

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5029**

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
2 REFERENDUM IF PROVIDED BY CHARTER, BEGINNING 1 YEAR AFTER THE
3 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION,
4 EACH QUALIFIED CITY OR QUALIFIED VILLAGE SHALL PROVIDE IN ITS
5 ZONING ORDINANCE THAT LAND ZONED FOR RESIDENTIAL DEVELOPMENT MAY
6 BE DEVELOPED, AT THE OPTION OF THE LAND OWNER, WITH THE SAME
7 NUMBER OF DWELLING UNITS ON A PORTION OF THE LAND SPECIFIED IN
8 THE ZONING ORDINANCE, BUT NOT MORE THAN 80%, THAT, AS DETERMINED
9 BY THE CITY OR VILLAGE, COULD OTHERWISE BE DEVELOPED, UNDER

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1 EXISTING ORDINANCES, LAWS, AND RULES, ON THE ENTIRE LAND AREA, IF
2 ALL OF THE FOLLOWING APPLY:

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

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

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

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

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

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

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

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1 (A) SINCE OCTOBER 1, 2001, THE CITY OR VILLAGE HAS HAD IN
2 EFFECT A ZONING ORDINANCE PROVISION PROVIDING FOR BOTH OF THE
3 FOLLOWING:

4 (i) LAND ZONED FOR RESIDENTIAL DEVELOPMENT MAY BE DEVELOPED,
5 AT THE OPTION OF THE LAND OWNER, WITH THE SAME NUMBER OF DWELLING
6 UNITS ON A PORTION OF THE LAND THAT, AS DETERMINED BY THE CITY OR
7 VILLAGE, COULD OTHERWISE BE DEVELOPED, UNDER EXISTING ORDINANCES,
8 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) AS USED IN THIS SECTION, "QUALIFIED CITY" OR "QUALIFIED
20 VILLAGE" MEANS A CITY OR VILLAGE, RESPECTIVELY, THAT MEETS ALL OF
21 THE FOLLOWING REQUIREMENTS:

22 (A) HAS ADOPTED A ZONING ORDINANCE.

23 (B) HAS A POPULATION OF 1,800 OR MORE.

24 (C) HAS LAND THAT IS NOT DEVELOPED AND THAT IS ZONED FOR
25 RESIDENTIAL DEVELOPMENT AT A DENSITY DESCRIBED IN SUBSECTION
26 (1)(A).

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1 (6) THE ZONING ORDINANCE PROVISIONS REQUIRED BY
2 SUBSECTION (1) SHALL BE KNOWN AND MAY BE CITED AS THE "OPEN SPACE
3 PRESERVATION" PROVISIONS OF THE ZONING ORDINANCE.

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

5 (a) "Agricultural land" means substantially undeveloped land
6 devoted to the production of plants and animals useful to humans,
7 including forage and sod crops; grains, feed crops, and field
8 crops; ~~dairy and~~ dairy products; poultry and poultry products;
9 livestock, including breeding and grazing of cattle, swine, and
10 similar animals; berries; herbs; flowers; seeds; grasses; nursery
11 stock; fruits; vegetables; Christmas trees; and other similar
12 uses and activities.

13 (b) "Airport" means an airport licensed by the Michigan
14 department of transportation, bureau of aeronautics under section
15 86 of the aeronautics code of the state of Michigan, 1945 PA 327,
16 MCL 259.86.

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

23 (d) "Airport layout plan" means a plan, or an amendment to a
24 plan, that shows current or proposed layout of an airport, that
25 is approved by the Michigan aeronautics commission, and that is
26 filed with COMMISSION APPOINTED TO RECOMMEND ZONING REGULATIONS
27 FOR the city or village ~~zoning commission~~ under section 151 of

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1 the aeronautics code of the state of Michigan, 1945 PA 327,
2 MCL 259.151.

3 (e) "Airport manager" means that term as defined in section
4 10 of the aeronautics code of the state of Michigan, 1945 PA 327,
5 MCL 259.10.

6 (f) "Airport zoning regulations" means airport zoning regu-
7 lations under the airport zoning act, 1950 (Ex Sess) PA 23,
8 MCL 259.431 to 259.465, for an airport hazard area that lies in
9 whole or part in the area affected by a zoning ordinance under
10 this act.

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

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

16 (I) ~~-(h)-~~ "Development rights ordinance" means an ordinance,
17 which may comprise part of a zoning ordinance, adopted under
18 section 13.

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

23 (K) ~~-(i)-~~ "Intensity of development" means the height, bulk,
24 area, density, setback, use, and other similar characteristics of
25 development.

26 (l) ~~-(j)-~~ "Other eligible land" means land that has a common
27 property line with agricultural land from which development

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1 rights have been purchased and that is not divided from that
2 agricultural land by a state or federal limited access highway.

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

5 (N) "UNDEVELOPED STATE" MEANS A NATURAL STATE PRESERVING
6 NATURAL RESOURCES, NATURAL FEATURES, OR SCENIC OR WOODED CONDI-
7 TIONS; AGRICULTURAL USE; OPEN SPACE; OR A SIMILAR USE OR
8 CONDITION. LAND IN AN UNDEVELOPED STATE DOES NOT INCLUDE A GOLF
9 COURSE BUT MAY INCLUDE A RECREATIONAL TRAIL, PICNIC AREA,
10 CHILDREN'S PLAY AREA, GREENWAY, OR LINEAR PARK. LAND IN AN UNDE-
11 VELOPED STATE MAY BE, BUT IS NOT REQUIRED TO BE, DEDICATED TO THE
12 USE OF THE PUBLIC.

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