

HOUSE BILL No. 5028

July 11, 2001, Introduced by Reps. Richardville, Ruth Johnson and Kolb and referred to the Committee on Land Use and Environment.

A bill to amend 1943 PA 183, entitled
"County zoning act,"
by amending section 40 (MCL 125.240), as amended by 2000 PA 385,
and by adding section 16h.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 16H. (1) BEGINNING 6 MONTHS AFTER THE EFFECTIVE DATE
2 OF THE AMENDATORY ACT THAT ADDED THIS SECTION, EACH COUNTY WITH A
3 ZONING ORDINANCE SHALL PROVIDE IN THE ZONING ORDINANCE THAT A
4 PROPRIETOR OF LAND ZONED FOR RESIDENTIAL DEVELOPMENT MAY DEVELOP
5 A PERCENTAGE OF THE DEVELOPABLE LAND AREA SPECIFIED IN THE ZONING
6 ORDINANCE, BUT NOT MORE THAN 50%, WITH THE SAME NUMBER OF DWELL-
7 ING UNITS THAT COULD OTHERWISE BE DEVELOPED ON THE ENTIRE DEVEL-
8 OPABLE LAND AREA IF BOTH OF THE FOLLOWING APPLY:

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) THE PROPRIETOR ENSURES THAT A PERCENTAGE OF THE LAND
5 AREA SPECIFIED IN THE ZONING ORDINANCE, BUT NOT LESS THAN 50%,
6 WILL REMAIN IN AN UNDEVELOPED STATE BY MEANS OF A CONSERVATION
7 EASEMENT, PLAT DEDICATION, RESTRICTIVE COVENANT, OR OTHER LEGAL
8 MEANS THAT RUNS WITH THE LAND.

9 (2) A PROPRIETOR'S EXERCISE OF THE OPTION PROVIDED UNDER
10 SUBSECTION (1) DOES NOT REQUIRE A REZONING OF THE LAND.

11 (3) SECTION 12 DOES NOT APPLY TO A ZONING ORDINANCE AMEND-
12 MENT ADOPTED TO COMPLY WITH SUBSECTION (1).

13 (4) THE ZONING ORDINANCE PROVISIONS REQUIRED BY
14 SUBSECTION (1) SHALL BE KNOWN AND MAY BE CITED AS THE "OPEN SPACE
15 PRESERVATION" PROVISIONS OF THE ZONING ORDINANCE.

16 Sec. 40. (1) As used in this act:

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

25 (b) "Airport" means an airport licensed by the Michigan
26 department of transportation, bureau of aeronautics under section

1 86 of the aeronautics code of the state of Michigan, 1945 PA 327,
2 MCL 259.86.

3 (c) "Airport approach plan" means a plan, or an amendment to
4 a plan, adopted under section 12 of the airport zoning act, 1950
5 (Ex Sess) PA 23, MCL 259.442, and filed with the county zoning
6 commission under section 151 of the aeronautics code of the state
7 of Michigan, 1945 PA 327, MCL 259.151.

8 (d) "Airport layout plan" means a plan, or an amendment to a
9 plan, that shows current or proposed layout of an airport, that
10 is approved by the Michigan aeronautics commission, and that is
11 filed with the county zoning commission under section 151 of the
12 aeronautics code of the state of Michigan, 1945 PA 327,
13 MCL 259.151.

14 (e) "Airport manager" means that term as defined in section
15 10 of the aeronautics code of the state of Michigan, 1945 PA 327,
16 MCL 259.10.

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

22 (G) "CONDOMINIUM UNIT" MEANS THAT TERM AS DEFINED IN SECTION
23 4 OF THE CONDOMINIUM ACT, 1978 PA 59, MCL 559.104.

24 (H) "CONSERVATION EASEMENT" MEANS THAT TERM AS DEFINED IN
25 SECTION 2140 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTEC-
26 TION ACT, 1994 PA 451, MCL 324.2140.

1 (I) "DEVELOPABLE LAND AREA" MEANS THE MAXIMUM COMBINED AREA
2 OF THE RESIDENTIAL LOTS, PARCELS, OR SITE CONDOMINIUM UNITS THAT
3 COULD LAWFULLY BE DEVELOPED ON THE LAND.

4 (J) ~~(g)~~ "Development rights" means the rights to develop
5 land to the maximum intensity of development authorized by law.

6 (K) ~~(h)~~ "Development rights ordinance" means an ordinance,
7 which may comprise part of a zoning ordinance, adopted under
8 section 31.

9 (L) ~~(i)~~ "Intensity of development" means the height, bulk,
10 area, density, setback, use, and other similar characteristics of
11 development.

12 (M) "LOT" MEANS THAT TERM AS DEFINED IN SECTION 2 OF THE
13 LAND DIVISION ACT, 1967 PA 288, MCL 560.102.

14 (N) ~~(j)~~ "Other eligible land" means land that has a common
15 property line with agricultural land from which development
16 rights have been purchased and that is not divided from that
17 agricultural land by a state or federal limited access highway.

18 (O) "PARCEL" MEANS THAT TERM AS DEFINED IN SECTION 2 OF THE
19 LAND DIVISION ACT, 1967 PA 288, MCL 560.102.

20 (P) ~~(k)~~ "PDR program" means a program under section 32 for
21 the purchase of development rights by a county.

22 (Q) "PROPRIETOR" MEANS A PROPRIETOR AS DEFINED IN SECTION 2
23 OF THE LAND DIVISION ACT, 1967 PA 288, MCL 560.102, OR A DEVEL-
24 OPER AS THAT TERM IS DEFINED IN SECTION 6 OF THE CONDOMINIUM ACT,
25 1959 PA 78, MCL 559.106.

1 (R) "SITE CONDOMINIUM" MEANS CONDOMINIUM UNIT CONSISTING OF
2 A SINGLE FAMILY RESIDENCE, INCLUDING THE STRUCTURE, AND
3 SURROUNDING LAND.

4 (S) "UNDEVELOPED STATE" MEANS A NATURAL STATE PRESERVING
5 NATURAL RESOURCES, NATURAL FEATURES, OR SCENIC CONDITIONS, OR IN
6 AN AGRICULTURAL, FARMING, OPEN SPACE, WOODED, OR SIMILAR USE OR
7 CONDITION. LAND IN AN UNDEVELOPED STATE SHALL NOT INCLUDE A GOLF
8 COURSE BUT MAY INCLUDE A RECREATIONAL TRAIL, PICNIC AREA, OR
9 CHILDREN'S PLAY AREA.

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