

Act No. 179
Public Acts of 2001
Approved by the Governor
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**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2001**

Introduced by Reps. Kolb, Ruth Johnson and Richardville

ENROLLED HOUSE BILL No. 5029

AN ACT to amend 1921 PA 207, entitled "An act to provide for the establishment in cities and villages of districts or zones within which the use of land and structures and the height, area, size, and location of buildings may be regulated by ordinance, and for which districts regulations shall be established for the light and ventilation of those buildings, and for which districts or zones the density of population may be regulated by ordinance; to designate the use of certain state licensed residential facilities; to provide by ordinance for the acquisition by purchase, condemnation, or otherwise of private property that does not conform to the regulations and restrictions of the various zones or districts provided; to provide for the administering of this act; to provide for amendments, supplements, or changes in zoning ordinances, zones, or districts; to provide for conflict with the state housing code or other acts, ordinances, or regulations; to provide sanctions for the violation of this act; to authorize the purchase of development rights; to authorize the issuance of bonds and notes; and to provide for special assessments," 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:

Sec. 4f. (1) Subject to subsection (4) and the right of referendum if provided by charter, beginning 1 year after the effective date of the amendatory act that added this section, each qualified city or qualified village shall provide in its zoning ordinance that land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units on a portion of the land specified in the zoning ordinance, but not more than 80%, that, as determined by the city or village, could otherwise be developed, under existing ordinances, laws, and rules, on the entire land area, if all of the following apply:

(a) The land is zoned at a density equivalent to 2 or fewer dwelling units per acre, or, if the land is served by a public sewer system, 3 or fewer dwelling units per acre.

(b) A percentage of the land area specified in the zoning ordinance, but not less than 20%, will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land, as prescribed by the zoning ordinance.

(c) The development does not depend upon the extension of a public sewer or public water supply system, unless development of the land without the exercise of the option provided by this subsection would also depend upon such an extension.

(d) The option provided pursuant to this subsection has not previously been exercised with respect to that land.

(2) After a landowner exercises the option provided pursuant to subsection (1), the land may be rezoned accordingly.

(3) The development of land under subsection (1) is subject to other applicable ordinances, laws, and rules, including rules relating to suitability of groundwater for on-site water supply for land not served by public water and rules relating to suitability of soils for on-site sewage disposal for land not served by public sewers.

(4) Subsection (1) does not apply to a qualified city or qualified village if both of the following requirements are met:

(a) Since October 1, 2001, the city or village has had in effect a zoning ordinance provision providing for both of the following:

(i) Land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units on a portion of the land that, as determined by the city or village, could otherwise be developed, under existing ordinances, laws, and rules, on the entire land area.

(ii) If the landowner exercises the option provided by subparagraph (i), the portion of the land not developed will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land.

(b) On or before the enactment date of the amendatory act that added this section, a landowner exercised the option provided under the zoning ordinance provision referred to in subdivision (a) with at least 20% of the land area remaining perpetually in an undeveloped state.

(5) As used in this section, “qualified city” or “qualified village” means a city or village, respectively, that meets all of the following requirements:

(a) Has adopted a zoning ordinance.

(b) Has a population of 1,800 or more.

(c) Has land that is not developed and that is zoned for residential development at a density described in subsection (1)(a).

(6) The zoning ordinance provisions required by subsection (1) shall be known and may be cited as the “open space preservation” provisions of the zoning ordinance.

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

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

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

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

(d) “Airport layout plan” means a plan, or an amendment to a plan, that shows current or proposed layout of an airport, that is approved by the Michigan aeronautics commission, and that is filed with the commission appointed to recommend zoning regulations for the city or village under section 151 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.151.

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

(f) “Airport zoning regulations” means airport zoning regulations under the airport zoning act, 1950 (Ex Sess) PA 23, MCL 259.431 to 259.465, for an airport hazard area that lies in whole or part in the area affected by a zoning ordinance under this act.

(g) “Conservation easement” means that term as defined in section 2140 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2140.

(h) “Development rights” means the rights to develop land to the maximum intensity of development authorized by law.

(i) “Development rights ordinance” means an ordinance, which may comprise part of a zoning ordinance, adopted under section 13.

(j) “Greenway” means a contiguous or linear open space, including habitats, wildlife corridors, and trails, that link parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes.

(k) “Intensity of development” means the height, bulk, area, density, setback, use, and other similar characteristics of development.

(l) “Other eligible land” means land that has a common property line with agricultural land from which development rights have been purchased and that is not divided from that agricultural land by a state or federal limited access highway.

(m) “PDR program” means a program under section 14 for the purchase of development rights by a city or village.

(n) "Undeveloped state" means a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved

Governor.