of supporting this service upon other sound and stable land uses. These communities can be readily recognized by their "run-down" lands, homes, stores, churches, amusement facilities—in fact, "run-down" everything.

Nearly every township with even a moderate population has one or more combinations of land use that it will recognize as ideal as well as mixtures or situations that have proven to be hurtful or lamentable.

## HOW SHALL WE LIVE TOGETHER?

The war has brought thousands of new people into Michigan. Many of these may be expected to stay and make their future homes in the state. Some will choose the cities, but thousands will choose the country, distributing themselves among the people already living there and swelling the rural-ward tide to even greater numbers.

### *Drift or Direct?*

Should the future of my community and my township be left to chance? Or can it be given some intelligent direction? How should my new neighbors and I live together?

Sound and orderly development leads to system and stability—stability in land values, in agriculture, in private business, in public service and administration, in homes, in property, in people. Every community should have a *system* of transportation, a *system* of education, a *system* of recreational facilities, a *system* of public services, and so on, and not a mere motley collection of uncoordinated facilities. The system need not be complex. It could be very simple. But the point is it should be a system.

### *Creditable Growth or Blight?*

A wave of building and new enterprises will engulf many of our townships following the war. Will the new dwellings, buildings and structures bring credit or blight to my community? Will they meet the minimum standards for fire control, health protection, safety and decency? Buildings have great value, greater generally than the land on which they stand. As building after building is erected on an area of land, the total investment can soon reach hundreds of thousands of dollars. Buildings can hurt one another, or benefit one another, just as other land uses do; only the values involved are much greater.

### *What About My Township?*

Every township in the state might well ask, and answer, the following questions:

1. How many people can our resources support under present-day conditions and in the foreseeable future?
2. What lands are best suited to the different types of agriculture?
3. What areas should be used for the different types of residence the township will have?
4. What locations should be reserved for each different kind of business, industry, recreation, public buildings?
5. What sites should be held for churches, schools, playgrounds, airports, transportation terminals, and similar needs?

6. What uses of land and what types of buildings and structures go logically together, and which should be kept separated?

The decisions which each township will, or should, reach will vary greatly because each of the following make important differences:

1. The number of people per township (500, 1,000, 3,000, 10,000 or 20,000)
2. The kind of people (for example, some national stocks are more inclined than others to truck gardening, livestock farming, some commercial enterprises, or recreational services)
3. The types of land and water resources (level or rolling, sand or clay, lakes or streams)
4. The past uses people have made of their land and resources (long established uses and customs in every community must be recognized and respected)
5. The present facilities the township has (roads, buildings, power lines, and so on)
6. The present location of everything in the township (where the people, farms, homes, business enterprises, transportation and power facilities, public sewage disposal facilities, schools, churches and other public buildings are)
7. The location of the township itself (near a city, near one of the Great Lakes, in an agricultural area, in a forest area, and so on)
8. The unused resources of the township (water frontage, uncleared land, water power, minerals, wildlife land, good residence areas)
9. The hopes, objectives and ideals of the people for their future.

Each township is a problem in itself.

## NEW PROBLEMS: NEW TOOLS

### THE PRINCIPLE OF ZONING

Zoning has long been common in cities. Faced with even greater population pressure per unit of land and with land problems both numerous and complex, our cities and incorporated villages have been finding the principle of zoning a helpful solution to many of the problems arising from people "living together" in cities.

Noting the service it was rendering to cities, rural people have recently been turning their attention to zoning as a *principle*, with the thought, that *properly adapted to rural conditions*, it might prove similarly helpful in grappling with some of the land use problems arising from people crowding into unincorporated and suburban communities or "living together" in a more simple rural community. Rural zoning seemed to offer an *action program* by which a *plan* of living together in rural areas could be given some form and being.

#### **What is Rural Zoning?**

In rural zoning, the unincorporated land of a township is divided into "Zoning Districts" on the basis of the quality of the land and its suitability for different uses; that is, according to a plan of land use. Then rules or regulations are adopted for each district in the form of a local ordinance. The regulations state the uses of land that may be carried on in each district in the future.<sup>3</sup> These uses are the uses for which the land is naturally or best adapted, and are uses that belong together. Thus some districts are assigned to farms, farming communities, rural parks and similar rural land uses that are in harmony with one another. Some are designated for rural residence (rural homes for city workers). Others are zoned for intensive recreation as resorts, summer cottages, or outdoor sports. Still others may be set up as commercial or trading centers, or selected for industrial development.

The number and types of zoning districts which any township may set up will obviously depend upon its land, resources, and people. Townships that are relatively uniform and with few people may feel the need for only two or three types of districts. Those with more complex land resources and many people may create a dozen or more. In general, the aim is to work out combinations of land uses for each district that harmonize with one another, and to locate those that clash or are out of keeping with one another in their proper place in the community.

<sup>3</sup>For meaning of "in the future," see *Is Zoning Retroactive?* page 24.

*Fig. 3. Aerial view of an early stage in the development of a rurban (urban-rural) fringe within a few miles of the borders of a city in southern Michigan. The land in the southern part of the view is dominantly flat, and is chiefly used for agriculture as indicated by its rectangular fields, pastures and woodlands. The northern part is undulating to gently rolling, and erosion is attacking the slopes.*

*A pronounced "linear habitation," or string-along-the-road type of residential development, is taking place along the main highways leading into the nearby city, and is branching off along the secondary roads.*

*This type of community needs a zoning plan and program to conserve its good farm land in agriculture, and to guide rural residence and its associated land uses to their proper sites within the area. The usefulness of a highway is reduced in proportion to its conversion into a residential or business street.*



Photo: Agricultural Adjustment Administration

### **Land Use Provisions**

While the zoning act contains a number of provisions, it is primarily a *land use program*. Under zoning, a township may govern (encourage, regulate or restrict) any use of land an operator may inaugurate or undertake on his land that is *new or different from* the uses he was making of the land when the ordinance was enacted. As will be explained somewhat more fully below, any use being made of the land at the time an ordinance was enacted may be continued indefinitely and is not subject to the provisions of the ordinance. Only *new*, or *different*, or *changed* uses may be affected.

In listing the land uses that may be governed, the enabling act itemizes only the more common ones: agriculture, forestry, recreation, residence, industry, trade, etc. However, any type of land use may be governed by the ordinance. Since it would obviously be impossible to name every kind of land use with which communities as diverse as those in Michigan might be concerned at one time or another, the enabling act merely added the phrase, "additional uses of land" after itemizing the more common types.

### **Only What's Needed**

The question often arises: "If we zone, are we going to have to adopt regulations governing all those uses of land?" That matter is left to each township to decide. In zoning, townships need not put into action regulations governing all the land uses either itemized or implied by the zoning act. They are free to select only those uses applicable to their interests or conditions. If the land use problems are chiefly in the field of agriculture, rural residence and recreation, for example; then the zoning ordinance need concern itself only with those uses.

Furthermore, in setting up a zoning district, and stating the new uses of land that may be carried on in the district, or are subject to certain regulations, the zoning ordinance may confine itself to a single use. If a given district is best used for rural residence only, or for agriculture, or industry, it may be set up on the basis of that use alone; i.e., be a one-use district. Or districts may be set up for combinations of uses (two or more) such as dwellings, schools, and playgrounds. The combination-use district is the more common. Provisions of an ordinance may also concern themselves with particular kinds or types of land uses, as poultry-farms and dairy-farms, or one-family dwellings and two-family dwellings. In other words, the provisions may be general or specific as conditions in the township require.

There is considerable misunderstanding on another point. When an area is zoned for certain land uses, as for example, if a given district is set up as an agricultural zone, then often the question arises: "Does that mean the township is going to dictate just what crops must be raised, or what practices must be followed?" Far from it! In zoning the area as an agricultural district the township merely declares, so to speak, that one of the best present uses

of the land in that zone is for agriculture. What crops are grown and what practices are followed are left entirely to the choice of the operator.

### ***Building Regulations in a Zoning Ordinance***

To many people zoning means the adoption of a building code, or a series of regulations governing the manner in which buildings may or may not be erected. This idea comes from cities where the enactment of both zoning ordinances and building codes is common. The city is frequently divided into building zones as well as land-use zones. Often the building code goes into considerable detail. In building, the average city resident becomes more concerned with the details of the building code than in the terms of zoning ordinances, with the result that the two are presently confused.

Rural zoning, however, as previously explained is first and foremost a land-use program. However, in parts of many rural areas, the best actual or potential use of land may be for buildings of one kind or another. The best example is the city fringe or suburbs, but "building land" is by no means confined to this border. It occurs in subdivisions or potential subdivisions—in scattered residential, commercial or industrial communities some distance from the city—in resort, lake-front and summer-cottage communities throughout both northern and southern Michigan—in or on the borders of the innumerable unincorporated villages of the state—and not infrequently in what might otherwise be regarded as a purely rural township.

In such instances, there is often a definite interest on the part of the community in regulating the size, location and spacing of buildings and structures in relation to one another and to adjacent streets and highways—in the uses being made or to be made of the buildings—and in their sanitary, safety and protective measures. This interest may be based upon one or more of the following considerations: the investment that is involved and the influence which buildings have on one another, fire hazards, health hazards, safety hazards, educational and recreational needs, water supply requirements, need for public and semi-public structures, or the general comfort and convenience of all the inhabitants. Unless the erection of buildings in such communities is given some degree of public guidance, the community will presently deteriorate because, as explained previously, the use and value of every building or structure in a neighborhood depends so greatly upon all of the others.

To enable a community to cope with this type of land-use problem, the zoning act permits a township to adopt certain regulations governing any dwelling, building or structure (including tents and trailer coaches) that may be erected or altered. As in the case of the land-use regulations, any such building provision affects only new buildings or structures, or those which are extensively re-modeled in the future. Any one or more of the following conditions may be included in such regulations:

1. The location, height, number of stories and size.

2. The specific uses that may be made of the building or structure.
3. The areas of yards, courts and other open spaces, including any sanitary, safety or protective measures that may be required.
4. The maximum number of families that may be housed in any building or structure (one-family, two-family dwellings, etc.).<sup>4</sup>

## LEGAL WHYS AND WHEREFORES IN ZONING

### *Legal Objectives*

Although interest in zoning may arise from one of many problems in a community, a zoning ordinance must rest upon a *plan* and that plan must be designed to meet one or more legal objectives. These objectives, quoted below, perform two functions: (1) They lay down certain legal conditions that must be met. Unless a provision of an ordinance fulfills one or more of these objectives, it will exceed the authority of the zoning act and is subject to invalidation by the courts. (2) They point out important goals or benefits that can be attained through zoning. Rural people will make a serious mistake unless they thoughtfully study and weigh each benefit as it might apply to their own land-use problems, and the hopes and plans they have for their community. Zoning offers a rich and surprising opportunity to improve living conditions that is not generally appreciated.

A zoning plan must (and can) have one or more of the following objectives:

“promote the public health, safety, morals and general welfare.”

“encourage the use of lands in accordance with their character and adaptability and to limit the improper use of land.”

“avoid the overcrowding of population.”

“provide adequate light and air.”

“lessen congestion on the public roads and streets.”

“reduce hazards to life and property.”

“facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements.”

“conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties.”

All these are worthy objectives for any community.

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<sup>4</sup>It should be noted that the regulations may govern only location, size, spacing, use and protective measures, but not construction as a whole. Where the manner of construction and the materials of construction are also important to the public well-being, a township must turn to the Township Minimum Construction Enabling Act (Act 185, P.A., 1943) which permits the adoption of an ordinance governing the minimum construction requirements: “the manner in which, and the type of materials of which dwellings, buildings and structures shall thereafter be erected or altered.” This action calls for a separate ordinance, although its provisions would be coordinated with the terms of the zoning ordinance.

### *Limitations in the Use of the Zoning Power*

In addition to the legal objectives that have just been quoted, the zoning act sets up a number of limitations that perform the important service of guarding against the unjust use of the zoning power. These limitations are in the interest of both the individual and the community.

As in every type of human relationship, the rights and privileges of both the individual and the community at large are major issues. How far should each go? The line separating one from the other is not always distinct. The American ideal is complete freedom of action but with due and sincere regard for one's neighbor and community. To promote the best use of lands of a community, best for the individual who owns or operates the land and best for the community at large, are degrees of use that are not easy to determine.

The limitations and objectives of the zoning act are among its more important provisions. But they are often forgotten or overlooked in discussing and weighing the pros and cons of zoning. Much of the debate that is sometimes carried on and the concern that is expressed on the part of some people could be settled by carefully noting and studying the legal objectives and limitations set up by the act. They should be studied, of course, in relation to the act as a whole.

The following numbered items bring together the chief limitations imposed by the act that are scattered throughout its text:

1. The provisions must be made with *reasonable* consideration, among other things to (Section 3 of the act):

“the character of each district.”

“its peculiar suitability for particular uses.”

“the general and appropriate trend and character of land, building and population development.”

2. The provisions must be “*uniform* for each class of land, or buildings, dwellings and structures, including tents and trailer coaches, throughout each district, but the provisions in one district may differ from those in other districts.” (Section 1)

3. The zone plan proposed by the zoning board must be *based upon an inventory of conditions pertinent to zoning* in the township, and the board is required “to make use of such information and counsel which may be furnished by appropriate public officials, departments or agencies, and all public officials, departments and agencies having information, maps and data pertinent to township zoning are hereby directed to make the same available for the use of the township zoning board.” (Sections 7 and 8)

4. The zoning board must hold *at least one public hearing* on the tentative zoning plan. Notices of the hearing must not only be given by two publications in the newspapers spaced at reasonable distance apart, but must also include the places and times at which the tentative text and any maps of the zoning ordinance may be examined. This enables any interested person to study the proposals and to contribute his judgment to the making of the ordinance. (Section 9)

5. The proposed ordinance must be submitted to the county zoning commission, or a coordinating zoning committee appointed by the county board of supervisors, *for approval*. It is the duty of this commission or committee to coordinate the zoning ordinances proposed for adoption by townships situated in the county, thus promoting some degree of uniformity throughout the county. (Section 10)
6. Changes in the proposed ordinance as submitted by the zoning board and approved by the county zoning commission (or coordinating zoning committee) may be made by the Township Board before it enacts the ordinance. To prevent rash changes being made, however, the Township Board is first required to submit such proposed changes to the zoning board for its advice and suggestions. (Section 11)
7. The use of any dwelling, building or structure, and of any land or premises as existing and lawful at the time of enactment of a zoning ordinance may be continued although such use does not conform with the provisions of the zoning ordinance. (Section 16)
8. Immediately after the effective date of an ordinance, a complete record of all nonconforming uses and occupations of lands, buildings, and structures, including tents and trailer coaches, must be made and filed in the office of the township clerk and register of deeds. This record constitutes *prima facie* evidence of the number, character and extent of nonconformances at the time the ordinance becomes operative. Such evidence is of interest to both the individual and community. (Section 17)
9. The ordinance must provide for the completion, restoration, reconstruction, extension or substitution of nonconforming uses upon some reasonable terms. (Section 17)
10. A *referendum* on the ordinance *may be petitioned* within a specified time limit. (Section 12)
11. At no less than two-year intervals, the zoning board is required to file a *report* with the township board *on the operations* of the zoning ordinance *including recommended changes*. (Section 13)
12. A *board of appeals must be provided*, whose chief duty it is to adjust practical difficulties and unnecessary hardships which the letter of the ordinance might impose upon any individual or specific situation. For example, the ordinance may be so worded as to impose some unnecessary hardship upon an individual or property owing to its size, location or some other condition. The board has the power to vary or modify any rules or regulations of the ordinance so "the spirit of the ordinance shall be observed, public safety secured and substantial justice done." This gives an ordinance current flexibility to meet personal or special conditions which could not be anticipated. However, it can also lead to undermining provisions that are of critical importance to the community at large unless vigilance is maintained, since boards of appeal are sometimes over-indulgent to the detriment of the community. Decisions of the board may be appealed to the circuit court on questions of law and fact. (Sections 18-23)

The manner in which each limitation operates is discussed in greater detail in the third section of this bulletin.

## SOME QUESTIONS AND ANSWERS

New ideas invariably raise many specific questions. Only a few of the more common questions which nearly everyone asks can be included in this bulletin.

### 1. *Is Zoning Retroactive?*

(*For example, does it affect present uses of land, or require changes in use, or compel people to move?*)

Zoning is not retroactive.<sup>5</sup> It affects only new or changed uses of land or buildings. Any legal use that is being carried on at the time an ordinance is enacted may be continued indefinitely at the option of the user, even though that use does not conform with the provisions of the ordinance.

If a man is farming his land, he may continue to farm it undisturbed. If another has some type of business enterprise, as a store, a food-serving establishment, a filling station, an auto-wrecking yard, or tavern, he may continue that activity. If someone's dwelling or building does not conform to the building regulations prescribed by an ordinance, he is not forced to rebuild or remodel to meet the regulations. No one is required to change his use, move away, sell his property, or give up his home, business, farming or whatever the use or conditions of his land or property.

Furthermore, the owner of any such property may pass it on to heirs or sell to any buyer, and the new owner may continue the former use if he chooses. In addition, the property may be passed from one owner to another and the nonconforming use continued at the option of the new owner or operator.

Only when the use is discontinued or abandoned, or the operator undertakes some new use of the property or decidedly remodels his dwelling or building, does he become subject to the provisions of a zoning ordinance.

### 2. *Does Zoning Reduce Land Values?*

Value is frequently confused with price. Value is determined by usefulness, whereas prices of land are more or less unpredictable. Prices are subject to many artificial as well as natural conditions, including conditions of industry and employment. No one can foretell the *price* of land even a few months hence, whether or not a community is zoned.

Zoning, on the other hand, neither reduces nor destroys the *value* of land. Whatever value any area of land may have (as for agriculture, recreation, residence, or any other type of usefulness), that worth exists in the land be it zoned or unzoned. A good zoning ordinance merely identifies and declares that value, honestly and impartially. Any tract of land that was good farm land before

<sup>5</sup>See item No. 7 under "Limitations in the Use of the Zoning Power" (page 23), or Section 16 of the zoning act.

*Fig. 4. An aerial view of a suburban community on the immediate outskirts of a city in southern Michigan. The land here is flat to very gently undulating.*

*A small part of the city proper occupies the left hand side, upper two-thirds, of the view. Except for the vacant area east of the lake, the city area is a closely packed mixture of dwellings, industry, commercial establishments and recreational facilities.*

*The suburban community consists of a loose mixture of "farm lands," new and old subdivisions, "linear habitations" (string-along-the-road homes), commercial and industrial establishments and recreational facilities. It has developed without any over-all plan, and still lacks any coordinated plan and program of development.*



Photo: Agricultural Adjustment Administration

zoning is good farm land after zoning. The same thing is true for buildings or any other kind of property.

If zoning affects value at all, it tends to increase the value (usefulness), because its aim is to promote the best use of the land.

### 3. *Who Does the Zoning?*

Township zoning is primarily a local job done by local people. It is they who work out the zoning districts and agree upon the rules of how they want to "live together," and they do so in about the same way as any other constructive measure is worked out and put into effect; namely, through their own local governing board, petitions, public hearings, referendums, etc. Their zoning ordinance will contain no more or less than they themselves write into it. The legislature merely granted authority to enact such an ordinance. It did not dictate the provisions or write an ordinance. This was left for the people of each township to compose as they see fit.

Under Michigan statutes, the phrase, as they see fit, means exactly what it says. While the township board acts as an agent of the people, as it does in all public affairs, they may demand a referendum on a proposed ordinance *before it goes into effect if they choose to do so.*<sup>6</sup> Hence, the answer to the question, "Who does the zoning?", is literally the people themselves through the exercise of their own powers, either indirectly through the township board, or directly, by referendum.

There is one important exception in the matter of zoning conferring upon local people the privilege or right of deciding for themselves how they want to live together. This is a proviso clause which specifically stipulates that "no township board shall have authority under this act, or under any ordinance adopted as provided by this act, to regulate or control the drilling, completion, or operation of oil and/or gas wells, or other wells drilled for oil and/or gas exploration purposes and shall have no jurisdiction with reference to the issuance of permits for the location, drilling, completion, operation or abandonment of such wells, but all such jurisdiction shall be vested exclusively in the supervisor of wells of the state of Michigan, as provided in Act 61 of the Public Acts of 1939."

Vesting this power in the supervisor of wells, as provided in Act 61, not only deprives local people from determining for themselves where such developments or uses of lands (including any buildings or structures) shall, or shall not, be located in their community, but it also places this power nowhere, because no provision of Act 61 grants such authority, in any way *equivalent to zoning*, to the supervisor. Act 61 provides entirely different duties and powers. This leaves the determination of where any such development or use of land shall take place wholly in the hands of the individual property owners or their lessees as long as they conform to the provisions

<sup>6</sup>See Step VIII, page 45, for the procedure.

of Act 61 and any rules or regulations adopted under the act. Under these conditions, any such owner or lessee is free to institute an oil or gas exploration or development where he chooses—in the midst of any zoning district, residential or otherwise, that the local people have established.

#### **4. *Once in Effect, Can the Provisions of a Zoning Ordinance be Changed?***

Like any other ordinance, the provisions can be changed by amendment as often as desired. In fact, as times change they should be modified to meet the new conditions. The Michigan zoning act even sets up a special procedure that is designed to bring about amendments as they are needed.<sup>7</sup> Regulations may also be repealed, when necessary.

### **WE OR "THEY?"**

#### ***Change, A Law of Life***

Communities are always changing. People come and go. New uses of land and resources are constantly taking place. Old uses are being abandoned. As a rule, the changes are good, constructive, praiseworthy. But here and there they are ill-advised, retrogressive, or even destructive, without benefit to either the operator or the community. Every community can cite a score or more of deplorable examples.

Greater and faster changes are in prospect after the war. The live-on-the-land movement set in motion by the motor vehicle will be resumed at greater speed because its normal development was held up by the war, and because there is every indication that we shall be more mobile than ever. Vast improvements in land, water and air transportation are in the making.

#### ***Lead or Be Led***

We can sit idly by and let these changes take their own course. We can let the newcomers in the community determine them for us. Or we can get together with our present neighbors, exchange experience and judgment, develop our own plans, and ourselves direct the future changes that take place through zoning.

The experience of most communities which have zoned has generally been that they zoned too late. "We should have zoned, 10, or 25, or even 50 years ago," is a very common complaint. They see too late the situations that they themselves could have prevented by planning and zoning, because zoning is simply a preventive and guide for the future, and not a cure for past mistakes.

Local people must assume the responsibility of leadership in their community. They must do their own thinking, or the stranger at the gate, or some greater authority beyond their gate will take over their heritage.

<sup>7</sup>See the paragraphs on "Biennial Reports," page 34, or Section 13 of the township zoning act for a description of the procedure.

### **Township Versus County Zoning**

Although the preceding discussion has largely concerned itself with township zoning, under Michigan statutes rural zoning can be carried out on either a township or county basis, or combinations may exist:

1. Any county may zone as a whole.
2. Any township may zone before the county as a whole zones.
3. Any township may adopt a zoning ordinance after the county as a whole has zoned.
4. Any county may enact a zoning ordinance after one or more of its townships have zoned.

However, irrespective of which zones first, the zoning ordinance adopted by the township takes precedence over the county ordinance. Or, in other words, home rule prevails—the local people of the smaller political unit can decide for *themselves* just how they want to live together, if they choose to. The only limitation to which they are subject is the approval of their ordinance by the county zoning commission (or coordinating zoning committee) for the purpose of preserving some degree of uniformity throughout the county. (See Step V, page 41)

Aside from this, the county and township enabling acts are almost alike, word for word. Such differences as exist take into account mainly that in one case it is a county that is zoning, and in the other a township, and the powers, procedure, etc., are adapted accordingly. However, the township act specifically permits the regulations of tents and trailer coaches in addition to “buildings and structures” and specifically authorizes the collection of reasonable fees for building permits.

The county act will likely find its most widespread use in counties that are genuinely rural, or have a high proportion of rural land. People are less concentrated here, and the provisions of a zoning ordinance will more naturally concern themselves with the broader and more rural aspects of good land use.

Township zoning lends itself best to the special land and building problems that confront the more populous townships of southern Michigan, and particularly those lying in or near the urban-rural fringe of our cities where there is greater competition for land and where housing, sewage disposal, water supply, fire protection, transportation, and similar problems are more urgent. It is also adapted to resort, mining, and other populous townships in central and northern Michigan. In general, its service will be where *many* people live comparatively close together and need to get together on some intimate basis to solve their problems.

A few counties will probably zone on a combination basis. A county ordinance will be adopted for the county as a whole, but one or more townships with a greater local population and special land-use problems will adopt their own ordinances.

## HOW TO ZONE A TOWNSHIP

Zoning is accomplished by passing a local law called a *zoning ordinance*. Authority to enact such an ordinance is granted by the legislature through a zoning enabling *act*. The two words, ordinance and act, should be carefully distinguished.

The 1943 legislature repealed both our former county and township zoning enabling acts and replaced them with essentially new and modernized acts. The new county act is known as Act 183 of the Public Acts of 1943, and the new township act as Act 184.

There are 10 major and distinct legal steps in zoning a township, of which the eighth is optional but very important. Each step, however, consists of several more detailed duties or functions which must be carried out in fulfilling the legal requirements.

- I Legalize Zoning in the Township
- II Appointment of Township Zoning Board
- III Preparation of Zoning Plan and Map by Zoning Board
- IV Public Hearing
- V Approval of County Zoning Commission, or Coordinating Committee
- VI Enactment of Zoning Ordinance by Township Board
- VII Publication of Ordinance
- VIII Referendum on Ordinance
- IX Record of Nonconforming Uses
- X Creation of Board of Appeals.

Each step is briefly elaborated in the remaining pages of this bulletin, with a short discussion of its purpose or value. In many cases the act merely prescribes a short procedure without going into detail as to its execution. Wherever this is the case, a suggestion or two has been included with the legal steps, drawn from the experience the writer has accumulated in servicing communities interested in rural zoning in the state.

Quality and usefulness of a zoning ordinance will depend largely upon the extent to which each step, legal or otherwise, is faithfully carried out by each party charged with its execution.<sup>8</sup>

### STEP I. LEGALIZE ZONING IN THE TOWNSHIP

The township zoning act is merely an enabling act. It does not compel a township to zone, but merely *enables* a township to zone provided it conforms to the terms of the act.

<sup>8</sup>In carrying out the steps, too much caution cannot be exercised in seeing that every legal requirement is carefully executed and appropriate records maintained. Since the constitutionality of zoning has now been generally upheld, including approval of the Supreme Court of the United States a number of years ago, the chief court cases have been either questions of whether, in some specific instance, the use of the zoning principle was reasonable and in the public interest, or questions of technicalities of procedure. For both of these the keeping of exact records is important.

The first step then is to make the enabling act *operative* or effective in the township. There is a choice of two procedures:

1. The township board may pass a resolution declaring its intent to proceed under the provisions of the act and give public notice within 10 days of the passage of its resolution in a newspaper of general circulation in the township,<sup>9</sup> or

2. A petition may be filed with the township clerk, praying the township board to take the action described in the first procedure. Upon the filing of such a petition the township board is required to vote, at its next regular meeting, upon a resolution declaring its intent to begin action under the provisions of the zoning act. The petition must be signed by a number of qualified and registered voters residing in the township, equal to not less than 8 percent of the total vote cast for all candidates for governor at the last preceding election at which a governor was elected. The circulation of such a petition should be preceded by an adequate educational program.

Whichever of the two procedures is followed, the township board is the agency that must act affirmatively before a township can zone and make use of any of the benefits of zoning. The board, to use a popular expression, is the bottle neck.

## STEP II. APPOINTMENT OF TOWNSHIP ZONING BOARD

As soon as practicable following the legalization of the zoning act, a permanent zoning board should be appointed. The chief duty of this board is to prepare a tentative zoning plan and map for the consideration of the township board, and from time to time to make recommendations as to future changes in the ordinance. *The zoning board has no legislative or administrative powers.* Its work is purely advisory.

The zoning board is appointed by the probate judge of the county, or if there are more than one such judge, by all judges acting jointly. No specific procedure is required, but in general it will be sufficient for the township board to pass a motion instructing the township clerk to notify the probate

<sup>9</sup>The enabling act does not prescribe any form for the resolution. The following may serve as a guide or example:

WHEREAS, it is deemed desirable to encourage the use of lands in ..... township in accordance with their character and adaptability, and to limit the improper use of land, and

WHEREAS, it is deemed desirable to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties, and

WHEREAS, it is deemed desirable to conserve property values and the natural resources of the township, to reduce hazards to life and property, and to facilitate adequate provision for a system of transportation, education, recreation and other public requirements, and

WHEREAS, Act 184 of the Public Acts of 1943 provides that the township boards may enact an ordinance for the establishment of zoning districts in the unincorporated portions of the township, within which districts the use of land for agriculture, residence, forestry, recreation and other purposes may be encouraged, regulated or prohibited, and

WHEREAS, it is deemed desirable in the interest of the public health, safety, morals and general welfare to provide for the establishment of zoning districts as aforesaid,

NOW THEREFORE, in order that said Act may become operative in this township in accordance with the provisions of Section 2 of said Act, it is resolved that the Township Board of ..... Township, County of ....., State of Michigan, hereby declares its intent to proceed under the provisions of Act 184 of the Public Acts of 1943.

It is further RESOLVED that this resolution be published as a legal notice in the ..... (newspaper of general circulation in the township) within ten (10) days of its passage.

Fig. 5. Aerial view of a part of a city in southern Michigan showing the complex of streets, dwellings and local commercial establishments, and the development of heavy industry along the railroad and river.

Growth has been piecemeal, without a comprehensive plan. Note the irregular street pattern. One result: the city lost population between 1930 and 1940, while the townships around it grew 30 to 250 percent. Although the townships also lacked overall plans for development, they offered (temporarily) more open space, lower taxes and less restrictions on buildings and construction.



Photo: Agricultural Adjustment Administration

court of the action which the township has taken and request the appointment of the zoning board. A conference between the township board and the court, before the actual appointment is made, has proved helpful in that it brings the attention of the court to some of the more critical problems facing the township and leads to the best choice of personnel for this important work.

### ***Membership of Zoning Board***

The zoning board consists of four members. Two are appointed for 2 years, two for 4 years, and thereafter each appointment is for 4 years. Members must be selected on the basis of their respective qualifications and fitness to serve as members of a zoning board and without consideration for their political activities.

At least two members must be residents of the unincorporated portions of the township. No elected officer of the township nor any employee of the township board is eligible to appointment. Members are removable for non-performance of duty or misconduct in office.

The composition of the board is of the utmost importance owing to the bearing of its work upon the future of the township. The membership should include only men and women of the highest calibre, without personal motives, but with a keen sense of responsibility in carrying out their duties. As far as possible every leading interest or activity of the township should be represented either by direct membership, or through subcommittees and advisory groups or committees. See the heading, "Local Assistance," below for detailed suggestions as to advisory groups.

### ***Notification of Appointment***

Although not specifically required by the zoning act, it is good practice for each member of the zoning board to be notified of his appointment in writing, and for copies of the appointments to be filed with the township clerk. The township clerk should assume the responsibility of seeing that such notification is promptly made, because members of a zoning board are sometimes reluctant to serve until they have definite evidence of their appointment. The notification also protects the board in carrying out its duties.

## **STEP III. PREPARATION OF ZONING PLAN AND MAP BY ZONING BOARD**

This is by far the most important step in zoning. It carries great responsibility. It is challenging. It offers each member of the zoning board an unusual opportunity for constructive action in his community. Since a zoning ordinance is a kind of local "constitution" or agreement as to how people agree to live together in their community in the future, a *good* zoning plan forms one of the chief foundation stones for the sound development of one's community for years to come. For those reasons, more space will be devoted to a discussion of this step than to any other.

### *Assistance of Public Agencies*

An alert zoning board can gather much assistance in carrying out its work. The zoning act itself directs that the board should "make use of such information and counsel which may be furnished by appropriate public officials, departments or agencies," and in turn, "all public officials, departments and agencies having information, maps and data pertinent to township zoning are hereby directed to make the same available for the use of the township zoning board." Such assistance may be obtained not only from within the township or county itself but also from state and federal administrative agencies and departments, from the Extension Service of Michigan State College through the county agricultural agent, and other public organizations and institutions collecting data and information in the course of their activities.

However, the ultimate responsibility rests with the zoning board. Zoning is something which no one outside of any municipality can do for it. Experts or technicians may be hired or consulted, but no one is more familiar with the local, intimate conditions and the ultimate aspirations of a community than those who make up that community. It is one of the tests of American citizenship to meet the challenge of making one's own community a more wholesome, productive and enjoyable place in which to live.

### *Local Assistance*

Since the responsibility of working out a zoning plan is greater than any four-man zoning board should attempt to shoulder alone, all local assistance obtainable should be solicited. Subcommittees and advisory committees of men and women outside the board membership should be utilized. A board would do well to confer with representatives of as many types of activities, organizations and interests in every community as possible. Representatives of agriculture, business, industry, recreation, residence, education, transportation, government, church, women's organizations, and similar groups should be invited to contribute their understanding and experience relative to the problems of the community relating to zoning. In some instances, these persons may include representatives of certain national groups, racial elements, or other social bodies in the population. Each of these can prove helpful and constructive in building the final ordinance, and become staunch supporters when it is finally enacted.

Another possible source of assistance deserves special mention. Many townships have land-use planning committees which function in particular aspects of community planning. They are organized for service in the field of rural planning. The existence of such a committee in a township may be learned from the county agricultural agent, or his help may be obtained in organizing one.

### ***Specific Duties and Powers of the Zoning Board***

1. ORGANIZATION—Following its appointment, the board should organize. It must elect, from its own members, a chairman, secretary, and such other officers and committees as it may deem necessary. Elections must be held at least once in every 2 years.

2. ZONE PLAN—The board must adopt and file with the township board recommendations as to a zone plan for the township, including the establishment of zoning districts, the text of a zoning ordinance with necessary maps, and the manner of administering and enforcing the ordinance. These recommendations must be based upon an inventory or study of conditions pertinent to zoning in the township. Items that should be considered in such an inventory and procedures are briefly discussed below under the heading, "The Inventory."

3. PUBLIC HEARING—After working out a tentative plan, and before submitting its recommendations to the township board, the zoning board must hold at least one legally advertised public hearing. The details of this duty are discussed under Step IV.

4. REGULAR MEETINGS—The zoning board must hold a minimum of two regular meetings a year, giving notice of the time and place not more than 15 days nor less than 8 days in advance. These meetings provide any person having interest in the township, or his representative, a definite opportunity to present any matters that should properly come before the board.

5. BIENNIAL REPORTS—At least every 2 years following the enactment of the zoning ordinance, the zoning board is required to file with the township board a report on how the ordinance is working out, *including recommendations as to changes or amendments that should be made*. This duty is one of the more important provisions of the zoning act.

Often interest in zoning stems from some dramatic or acute situation in a community accompanied by a demand: "Let's zone! We don't want that to happen again!" An unusual accident occurs, fire breaks out or sweeps over an area, an epidemic engulfs a neighborhood, property is damaged, life is lost, public service costs jump, or some other spark arouses public interest.

Under the impulse of such an incident, an ordinance may be enacted but is presently filed away and all but forgotten in the face of new emergencies that arise. In the meanwhile, the world moves on, and before long the community with the forgotten ordinance is left behind, held back by its own negligence.

In requiring a periodic report on a zoning ordinance, the Michigan enabling act provides a kind of automatic check-up which should not only reveal how the ordinance is functioning but, even more important, what changes are needed to bring its provisions up to date.

6. TECHNICAL ASSISTANCE—The board may engage employees, including technical assistants, for periods of 1 year or less.

7. COMPENSATION—Members of the board itself serve without compensation except that they must be reimbursed for reasonable expenses actually incurred in the discharge of their duties. Serving without compensation calls for a high degree of citizenship and a form of service of which every American community is justly proud.

8. EXPENSES—The total annual amount which may be allowed as expenses of all members of a zoning board, including any compensations paid its employees, must be appropriated annually in advance by the township board but may not exceed the sum of \$1,000.

It is impossible to give definite figures for the cost of preparing an ordinance because the cost depends upon so many conditions—the size of the township, the number of people, the nature of its problems, the availability of pertinent data, and whether a simple or complex ordinance is to be enacted. \$1,000 represents, of course, the top figure which any township may appropriate annually. The sum far exceeds the cost to the average township.

A rough estimate for a simple ordinance would probably fall in the neighborhood of \$100–200 for the average township of 1,000 people (47 percent of our townships), or around 10 to 20 cents per capita. Even double or triple this cost would be relatively cheap insurance. Many a township spends a large part of its energy and funds, private as well as public, in correcting mistakes in the use of its land and other resources, *after* they occur. An ounce of farsightedness is still worth more than a pound of cure.

### *Zoning on a Long-Time Basis*

Since immediate problems always loom up greater than those of the years, there is a common tendency in zoning to attack merely the problem of the day and to overlook the long-time functions of zoning. The development of a long-range plan and the adoption of an action program of long duration are the more important goals. Zoning lays the pattern upon which the whole future life of the community will be more or less molded. To plan for the future, to make due preparation for the future, is one of the primary obligations of leadership.

### *The Inventory*

In prescribing the duties of the zoning board, the enabling act merely declares the board shall base its recommended zone plan “upon an inventory of conditions pertinent to zoning in the township.” It does not detail the items that should be studied since the objectives of an ordinance will necessarily vary from township to township. A simple ordinance will require far fewer items than one designed to serve a highly urbanized township. On the

other hand, experience has shown that one cannot know too much about a community.

As a start, a zoning board will find it helpful to pose two questions: "What does the township desire to accomplish through zoning?" and "What information do we need to reach that goal?"

A long list of items are worthy of study and mapping, if means permit; such as:

1. The quality and quantity of the different types of land, water and other natural resources including their location in the township and in relation to each other.
2. The present and past uses of the land and water, and the trends in uses of each.
3. The use, size and general condition of buildings and structures.
4. The road system, markets and power facilities.
5. Water supplies, drainage and sewage disposal conditions.
6. The number and type of people, their distribution and their social institutions such as schools, churches, recreation facilities, etc.
7. Aspects of government, such as the nature and cost of its several services, tax delinquency and tax-abandoned lands.

Obviously all of these items will not be of equal interest to every township, but the list will serve as a general check-list.

Of the several items listed, the type of land is one of the more important, but is usually the most neglected. The land is a fixed condition. It will have the same quality (be rolling, level, sandy, etc.) a century hence as it has today, and the township will have the same amount of each type as it possesses today. A zoning program which does not take due account of this permanent factor will presently defeat itself.

The community that is succeeding is the community whose enterprises are located on good land. To be located on "good land" means land good for the type of use being made of it. Good land does not necessarily mean land good for crop production (that is, fertile soil and level ground) unless the land is to be farmed. It means, rather, land good (or suitable) for country homes, or good for recreational uses, or good for trade, or industry, or any other of the many land uses which our modern life demands. Each use calls for a peculiar type of land and location to be successful, just as corn, and alfalfa and apple trees do. Land that is unsuited for country homes for city workers will not grow a good crop of happy permanent homes any more than land poor for wheat will grow a good crop of grain.

Maps are particularly effective for summarizing information. Nearly everyone has some familiarity with maps and can read their information with understanding. A series of maps covering the essential data help give shape and form to the ordinance. They suggest what zoning districts should be created, the logical boundaries of each, and the provisions that should be drafted for each district.

*Fig. 6. Aerial view of a mixed recreational and agricultural district in southern Michigan. The land on the east side of the principal north-south highway is rolling and becoming scarred with erosion. On the west, the land is flat.*

*A fringe of shallow water borders the lake shore. Side roads lead to the shore which is lined with cottages and a strip of woodland. Such a lake constitutes an invaluable resource to a community. Its future development, including the associated rural and agricultural land, should be underwritten by a constructive zoning plan and ordinance.*



Photo: Agricultural Adjustment Administration

All data should be entered on copies of the same base map to simplify comparison. Large-scaled base maps will be found most useful—as large as 4 or more inches to the mile if obtainable. A good base map should at least show every section line, including section numbers; the boundaries and names of all villages, towns and cities; the location and names of all principal streams and lakes; the location of every road, highway and railroad; the location and streets of every subdivision. Copies of such base maps can often be obtained from organizations or agencies, either private or public, that serve the township or the area in which it is situated.

While finely-drawn maps prepared by trained draftsmen are ideal, no zoning board should hesitate to make up its own maps or to engage a neat-handed employee to enter the data if its budget is limited. Such maps are as useful as the more tailored product. Even crudely made maps may be invaluable aids in making decisions.

### ***Making a Basic Plan of Land-Use for the Township***

Following the collection of data and its appropriate entry upon maps, the zoning board should carefully study and analyze the data with the aim of drawing up a *basic plan of land use* for the township. The maps will reveal what areas are the most logical for each of the different types of land use or combinations of use that should be promoted or encouraged in the township. The maps will also bring out the basic transportation systems needed, what space and sites should be provided for certain types of business, recreation, education, residence, public structures and other uses. The plan should be entered on a base map similar to that used in the inventory.

The plan should not go into detail as that is the function of the zoning ordinance. It should merely serve as a work sheet, showing the *broad* type of land uses that seem desirable during the foreseeable future. To be sure, such a plan will never be perfect, but it will prevent the zoning ordinance from becoming grossly unbalanced or unreasonable in that it considers the land, resources, people, industries, trends, etc., in each community both *as a whole* and *in their relation to one another*. The residential communities, the business centers, the recreational areas, and the varied types of agricultural activity are not only fitted to the land, to the people, and to the transportation facilities but also to one another. The result is system and order.

Since zoning boards have a natural inclination to restrict their attention to only the most pressing problems, people should insist upon an over-all inventory and upon the development of an appropriate basic plan embracing all types of land-use within the township before an ordinance is written. In general, agricultural communities have been the most neglected, because the initial interest in zoning in many townships arises in residential, commercial and industrial areas where conflicts in the use of lands reach a great intensity. Under the mistaken belief that agricultural communities require

no "protection" or public guidance via zoning, they are often left "unzoned." The soundness of this policy will vary, however, from township to township and also within a township.

Since the amount of *good* farm land in the United States is limited, the question may well arise whether it is good policy to leave the natural agricultural areas of a township open for exploitation by other types of land use and to "protect" only a few selected land uses such as the rural residential. Good farm land should be conserved for farming. It is not imperative for a residential community to occupy such land.

It should also be borne in mind that the attractiveness of a township for rural residence rests primarily upon its open character, i.e. upon the presence and activity of its agricultural communities. Unless these are protected from invasion by other land uses and unless the farm people who occupy and use the land are given help through zoning to maintain themselves as agricultural communities, this asset of the township will in time be destroyed and lost.

Recreational land frequently suffers the same fate as agricultural land. Yet water, woods and hill lands are priceless resources in an age when the value of recreation is being increasingly recognized both as a social necessity and as an economic asset. Michigan advertises itself as one of the playgrounds of the nation because it possesses these resources coupled with attractive climates. Recreational land and sites should have a high place in every plan of basic land-use.

The development of a basic land-use plan does not mean that every type of land, or every building as the case may be, should then be "regulated" in each and every detail. Some lands, it will be found after such a study, will require no regulation whatsoever because their nature is such that people in general will use them wisely and conservatively without legal direction. Others will require only a few simple provisions to check some pending misuse, or abuse, or perhaps certain inappropriate uses. The important point is that each type of land should be included in the basic plan, whether or not it is then zoned, because the township which zones only on the basis of expediency is engaging in patchwork, and patchwork is not a durable foundation for any community.

### *Drafting the Zoning Map and Ordinance*

The zoning map and ordinance put the broad proposals of the basic land-use plan into *concrete* and *practical* form. First the zoning map should be prepared. This should show the *exact* boundaries of each zoning district into which the township will be divided.<sup>10</sup> The kinds and number will depend upon the nature of each township and its purposes in zoning.

Each zoning district that is set up should have the clearly defined purpose of bettering one or more living conditions in the community. As they develop

<sup>10</sup>As a rule, zoning boundaries should follow streets, highways, shores of water bodies, boundary lines of recorded plats, property lines of legal record and similar lines of legal subdivision.

the zoning map, members of the zoning board will find it helpful to read and re-read the first part of this bulletin and to test each district in the light of the discussion appearing on those pages.

In some instances it will be found advisable to promote certain types of land uses and provide adequate space for their expansion, while other uses will call for contraction, regulation, or elimination in the course of time. Again, other uses may require support to maintain their present rate of importance. Above all, the zoning plan should never lose sight of its primary purpose, namely to provide better conditions, proper location and adequate space for those three essentials of living: home, work and play.

Except for general provisions on administration and similar broad regulations that are common to most ordinances, the text of the zoning ordinance should not be written until each zoning district has been worked out and agreed upon, since *the provisions of the text should be based upon the map*. Some zoning boards are inclined to reverse the process—to draft first a text which more or less expresses the general ideas as to what should be what in each community, and then attempt to draw a zoning map to fit those provisions. The result is like building a house and then drawing the blueprint!

### ***Ready-made Versus Tailor-made Ordinances***

“Where can we get a model ordinance?” is a frequent inquiry of zoning boards.

There is no such thing as a model zoning ordinance. No township is like another, as any good inventory will show. Although townships have one or more land-use areas in common with their neighbors, since neither natural conditions nor human affairs stop sharply at political boundaries, yet each township has a distinct individuality of its own. Not even a score of “model ordinances” would fit the varied townships of the state.

However, to familiarize themselves with the general nature of zoning ordinances, members of a zoning board would do well to study the ordinances of townships which have zoned. But it is poor practice for any board to recommend the adoption of an ordinance which has been largely copied from the provisions of another, merely because “this is about what we want” unless the inventory, the basic land-use plan, and the zoning program call for exactly such provisions. Each part of an ordinance should be “cut and fit” to meet the peculiar needs of that township, and only the local zoning board should serve as the tailor.

## **STEP IV. PUBLIC HEARING**

A zoning board is required to hold at least one legally advertised public hearing on the proposed plan. Notice of this hearing must be given by two publications in a newspaper of general circulation in the township. The first notice must be printed not more than 30 days nor less than 20 days in advance.

and the second not more than 8 days before the date of the hearing. Each notice must include the places and times at which the tentative ordinance and maps may be examined. The first notice provides time to study the zoning proposals before the hearing, while the second serves as a reminder that the date of the hearing is near.

However, some weeks before the legal public hearing, the zoning board should arrange enough informal hearings or meetings that everyone interested may have the opportunity to become acquainted with the provisions of the proposed ordinance and learn the reasons behind them. Several small meetings, involving relatively few people, are better than a single, large mass meeting.

The small meeting offers the average citizen a better opportunity to ask questions and voice his ideas. His suggestions will often call attention to local conditions which the zoning board has overlooked. Meetings confined to an organized group with a common interest such as a Grange, Farm Bureau, Service Club, P.T.A. or church will be found more practical than those of mixed interests. Nearly every organization is interested in its community and eager to help make it a better place in which to live. Obviously, the more people who take part in the discussion and making of an ordinance, the more effective it will become and the less likely result in "just another ordinance" to be evaded wherever possible.

Cooperation of local newspapers, with discussions from time to time on progress or problems, can also be of great value in disseminating information and obtaining constructive public reactions and suggestions.

## STEP V. APPROVAL OF COUNTY ZONING COMMISSION

Following the public hearing, the zoning board must submit the proposed ordinance to the county zoning commission for approval. The commission is appointed under the county rural zoning enabling act and exists only if the county is zoning or has zoned. In the event there is no such commission, the county board of supervisors must appoint a coordinating zoning committee of three members.

It is the duty of this commission or committee to coordinate the ordinances of each township with that of other townships in the county. Although every township is a distinct entity with conditions and problems peculiarly its own, it does not exist independent of its neighbors. The resources, people and activities on the lands around it have an important bearing upon its own life and future.

As township after township within a county zones, the results, without some supervision on the part of a coordinating agency, can soon produce a "crazy-quilt pattern" of zoning districts and regulations. Adjacent townships will adopt different regulations governing essentially the same situation. Then, people unwilling to conform to the more rigid safety or health provisions,

or to some other regulation adopted by one township, will soon discover the difference for themselves and flock across the boundary. One problem after another will eventually be "dumped" back and forth, leading finally to strife and disunity in place of progress.

While the membership of a county zoning commission is very definitely prescribed by the county rural zoning enabling act,<sup>11</sup> the membership of a coordinating zoning committee, including terms of appointment, is left entirely to the discretion of the board of supervisors. In view of the importance of its work, the membership of this committee should be of the highest competency available in the county for the responsibility. It is suggested that one be a member of the county board of supervisors to serve as a link between the board and the committee and that the other two be non-board citizens of broad outlook and acquaintance in the county. Tenure of several years with staggered terms would be desirable for the purpose of accumulating knowledge and understanding of the responsibilities of the committee.

The zoning act provides that the approval of the zoning commission (or coordinating committee) "shall be conclusively presumed," unless it notifies the township clerk of its disapproval within 30 days of receipt of the proposed ordinance.

#### STEP VI. ENACTMENT OF ZONING ORDINANCE BY TOWNSHIP BOARD

The zoning recommendations are now ready for filing with the township board. At the next regular meeting, after receiving the zoning plan, or at any special meeting called for that purpose, the township board is required to consider the recommendations and to vote upon their adoption in the form of an ordinance.

#### *Changes by the Township Board*

The township board may make any changes in the plans, text or maps as certified by the zoning board, but before such changes become effective, they must first be submitted to the zoning board for its advice or suggestions. A zoning board has 15 days in which to return its report on the proposed changes to the township board. The report is not binding upon the township board, as the functions of the zoning board are purely advisory. All legislative authority rests solely and alone in the township board. Should the township board see fit to make the change despite the advice of the zoning board, it is free to do so after receiving the report.

The 15-day period is a praiseworthy provision of the zoning act. On the one hand, it lessens the possibility of over-hasty changes on the part of the township board. On the other hand, it provides the zoning board, which

<sup>11</sup>A five-man commission appointed by the county board of supervisors, consisting of one supervisor and four electors, three of whom must be residents of the unincorporated portions of the county. None of the four electors may hold an elective county office or be an employee of the board of supervisors. Appointment of the electors is for staggered terms of 4 years each. See Section 4, Act 183, P.A., 1943.

supposedly has made a long and careful study of zoning conditions in the township, an opportunity to scrutinize the proposed changes in the light of all the knowledge the board accumulated during the course of the inventory, discussions, and public hearings. The zoning board may find the proposed changes wise and practical, or it may find evidence to the contrary.

### **Administration of Ordinance**

The zoning enabling act confers the responsibility of administering a zoning ordinance upon the township board. "The township board shall in the ordinance enacted under the authority of this act designate the proper official or officials whose duty it shall be to enforce the provisions of such ordinance."

Who the zoning administrator shall be, his qualifications, and compensation are left entirely to the decision of each township board. It can assign the responsibilities to one of the township officers or engage any other individual it deems proper. Good judgment should be a primary qualification, since the cornerstone of any ordinance is in the quality of its administration. It can make or break an ordinance.

When building provisions are included in a zoning ordinance, an administrator, to be well qualified, should have had some previous experience in building, be generally informed on prevailing methods of building, good practice in fire prevention, proper installation of safety, health and sanitary facilities, and have no interest in the sale or manufacture of any material, process or device used in building construction.

Where the population of several townships is relatively small and duties are light, two or more could join in employing a competent administrator on some contractual basis.

### **Violations and Penalties**

Any ordinance, to be effective, must prescribe penalties for violations of its provisions.

Stated simply, a violation occurs when any use of land which is specifically prohibited in a zoning district is nevertheless inaugurated or undertaken. Such use, as previously explained, refers only to any *new*, or *different* or *other* use which may be made of a parcel of land *after* the ordinance is enacted. The violation of any building provisions would be similar.

To use the more legal terms of the act (Section 24): "Uses of land, and dwellings, buildings or structure, including tents and trailer coaches, used, erected, altered, razed or converted in violation of any provisions of local ordinances or regulations adopted under the authority of this act are hereby declared to be a nuisance *per se*. The court shall order such nuisance abated and the owner and/or agent in charge of such dwelling, building, structure, tent, trailer coach or land shall be adjudged guilty of maintaining a nuisance *per se*."

The zoning act does not provide any specific penalties, but leaves their

determination in the hands of each township board, subject to the general laws of the state governing the fixing of penalties by townships.

In the absence of any specific provision in the zoning act, a township board must be governed by Sections 9 and 504 of Act 328 of the Public Acts of 1939. Under this act, violations are "misdemeanors," and such misdemeanors are punishable upon conviction "by imprisonment in the county jail for not more than ninety days or by a fine of not more than one hundred dollars, or by both such fine and imprisonment." This, of course, is the maximum penalty. A township board may impose any penalty up to this amount. A common type of provision is to impose an "each and every day" condition. Each and every day during which an illegal act in reference to the zoning ordinance is continued is designated as a separate offense.

However, assuming the ordinance is a good ordinance—and this is the only kind worthy of any community—it is unlikely that the average citizen will ever find himself facing a charge of violation, not merely because he is naturally law-abiding, but because he would be in general agreement with the ordinance as a matter of course. The land uses which a good ordinance would prescribe or encourage for his community are uses which his own experience or judgment would approve as the logical ones—for example, he would reason, "Here is land that should be kept in farms, there is the proper location for a rural residence community, elsewhere is land that should be used for recreation, as a commercial center, or for a community center." In turn, he would recognize that certain other uses would be poor or unwise uses of a particular type of land or of some given location. He would agree that such uses should be limited or discouraged or even prohibited in the future because they would be detrimental to either the community or to the man who would undertake to make such a use of the land, or to both. In the same manner, he would agree that any building regulations included in the ordinance were the minimum requirements for health, safety or the general well-being of the community.

#### **STEP VII. PUBLICATION OF ORDINANCE. EFFECTIVE DATE**

A zoning ordinance must be published following its adoption by the township board. Act 191 of the Public Acts of 1939 requires the publication of a true copy of all ordinances imposing a penalty, in some newspaper of general circulation in the township within 10 days of passage. In zoning this would include any zoning maps as well as the text of the ordinance. The publication enables any resident to read and study the ordinance at his own convenience.

Within 1 week of publication, the township clerk is required to record the ordinance in a book of ordinances including the date of passage, the vote of each member of the township board on the ordinance, and the name and date of the publishing newspaper.

The ordinance must contain a provision stating when the ordinance is to take effect, but this date must be set at 30 or more days after publication.

## STEP VIII. REFERENDUM ON ORDINANCE

While the seven steps that have just been described are sufficient to create an ordinance and put it into operation, another step may be interposed at the option of a given percentage of eligible voters of the township.

### **Petition**

Within 30 days following the passage of a zoning ordinance a petition signed by a number of qualified and registered voters residing in the township may be filed with the township clerk "praying therein for the submission of such ordinance to the electors residing in the township for their approval or rejection." This petition, like Step I, must bear names equal to not less than 8 percent of the total vote cast in the township for all candidates for governor at the last preceding general election at which a governor was elected.

Filing of such a petition suspends the operation of an ordinance until it is approved by a majority vote of the electors residing in the township. Such a referendum may be held at either the next regular election which supplies reasonable time for proper notices and printing of ballots, or at any special election called for that purpose. The township board is charged with providing the manner of submitting the ordinance to the electors for their approval and determining the results.

Use of the referendum is optional with the electors of the township. It is not required for enactment of an ordinance. Unless a referendum is petitioned, an ordinance becomes operative on the date set by the township board. Once a petition demanding a referendum is filed, however, it becomes a mandatory step.

### **Majority Vote of the Electorate**

The privilege of demanding a referendum is a "home rule" provision in the strictest and most realistic sense, and the principle under which it is carried out, if the privilege is exercised, employs the ancient democratic principle, the majority vote of the electorate. Although the zoning plan is prepared by the zoning board, is subject to the approval of the county planning commission, and is enacted in the form of an ordinance by the township board, yet it is the people of a township who may have the "last word" on how they want to "live together"—not the zoning board, or the township board nor any outside agency. The only exception is with regard to any oil or gas developments that may take place. (See page 26)

On the other hand, it is anticipated that the privilege of demanding a referendum will seldom be exercised, provided the ordinance has been drafted with reasonable consideration and with due regard for the provisions of the zoning act. Rather, it stands there as a kind of judge or court, watchful that the interests of both the individual and the community are safeguarded and accorded fair play.

### STEP IX. RECORD OF NONCONFORMING USES

Since the zoning act permits the lawful use of any dwelling, building, structure, land or premises being carried on at the time a zoning ordinance is enacted to be continued, even though that use does not conform to the provisions of the ordinance, it is necessary to make an official record of such non-conforming uses. This record is a legal protection both for the owner or operator of the property and for the community. In fact an ordinance is virtually useless without such a record, because either the community or the owner or operator can claim the existence or nonexistence of any given use, as the case may be, in the absence of such a record.

The zoning act requires this record be made immediately after the effective date of the ordinance or any amendment to it: "The township zoning board shall prepare a complete record of all nonconforming uses and occupations of lands, buildings and structures, including tents and trailer coaches, existing at the time of such ordinances or amendments. Such record shall contain the names and addresses of the owners of such nonconforming use and of any occupant, other than the owner, the legal description of the land, and the nature and extent of use."

Authority to make such a record may be delegated to the assessing officer of the township or the zoning administrator or to any other person the board wishes, as the enabling act is not specific as to who shall make the record. Following its preparation, it would be good practice for the township board to order posting at some appropriate public site in the township for a specified period of time and give public notice of the posting, so as to permit correction of errors before final copies are filed with the township clerk and register of deeds. The record, when filed in the offices of the township clerk and the register of deeds, "shall constitute *prima facie* evidence of the number, character and extent of the nonconformances at the time an ordinance or an amendment thereto becomes effective." The record of nonconformance must be kept up to date, annually, as the township board may direct.

### STEP X. CREATION OF BOARD OF APPEALS

Owing to the fact that individual injustices sometimes occur in enacting or administering a zoning ordinance, zoning acts commonly provide for a board of appeals. Stated simply, this is an agency to which an individual can turn, present the facts in his particular case, and apply for any relief he may believe due him, "Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of such ordinance," the zoning act reads, "the board of appeals shall have the power in passing upon appeals to vary or modify any of its rules, regulations or provisions so that the spirit of the ordinance shall be observed, public safety secured and substantial justice done." However, the decision of such board is not to be final, as any person having an interest affected by an ordinance has the right to appeal to the circuit court on questions of law and fact.

A board of appeals consists of three members. One member must be the chairman of the zoning board, the second a member of the township board appointed by the township board, while the third is selected and appointed by the first two from among the electors residing in the unincorporated area of the township. The third member cannot be an elected officer of the township nor an employee of the township board. The township board is required to provide annually in advance the total amount to be allowed the board of appeals in any one year for per diem or as expenses which amount "shall not exceed a reasonable sum." As is the case with the zoning board, members of the board of appeals are removable for non-performance of duty or misconduct in office.

In addition to acting on appeals, the board may also be required to hear and pass upon other "matters referred to it or upon which it is required to pass under any ordinance adopted pursuant to this act." However, it has no legislative authority, nor is it empowered to change or amend the terms of an ordinance as is sometimes supposed. Sections 19 to 23 of the act detail its duties and procedures and the manner in which appeals may be made.

### AMENDMENTS

The very great importance of keeping an ordinance up to date by amendments was outlined in Step II under the heading, Biennial Reports. However, recommendations as to amendments need not originate solely with the zoning board, but may arise in the township board itself or be suggested by a citizen.

In making an amendment, essentially the same procedures must be followed as those employed in enacting the original ordinance. These would include (1) their drafting or preparation by the zoning board, (2) at least one public hearing on the proposal, (3) approval by the county zoning commission or coordinating zoning committee, (4) adoption in the form of an ordinance by the township board, (5) publication within 10 days of passage. Similar to the enactment of the original ordinance, a petition may be filed demanding a referendum following the passage of the amendment.

### BUILDING PERMITS

"For the purpose of providing funds to carry out the provisions of this act, the township board . . . may require the payment of reasonable fees for building permits as a condition to the granting of authority to erect, alter or locate dwellings, buildings and structures, including tents and trailer coaches, within any zoning district."

The use of this provision is optional with the township. Aside from providing funds to defray the cost of administration (which may be covered in whole or only in part, as the township may choose), the payment may be used to obtain "advance information as to the building operations, locations and proposed uses."

The latter provision has several virtues. It brings the prospective builder and township together for what will often prove to be a beneficial discussion of his plans. A good, experienced zoning administrator can frequently call the attention of a prospective home-builder to certain advantages in construction or location which may have escaped him. In turn, the township may profit in having assisted the prospective home-owner to become a successful and contented citizen.

In addition to the revenues from any building permit fees, a township may levy a sufficient tax upon real and personal property subject to taxation in the township for the payment of any expense of public funds it may incur in carrying out the provisions of the zoning act. Such taxes, however, "shall not cause the limit of taxes established by law to be exceeded."

### INTERIM OR SHORT-TERM ORDINANCES

In the event an unusual condition arises which appears to warrant the adoption of an interim or "short-term" ordinance, a township may enact a temporary ordinance upon the passage of a resolution "declaring a condition of emergency." The time required to enact such an ordinance is considerably shortened as the act permits the reduction or elimination of certain procedures. The general use of such an ordinance is not recommended, however, unless an emergency does exist because the normal procedure calls for measures that are of considerable importance in the development of a good ordinance.

For example, the township board may direct the zoning board to submit its recommendations within a specified period of time. While the emergency may warrant reducing the time to a very short period, too great a limitation of time does not provide the opportunity for that cool reflective thinking that should precede any important decisions.

Furthermore, the township board "may direct the zoning board to submit its recommendations with only limited consideration for the inventory" or "the use of information, maps, data" such as that described in Step III, under the heading, "Assistance of Public Agencies." Both these items are basic in the making of a good ordinance.

In addition, public hearings may also be given "only limited consideration" (i.e. largely if not entirely waived) and the zoning commission or coordinating zoning committee has only 10 days to act. The township board may make changes in the zoning recommendations submitted by the zoning board without referring them back for further study and report. The interim ordinance is not subject to petition for a referendum. All these provisions that are waived are important factors in the making of a sound ordinance. Their deferment is justifiable only where an emergency exists and at least some kind of an ordinance is urgently needed to safeguard the public well-being.

An interim ordinance is limited to one year from the date it becomes effective and to only 1 year of renewal thereafter. This 2-year period should provide adequate time for replacement with a permanent ordinance.

## WHAT CAN I DO?

If you believe your community can be improved through planning and zoning, you must kindle a similar interest on the part of your neighbors. Although the first *official* action that must be taken is for your township board to legalize zoning in the township by adopting an appropriate resolution (STEP I, page 29), yet no township board will be inclined to take that step until it is convinced that a reasonable majority of the people favor it.

Your effort to kindle interest, and hence stimulate action, will not be very different from any other program that may have been undertaken in your community to improve schools, hospitals, roads or some other condition. In general, there are three important things that must be done.

First, you must make your neighbors aware of the problems of the community that can be helped by zoning, problems that are in the making as well as those which already exist. Many people are so absorbed with the details of their personal affairs that they fail to see the broader problems affecting the welfare of their community, and in turn their own well-being.

Your next step will be to explain how zoning can assist in the solution of those problems. You will need to make clear what zoning is, how it works, how it will help both the individual and the community, and why other measures that might be instituted will not do equally well.

Finally, you must make your neighbors realize the importance of themselves assuming the responsibility for the future development of their community. Changes are forever taking place. Unless the people of a community arouse themselves and guide their own destiny, it will be directed by others—by people who live and legislate outside of their community, or who will presently come to live in the community.

Discussions offer one of the more effective means for disseminating information, winning public attention, gaining new ideas, and securing action. The old, time-proved general public meeting is one of the foundation stones of democracy. Use should also be made of the varied organizations which every community possesses, such as its clubs, societies, leagues, unions and other types of associations. Because of their make-up, such organizations can frequently contribute either manpower or facilities that will prove helpful in the solution of some condition or problem arising in the zoning program.

Every type of interest and activity in the community should be reached, since zoning can affect the property and method of living of everyone. A voluntary "action committee" with either local or special discussion leaders will prove helpful.

The press may participate through news articles and editorials. These should start with the problems of the community and be followed (not preceded) not only by discussion on zoning, but also on any additional measures that may well be considered in answering the question: "How shall we live

together?" "Question and Answer" columns including an invitation to submit questions and brief discussions provide one of the concrete ways to spread understanding.

A good discussion program takes time—usually months or even a year or two—unless some incident occurs that catches the attention of a large number of people. But the time spent is eminently worthwhile. Leaders in a community frequently make the mistake of using some months to a year in informing themselves as to the nature of zoning, and then expect their fellow citizens in general to obtain a working knowledge from a discussion meeting or two, or from a newspaper article or two. But as a rule, people will quickly "turn down" any proposal they do not understand.

An adequate program of public education offers three important advantages:

(1) It paves the way for the legal steps required in zoning. As pointed out above, few township boards will act unless they believe people want action; and no township can be zoned unless its board does act.

(2) It leads to a more constructive ordinance because problems, conditions, suggested solutions and proposals are more thoroughly canvassed and discussed. It results in people themselves making the ordinance.

(3) It leads to more intelligent voting in case a referendum on the proposed ordinance is petitioned for as outlined in STEP VIII.

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Owing to the many problems arising from the crowding of population into urban communities, and especially from the varied and conflicting uses of land that take place under these conditions, zoning was first employed as a measure to give public direction to the use of land and buildings in our cities and larger villages. With the growth of population that has taken place in many of our rural communities, some forty townships, acting under both old and new enabling laws, have now enacted some type of township zoning ordinance. At least 20 to 30 more are in some stage of the process.

The reader interested in improving his community through related or supplementary action may find the following Michigan enabling acts of interest:

The Township Minimum Construction Enabling Act (Act 185, Public Acts of 1943)

The County Rural Zoning Enabling Act (Act 183, Public Acts of 1943)

The County Minimum Construction Enabling Act (Act 62, Public Acts of 1943)

The Soil Conservation Districts Act (Act 297, Public Acts of 1937)

The City and Village Planning Act (Act 285, Public Acts of 1931) which the attorney general has ruled is also applicable to townships and counties.