

**SUBSTITUTE FOR**  
**HOUSE BILL NO. 5029**  
(As amended October 16, 2001)

A bill to amend 1921 PA 207, entitled  
"City and village zoning act,"  
by amending section 20 (MCL 125.600), as amended by 2000 PA 383,  
and by adding section 4f.

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

1        SEC. 4F. (1) SUBJECT TO SUBSECTION (4)[AND THE RIGHT OF  
REFERENDUM IF PROVIDED BY CHARTER], BEGINNING 6 MONTHS  
2 AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS  
3 SECTION, EACH CITY OR VILLAGE WITH A ZONING ORDINANCE SHALL PRO-  
4 VIDE IN THE ZONING ORDINANCE THAT LAND ZONED FOR RESIDENTIAL  
5 DEVELOPMENT MAY BE DEVELOPED, AT THE OPTION OF THE LAND OWNER,  
6 WITH THE SAME NUMBER OF DWELLING UNITS ON A PORTION OF THE LAND  
7 SPECIFIED IN THE ZONING ORDINANCE, BUT NOT MORE THAN 80%, THAT,  
8 AS DETERMINED BY THE CITY OR VILLAGE, COULD OTHERWISE BE  
9 DEVELOPED, UNDER EXISTING ORDINANCES, LAWS, AND RULES, ON THE  
10 ENTIRE LAND AREA, IF ALL OF THE FOLLOWING APPLY:

**HB5029, As Passed House, October 16, 2001**

House Bill No. 5029

2

1 (A) THE LAND IS ZONED AT A DENSITY EQUIVALENT TO 2 OR FEWER  
2 DWELLING UNITS PER ACRE, OR, IF THE LAND IS SERVED BY A PUBLIC  
3 SEWER SYSTEM, 3 OR FEWER DWELLING UNITS PER ACRE.

4 (B) A PERCENTAGE OF THE LAND AREA SPECIFIED IN THE ZONING  
5 ORDINANCE, BUT NOT LESS THAN 20%, WILL REMAIN PERPETUALLY IN AN  
6 UNDEVELOPED STATE BY MEANS OF A CONSERVATION EASEMENT, PLAT DEDI-  
7 CATION, RESTRICTIVE COVENANT, OR OTHER LEGAL MEANS THAT RUNS WITH  
8 THE LAND, AS PRESCRIBED BY THE ZONING ORDINANCE.

9 (C) THE DEVELOPMENT DOES NOT DEPEND UPON THE EXTENSION OF A  
10 PUBLIC SEWER OR PUBLIC WATER SUPPLY SYSTEM, UNLESS DEVELOPMENT OF  
11 THE LAND WITHOUT THE EXERCISE OF THE OPTION PROVIDED BY THIS SUB-  
12 SECTION WOULD ALSO DEPEND UPON SUCH AN EXTENSION.

13 (D) THE OPTION PROVIDED PURSUANT TO THIS SUBSECTION HAS NOT  
14 PREVIOUSLY BEEN EXERCISED WITH RESPECT TO THAT LAND.

15 (2) AFTER A LAND OWNER EXERCISES THE OPTION PROVIDED PURSU-  
16 ANT TO SUBSECTION (1), THE LAND MAY BE REZONED ACCORDINGLY.

17 (3) THE DEVELOPMENT OF LAND UNDER SUBSECTION (1) IS SUBJECT  
18 TO OTHER APPLICABLE ORDINANCES, LAWS, AND RULES, INCLUDING RULES  
19 RELATING TO SUITABILITY OF GROUNDWATER FOR ON-SITE WATER SUPPLY  
20 FOR LAND NOT SERVED BY PUBLIC WATER AND RULES RELATING TO SUITA-  
21 BILITY OF SOILS FOR ON-SITE SEWAGE DISPOSAL FOR LAND NOT SERVED  
22 BY PUBLIC SEWERS.

23 (4) SUBSECTION (1) DOES NOT APPLY TO A CITY OR VILLAGE IF  
24 BOTH OF THE FOLLOWING REQUIREMENTS ARE MET:

25 (A) SINCE ON OR BEFORE THE ENACTMENT DATE OF THE AMENDATORY  
26 ACT THAT ADDED THIS SECTION, THE CITY OR VILLAGE HAS HAD IN

**HB5029, As Passed House, October 16, 2001**

Sub. HB 5029 (H-4) as amended October 16, 2001 3

1 EFFECT A ZONING ORDINANCE PROVISION PROVIDING FOR BOTH OF THE  
2 FOLLOWING:

3 (i) LAND ZONED FOR RESIDENTIAL DEVELOPMENT MAY BE DEVELOPED,  
4 AT THE OPTION OF THE LAND OWNER BUT SUBJECT TO ANY APPROVALS OR  
5 OTHER CONDITIONS IMPOSED BY THE CITY OR VILLAGE, WITH THE SAME  
6 NUMBER OF DWELLING UNITS ON A PORTION OF THE LAND THAT, AS DETER-  
7 MINED BY THE CITY OR VILLAGE, COULD OTHERWISE BE DEVELOPED, UNDER  
8 EXISTING ORDINANCES, LAWS, AND RULES, ON THE ENTIRE LAND AREA.

9 (ii) IF THE LAND OWNER EXERCISES THE OPTION PROVIDED BY  
10 SUBPARAGRAPH (i), THE PORTION OF THE LAND NOT DEVELOPED WILL  
11 REMAIN PERPETUALLY IN AN UNDEVELOPED STATE BY MEANS OF A CONSER-  
12 VATION EASEMENT, PLAT DEDICATION, RESTRICTIVE COVENANT, OR OTHER  
13 LEGAL MEANS THAT RUNS WITH THE LAND.

14 (B) ON OR BEFORE THE ENACTMENT DATE OF THE AMENDATORY ACT  
15 THAT ADDED THIS SECTION, A LAND OWNER EXERCISED THE OPTION PRO-  
16 VIDED UNDER THE ZONING ORDINANCE PROVISION REFERRED TO IN  
17 SUBDIVISION (A) WITH AT LEAST [20%] OF THE LAND AREA REMAINING PER-  
18 PETUALLY IN AN UNDEVELOPED STATE.

19 (5) THE ZONING ORDINANCE PROVISIONS REQUIRED BY  
20 SUBSECTION (1) SHALL BE KNOWN AND MAY BE CITED AS THE "OPEN SPACE  
21 PRESERVATION" PROVISIONS OF THE ZONING ORDINANCE.

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

23 (a) "Agricultural land" means substantially undeveloped land  
24 devoted to the production of plants and animals useful to humans,  
25 including forage and sod crops; grains, feed crops, and field  
26 crops; ~~dairy and~~ dairy products; poultry and poultry products;  
27 livestock, including breeding and grazing of cattle, swine, and

**HB5029, As Passed House, October 16, 2001**

House Bill No. 5029

4

1 similar animals; berries; herbs; flowers; seeds; grasses; nursery  
2 stock; fruits; vegetables; Christmas trees; and other similar  
3 uses and activities.

4 (b) "Airport" means an airport licensed by the Michigan  
5 department of transportation, bureau of aeronautics under section  
6 86 of the aeronautics code of the state of Michigan, 1945 PA 327,  
7 MCL 259.86.

8 (c) "Airport approach plan" means a plan, or an amendment to  
9 a plan, adopted under section 12 of the airport zoning act, 1950  
10 (Ex Sess) PA 23, MCL 259.442, and filed with the commission  
11 appointed to recommend zoning regulations for the city or village  
12 under section 151 of the aeronautics code of the state of  
13 Michigan, 1945 PA 327, MCL 259.151.

14 (d) "Airport layout plan" means a plan, or an amendment to a  
15 plan, that shows current or proposed layout of an airport, that  
16 is approved by the Michigan aeronautics commission, and that is  
17 filed with COMMISSION APPOINTED TO RECOMMEND ZONING REGULATIONS  
18 FOR the city or village ~~zoning commission~~ under section 151 of  
19 the aeronautics code of the state of Michigan, 1945 PA 327,  
20 MCL 259.151.

21 (e) "Airport manager" means that term as defined in section  
22 10 of the aeronautics code of the state of Michigan, 1945 PA 327,  
23 MCL 259.10.

24 (f) "Airport zoning regulations" means airport zoning regu-  
25 lations under the airport zoning act, 1950 (Ex Sess) PA 23,  
26 MCL 259.431 to 259.465, for an airport hazard area that lies in

**HB5029, As Passed House, October 16, 2001**

House Bill No. 5029

5

1 whole or part in the area affected by a zoning ordinance under  
2 this act.

3 (G) "CONSERVATION EASEMENT" MEANS THAT TERM AS DEFINED IN  
4 SECTION 2140 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTEC-  
5 TION ACT, 1994 PA 451, MCL 324.2140.

6 (H) ~~(g)~~ "Development rights" means the rights to develop  
7 land to the maximum intensity of development authorized by law.

8 (I) ~~(h)~~ "Development rights ordinance" means an ordinance,  
9 which may comprise part of a zoning ordinance, adopted under  
10 section 13.

11 (J) "GREENWAY" MEANS A CONTIGUOUS OR LINEAR OPEN SPACE,  
12 INCLUDING HABITATS, WILDLIFE CORRIDORS, AND TRAILS, THAT LINK  
13 PARKS, NATURE RESERVES, CULTURAL FEATURES, OR HISTORIC SITES WITH  
14 EACH OTHER, FOR RECREATION AND CONSERVATION PURPOSES.

15 (K) ~~(i)~~ "Intensity of development" means the height, bulk,  
16 area, density, setback, use, and other similar characteristics of  
17 development.

18 (l) ~~(j)~~ "Other eligible land" means land that has a common  
19 property line with agricultural land from which development  
20 rights have been purchased and that is not divided from that  
21 agricultural land by a state or federal limited access highway.

22 (M) ~~(k)~~ "PDR program" means a program under section 14 for  
23 the purchase of development rights by a city or village.

24 (N) "UNDEVELOPED STATE" MEANS A NATURAL STATE PRESERVING  
25 NATURAL RESOURCES, NATURAL FEATURES, OR SCENIC OR WOODED CONDI-  
26 TIONS; AGRICULTURAL USE; OPEN SPACE; OR A SIMILAR USE OR  
27 CONDITION. LAND IN AN UNDEVELOPED STATE DOES NOT INCLUDE A GOLF

**HB5029, As Passed House, October 16, 2001**

Sub. HB 5029 (H-4) as amended October 16, 2001 6

1 COURSE [OR RETENTION POND] BUT MAY INCLUDE A RECREATIONAL TRAIL,  
PICNIC AREA,

2 CHILDREN'S PLAY AREA, GREENWAY, OR LINEAR PARK. LAND IN AN UNDE-

3 VELOPED STATE MAY BE, BUT IS NOT REQUIRED TO BE, DEDICATED TO THE

4 USE OF THE PUBLIC.

5 (2) This act shall be known and may be cited as the "city

6 and village zoning act".