

Summary of Enabling Legislation for providing Recreation, parks and opens space

ACT	TITLE	GOVERNMENT UNITS COVERED	GOVERNING BODY ESTABLISHED BY THE ACT	ALLOWS FOR JOINT PROVISION OF RECREATION?
Act 157 of 1905	Township Parks and Places of Recreation	Townships	Township Park Commission or Board of Commissioners ⁴	Yes
Act 90 of 1913	Parks, Zoological Gardens, and Airports	Counties	County Park Trustees	Yes
Act 156 of 1917	Recreation and Playgrounds	Cities, villages, townships, counties, and school districts	Recreation Board	Yes
Act 312 of 1929	Metropolitan District Act	Cities, villages, townships, and parts thereof	Charter Commission	Yes
Act 261 of 1965	County and Regional Parks	Counties	Parks and Recreation Commission	Yes ⁵
Act 451 of 1976	The Revised School Code	School districts and intermediate school districts	School Board	No
Act 292 of 1989	Metropolitan Councils Act	Cities, counties, villages, and townships ⁶	Metropolitan Area Council	Yes
Act 451 of 1994 (Part 721)	Michigan Trailways	Federal government, counties, cities, villages, and townships	Michigan Trailway Management Council ⁷	Yes
Act 321 of 2000	Recreational Authorities Act	Cities, counties, villages, townships, and districts ⁸	Board of Directors	Yes

⁴ Formed when two or more townships hold land jointly; it is made up of the supervisor or designee from each township

⁵ To oversee regional parks

⁶ Within a metropolitan area

⁷ Councils are formed pursuant to the Urban Cooperation Act (Act 7 of 1967)

⁸ A district is defined as a portion of a city, county, village, or township having boundaries coterminous with those of a precinct used for general

Source: *Guidelines for the Development of Community Park, Recreation , Open Space and Greenway Plans*

HARBOR Area Possible Recreation Structures

Possible Organizational Structures to jointly plan for, acquire, develop and manage recreation, trails and open space in the Harbor Springs Area Community. A carefully structured decision can leave open the possibility for separate structures for different purposes. Regardless of the decision on structure, notification of intent to plan is not necessary at this time, however may be desirable.

HARBOR Area Trailways Management Council (Trailways Commission)

Who: Two or more governmental agencies

How: Interlocal agreement adopted by the legislative body of participating jurisdictions pursuant to Urban Cooperation Act of 1967 and in the Natural Resources and Environmental Protection Act, NREPA (Act 451 of 1994, MCL 324.72106)

What: For the operation and maintenance of a portion of 1 or more Michigan Trailways (a petitioned designation) that is owned or under control of the govt. agencies establishing the council or located on state land.

Powers: Coordinated enforcement of Trailways rules and regulations and other applicable laws and ordinances, including State land.

Acquire or hold real property for the purpose of operating a Michigan Trailway

Funding: Receive funds from participating jurisdictions according to agreement and potentially through separate levy by the jurisdiction.

Receive grants related to that portion of the Trailway, (May apply for DNR Grants).

Receive private funds.

Example: Paint Creek Trailways Commission (Southeast Michigan).

Limits: Does not address open space.

HARBOR Area Parks and Recreation Commission or Board

Who: Various combinations of jurisdictions and districts

How: Several acts authorize a multi-jurisdictional councils, commissions or boards to address, among other things, Recreation. They are:

Recreation Board (Act 156 of 1917)

Charter Commission (Act 312 of 1929) or

Council (Act 292 of 1989)

Appears to have potential to combine with an interlocal agreement adopted by the legislative body of participating jurisdictions pursuant to Urban Cooperation Act of 1967.

What: These acts address forming partnerships for a number of things, one of which is public parks and recreation. Two of the enabling laws are much older, with outdated language. They address recreation with this language:

Operating a system of public recreation and playground; acquire, equip and maintain land, buildings and other recreational facilities (Act 156 of 1917)

Purpose of acquiring, owning and operating parks and public utilities (act 312 of 1929)

Another enabling act, the Metropolitan Councils Act (Act 292 of 1989) allows multi-jurisdictional councils to be formed that address recreation, but this is a minor part of the legislative language.

Powers: Numerous according to the various acts.

Funding: If combined with interlocal agreement, can receive funds from participating jurisdictions according to agreement and potentially through separate levy by the jurisdiction.

The current DNR Guidebook indicates that individual jurisdictions apply for DNR grants if land is owned separately and the Commission may therefore not apply for grants. If the Commission owns land, it appears that they may apply for DNR Grants.

Receive private funds.

Example: Numerous according to the various acts.

Considerations: The current DNR Guidebook indicates that separate jurisdictions cannot maintain plans, however this restriction does not address the possibility of a narrowly defined organization.

Limits: Acts structuring Commissions are very old.

HARBOR Area Trails and Open Space Non-profit organization

Who: Non-government entity, Established by separate local group (Board of Directors/staff?)

How: Articles of Incorporation and Bylaws pursuant to IRS code for 501 (c) (3) organizations.

What: Could be for anything, would have to establish bylaws, develop a mission, etc.

Powers: Would be specified by incorporating documents

Funds: Can receive grants (private and government), donations, user fees, member fees

Can not tax

Can **NOT** apply for DNR Grants

May or may not own property

Example: Top of Michigan Trails Council

TART, Traverse Area Recreational Trails, Inc.

Limitations: May not offer any benefit over existing non-profit organizations.

HARBOR Area Recreational Authority

Who: Two or more municipalities or districts, governed by a board of directors

How: Formed pursuant to the Recreational Authorities Act (P.A. 321 of 2000). Articles of incorporation listing the name of the authority, description of the territory of the authority, size, makeup, selection, etc. of the board, purpose for which the authority was established, procedures for joining and withdrawing

Public notice

Articles are adopted by a majority of the members serving on the legislative body of each participating municipality

Can be formed pending approval of a millage

Filed with state

What: For the acquisition, construction, operation, maintenance or improvement of 1 or more of the following:

- a public pool,
- public rec. center,
- public auditorium,
- public conference center,
- public park (meaning an area of land and water or both, dedicated to one or more of the following uses, landscaped tracts, picnic grounds, playgrounds, athletic fields, camps, campgrounds, zoological and botanical gardens, living hist. farms, boating, hunting, fishing and birding areas, swimming areas; and foot, bicycle and bridle paths; open or scenic spaces; environmental, conservation, nature or wildlife areas,)
- public museum or
- public historic farm

Powers: May acquire and hold, by any legal means, real and personal property inside or outside the territory of the authority

Hire employees and retain professional services

Funds: Apply for and accept grants or contributions from individuals, federal, state or municipal agencies, (**May apply for DNR Grants**)

Receive revenue appropriated by state or participating municipality

Assess and collect fees

Enter into contracts

May levy a tax of not more than 1 mill for a period of not more than 20 years (requires the approval of a majority of voters in each of the participating municipalities)

May borrow money and issue bonds or notes (may issue general obligation tax bonds with approval of voters)

Example: City of Traverse City and Garfield Township (attached)

City of Howell and several surrounding Townships (attached)

Considerations: A narrowly defined organization could leave open the possibility of a separate school district authority to address active and organized recreation.

What would a narrowly defined organization that is a combination of multiple jurisdictions (i.e. Recreation Authority) mean for the participating jurisdictions?

City of Harbor Springs

The City would have a Rec. Plan, approved by DNR. The Multi-jurisdictional Recreation Authority would be a possible future vehicle to address the disparity in maintenance costs associated with rec. facilities in Harbor Springs (an interest expressed by the City).

Friendship Township

This could solve the issue of updating the recreation plan. They could use the Multi-jurisdictional Recreation Authority Plan as their approved plan. If authority is structured narrowly, they could also opt to develop their own recreation plan and be eligible to apply for DNR grants for the separate purposes.

L.T. Township

If Multi-jurisdictional Recreation Authority is structured narrowly, L.T. Township could maintain their recently drafted DNR approved plan and still be part of the authority.

Pleasantview Township

This would leave them as part of the Multi-jurisdictional Recreation Authority and they would have a DNR approved plan. They could opt to develop their own plan to address other issues.

Readmond Township

This could solve the issue of updating their recreation plan. They could use the Multi-jurisdictional Recreation Authority Plan as their approved plan for Trails and Open Space. If authority is structured narrowly, they could also opt to develop their own recreation plan and be eligible to apply for DNR grants for the separate purposes.

West Traverse / Cross Village Townships

Currently, these Townships do not have Resolutions for participation, some informal participation has occurred. Since neither township has a current DNR plan, outcomes similar to other jurisdictions might be anticipated.

**Some Important Elements of the
Recreational Authorities Act
[Public Act 321 of 2000; MCL 123.1131 et seq.]**

A *Recreational Authority* may be established by two or more municipalities, defined as city, county, village or township. To begin establishing a *Recreational Authority*, articles of incorporation must be prepared. [MCL 123.1135; Sec. 5(1) & (2)]

The purpose of a *Recreational Authority* shall be “the acquisition, construction, operation, maintenance, or improvement of” public recreational facilities including a pool, recreation center, park, historic farm and similar things. The Act defines a park as land or water area dedicated to a broad range of uses, including: playgrounds, athletic fields, camps, paths (foot, bicycle and bridle paths), open or scenic space, wildlife areas, and many others. [MCL 123.1133; Sec. 3(h)]

According to Sec. 9(a), a *Recreation Authority* may acquire and hold real and personal property inside or outside the territory of the authority through purchase, lease, land contract, installment contracts, and other means (MCL 123.1139). A *Recreational Authority* may also obtain grants, collect fees, receive revenue as appropriated by the legislature or participating municipalities, enter into contracts, provide for the maintenance of property, and retain employees and professional services.

According to the *Guidelines for the Development of Community Park, Recreation, Open Space and Greenway Plans (MDNR, 2004)*, a *Recreation Authorities* may apply for DNR grants. If the *Recreation Authority* is clearly limited in its role in providing recreation for the participating communities, those communities may apply for recreation grants separately.

A *Recreational Authority* can levy a tax of not more than 1 mill for not more than 20 years on all the taxable property within its territory. [MCL 123.1141; Sec. 11(1)]

To establish an authority, articles of incorporation must be prepared, including: name of authority, participating municipalities, description of territory, characteristics of board (e.g., number of members and their selection, qualifications, terms, replacement). [MCL 123.1135; Sec. 5(2)]