

**SB 765, As Passed Senate, October 5, 2000**

**SUBSTITUTE FOR  
SENATE BILL NO. 765**

A bill to amend 1921 PA 207, entitled  
"City and village zoning act,"  
by amending sections 1, 4, and 20 (MCL 125.581, 125.584, and  
125.600), section 1 as amended by 1995 PA 36 and section 20 as  
added by 1996 PA 571.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. (1) The legislative body of a city or village may  
2 regulate and restrict the use of land and structures ~~to meet~~  
3 TO DO ANY OF THE FOLLOWING:

4       (A) MEET the needs of the state's residents for food, fiber,  
5 energy and other natural resources, places of residence, recre-  
6 ation, industry, trade, service, and other uses of land. ~~to~~  
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1 (B) ENSURE that uses of the land ~~shall be~~ ARE situated in  
2 appropriate locations and relationships. ~~to limit~~

3 (C) LIMIT the inappropriate overcrowding of land and conges-  
4 tion of population and transportation systems and other public  
5 facilities. ~~to facilitate~~

6 (D) FACILITATE adequate and efficient provision for trans-  
7 portation systems, sewage disposal, water, energy, education,  
8 recreation, and other public service and facility needs. ~~and~~  
9 ~~to promote~~

10 (E) PROMOTE public health, safety, and welfare. ~~, and for~~  
11 ~~those purposes~~

12 (2) FOR THE PURPOSES OF SUBSECTION (1), THE LEGISLATIVE BODY  
13 OF A CITY OR VILLAGE may divide ~~a~~ THE city or village into dis-  
14 tricts of the number, shape, and area considered best suited to  
15 carry out this section. For each of those districts, regulations  
16 may be imposed designating the uses for which buildings or struc-  
17 tures shall or shall not be erected or altered, and designating  
18 the trades, industries, and other land uses or activities that  
19 shall be permitted or excluded or subjected to special  
20 regulations.

21 (3) ~~(2)~~ The land development regulations and districts  
22 authorized by this act shall be made in accordance with a plan  
23 designed to promote and accomplish the objectives of this act.  
24 THE CITY OR VILLAGE SHALL INCORPORATE ANY AIRPORT LAYOUT PLAN OR  
25 AIRPORT APPROACH PLAN FILED WITH THE COMMISSION APPOINTED TO REC-  
26 OMMEND THE ZONING ORDINANCE INTO THE PLAN REQUIRED UNDER THIS  
27 SUBSECTION WHEN THAT PLAN IS REVISED.

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1 (4) THE ORDINANCE SHALL BE MADE WITH REASONABLE  
2 CONSIDERATION OF, AMONG OTHER THINGS, BOTH OF THE FOLLOWING:

3 (A) FOR AN ORDINANCE ADOPTED AFTER THE EFFECTIVE DATE OF THE  
4 AMENDATORY ACT THAT ADDED THIS SUBDIVISION, THE ENVIRONS OF ANY  
5 AIRPORT WITHIN A DISTRICT.

6 (B) COMMENTS RECEIVED AT OR BEFORE A PUBLIC HEARING UNDER  
7 SECTION 4 FROM THE AIRPORT MANAGER OF ANY AIRPORT.

8 (5) IF A ZONING ORDINANCE WAS ADOPTED BEFORE THE EFFECTIVE  
9 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION, THE ZONING  
10 ORDINANCE IS NOT REQUIRED TO BE CONSISTENT WITH ANY AIRPORT  
11 ZONING REGULATIONS, AIRPORT LAYOUT PLAN, OR AIRPORT APPROACH  
12 PLAN. HOWEVER, ANY ZONING ORDINANCE AMENDMENT ADOPTED OR VARI-  
13 ANCE GRANTED AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT  
14 ADDED THIS SUBSECTION SHALL NOT INCREASE ANY INCONSISTENCY THAT  
15 MAY EXIST BETWEEN THE ZONING ORDINANCE OR STRUCTURES OR USES AND  
16 ANY AIRPORT ZONING REGULATIONS, AIRPORT LAYOUT PLAN, OR AIRPORT  
17 APPROACH PLAN. THIS SUBSECTION DOES NOT LIMIT THE RIGHT UNDER  
18 SECTION 4 TO FILE A PROTEST PETITION CONCERNING A ZONING ORDI-  
19 NANCE AMENDMENT.

20 (6) IF A ZONING ORDINANCE IS ADOPTED AFTER THE EFFECTIVE  
21 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION, THE ZONING  
22 ORDINANCE SHALL BE CONSISTENT WITH ANY AIRPORT ZONING REGULA-  
23 TIONS, AIRPORT LAYOUT PLAN, AND AIRPORT APPROACH PLAN. THIS SUB-  
24 SECTION DOES NOT LIMIT THE RIGHT UNDER SECTION 4 TO FILE A PRO-  
25 TECT PETITION CONCERNING A ZONING ORDINANCE.

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1       (7) ~~(3)~~ An ordinance adopted pursuant to this act is  
2 subject to the electric transmission line certification act, 1995  
3 PA 30, MCL 460.561 TO 460.575.

4       Sec. 4. (1) The legislative body of a city or village may  
5 provide by ordinance for the manner in which regulations and  
6 boundaries of districts or zones shall be determined and enforced  
7 or amended, supplemented, or changed. At least 1 public hearing  
8 shall be held by the commission appointed to recommend zoning  
9 regulations ~~—~~ or, if a commission does not exist, by the legis-  
10 lative body before a regulation becomes effective. Not less than  
11 15 days' notice of the time and place of the public hearing shall  
12 first be published in an official paper or a paper of general  
13 circulation in the city or village. ~~—, and not~~ NOT less than 15  
14 days' notice of the time and place of the public hearing shall  
15 first be given by mail to each public utility company and ~~to~~  
16 each railroad company owning or operating any public utility or  
17 railroad within the districts or zones affected, AND THE AIRPORT  
18 MANAGER OF EACH AIRPORT, that registers its name and mailing  
19 address with the city or village clerk for the purpose of receiv-  
20 ing the notice. An affidavit of mailing shall be maintained. A  
21 hearing shall be granted ~~a~~ TO AN INTERESTED person ~~interested~~  
22 at the time and place specified on the notice.

23       (2) The legislative body of a city or village, unless other-  
24 wise provided by charter, may appoint a commission to recommend  
25 in the first instance the boundaries of districts and appropriate  
26 regulations to be enforced in the districts. If a city or  
27 village has a planning commission, that commission shall be

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1 appointed to perform the duties set forth in this section. The  
2 commission shall make a tentative report and hold at least 1  
3 public hearing before submitting its final report to the legisla-  
4 tive body. A summary of the comments submitted at the public  
5 hearing shall be transmitted with the report of the commission to  
6 the legislative body. The legislative body may hold additional  
7 public hearings if it considers it necessary ~~,~~ or as may be  
8 required by charter.

9 (3) In a city or village having a commission appointed to  
10 recommend zoning requirements, the legislative body shall not in  
11 the first instance determine the boundaries of districts ~~nor~~ OR  
12 impose regulations until after the final report of the  
13 commission. ~~, nor shall~~ IN SUCH A CITY OR VILLAGE, THE LEGISLA-  
14 TIVE BODY SHALL NOT AMEND the ordinance or maps ~~be amended~~  
15 after they are adopted in the first instance until the proposed  
16 amendment has been submitted to the commission and it has held at  
17 least 1 hearing and made report thereon. In either case, the  
18 legislative body may adopt the ordinance and maps, with or with-  
19 out amendments, after receipt of the commission's report, or  
20 refer the ordinance and maps again to the commission for a fur-  
21 ther report.

22 (4) After the ordinance and maps have in the first instance  
23 been approved by the legislative body of a city or village,  
24 amendments or supplements thereto may be made as provided in this  
25 section, except that if an individual property or several adja-  
26 cent properties are proposed for rezoning, notice of the proposed

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1 rezoning and hearing shall be given to the owners of the property  
2 in question at least 15 days before the hearing.

3       (5) Upon presentation of a protest petition meeting the  
4 requirements of this subsection, an amendment to a zoning ordi-  
5 nance which is the object of the petition shall be passed only by  
6 a 2/3 vote of the legislative body, unless a larger vote, but not  
7 to exceed 3/4 vote, is required by ordinance or charter. The  
8 protest petition shall be presented to the legislative body  
9 before final legislative action on the amendment ~~—~~ and shall be  
10 signed by 1 of the following:

11       (a) The owners of at least 20% of the area of land included  
12 in the proposed change.

13       (b) The owners of at least 20% of the area of land included  
14 within an area extending outward 100 feet from any point on the  
15 boundary of the land included in the proposed change.

16       (6) For purposes of subsection (5), publicly owned land  
17 shall be excluded in calculating the 20% land area requirement.

18       (7) Following adoption of a zoning ordinance and subsequent  
19 amendments by the legislative body of a city or village, 1 notice  
20 of adoption shall be published in a newspaper of general circula-  
21 tion in the city or village within 15 days after adoption.

22 PROMPTLY FOLLOWING ADOPTION OF A ZONING ORDINANCE OR SUBSEQUENT  
23 AMENDMENT BY THE LEGISLATIVE BODY OF THE CITY OR VILLAGE, A COPY  
24 OF THE NOTICE OF ADOPTION SHALL ALSO BE MAILED TO THE AIRPORT  
25 MANAGER OF AN AIRPORT ENTITLED TO NOTICE UNDER SUBSECTION (1).

26       (8) The notice OF ADOPTION UNDER SUBSECTION (7) shall  
27 include the following information:

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1 (a) In the case of a newly adopted zoning ordinance, the  
2 following statement: "A zoning ordinance regulating the develop-  
3 ment and use of land has been adopted by the city (village) coun-  
4 cil of the city (village) of \_\_\_\_\_".

5 (b) In the case of an amendment to an existing ordinance,  
6 either a summary of the regulatory effect of the amendment,  
7 including the geographic area affected, or the text of the  
8 amendment.

9 (c) The effective date of the ordinance.

10 (d) The place and time where a copy of the ordinance may be  
11 purchased or inspected. The filing and publication requirements  
12 in this section relating to city and village zoning ordinances  
13 supersede charter provisions relating to the filing and publica-  
14 tion of city and village ordinances.

15 Sec. 20. (1) As used in this act:

16 (a) "Agricultural land" means substantially undeveloped land  
17 devoted to the production of plants and animals useful to humans,  
18 including forage and sod crops; grains, feed crops, and field  
19 crops; dairy and dairy products; poultry and poultry products;  
20 livestock, including breeding and grazing of cattle, swine, and  
21 similar animals; berries; herbs; flowers; seeds; grasses; nursery  
22 stock; fruits; vegetables; Christmas trees; and other similar  
23 uses and activities.

24 (B) "AIRPORT" MEANS AN AIRPORT LICENSED BY THE MICHIGAN  
25 DEPARTMENT OF TRANSPORTATION, BUREAU OF AERONAUTICS UNDER SECTION  
26 86 OF THE AERONAUTICS CODE OF THE STATE OF MICHIGAN, 1945 PA 327,  
27 MCL 259.86.

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1 (C) "AIRPORT APPROACH PLAN" MEANS A PLAN, OR AN AMENDMENT TO  
2 A PLAN, ADOPTED UNDER SECTION 12 OF THE AIRPORT ZONING ACT, 1950  
3 (EX SESS) PA 23, MCL 259.442, AND FILED WITH THE COMMISSION  
4 APPOINTED TO RECOMMEND ZONING REGULATIONS FOR THE CITY OR VILLAGE  
5 UNDER SECTION 151 OF THE AERONAUTICS CODE OF THE STATE OF  
6 MICHIGAN, 1945 PA 327, MCL 259.151.

7 (D) "AIRPORT LAYOUT PLAN" MEANS A PLAN, OR AN AMENDMENT TO A  
8 PLAN, THAT SHOWS CURRENT OR PROPOSED LAYOUT OF AN AIRPORT, THAT  
9 IS APPROVED BY THE MICHIGAN AERONAUTICS COMMISSION, AND THAT IS  
10 FILED WITH THE CITY OR VILLAGE ZONING COMMISSION UNDER SECTION  
11 151 OF THE AERONAUTICS CODE OF THE STATE OF MICHIGAN, 1945 PA  
12 327, MCL 259.151.

13 (E) "AIRPORT MANAGER" MEANS THAT TERM AS DEFINED IN SECTION  
14 10 OF THE AERONAUTICS CODE OF THE STATE OF MICHIGAN, 1945 PA 327,  
15 MCL 259.10.

16 (F) "AIRPORT ZONING REGULATIONS" MEANS AIRPORT ZONING REGU-  
17 LATIONS UNDER THE AIRPORT ZONING ACT, 1950 (EX SESS) PA 23, MCL  
18 259.431 TO 259.465, FOR AN AIRPORT HAZARD AREA THAT LIES IN WHOLE  
19 OR PART IN THE AREA AFFECTED BY A ZONING ORDINANCE UNDER THIS  
20 ACT.

21 (G) ~~(b)~~ "Development rights" means the rights to develop  
22 land to the maximum intensity of development authorized by law.

23 (H) ~~(c)~~ "Development rights ordinance" means an ordinance,  
24 which may comprise part of a zoning ordinance, adopted under  
25 section 13.

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1       (I) ~~(d)~~ "Intensity of development" means the height, bulk,  
2 area, density, setback, use, and other similar characteristics of  
3 development.

4       (J) ~~(e)~~ "Other eligible land" means land that has a common  
5 property line with agricultural land from which development  
6 rights have been purchased and that is not divided from that  
7 agricultural land by a state or federal limited access highway.

8       (K) ~~(f)~~ "PDR program" means a program under section 14 for  
9 the purchase of development rights by a city or village.

10       (2) This act shall be known and may be cited as the "city  
11 and village zoning act".

12       Enacting section 1. This amendatory act does not take  
13 effect unless Senate Bill No. 764 of the 90th Legislature is  
14 enacted into law.