

[No. 383]

(SB 765)

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 sections 4 and 20 (MCL 125.584 and 125.600), section 20 as added by 1996 PA 571, and by adding section 1a.

The People of the State of Michigan enact:

125.581a Airport layout plan or airport approach plan; incorporation; zoning ordinance; adoption. [M.S.A. 5.2931(1)]

Sec. 1a. (1) If, after an airport layout plan or airport approach plan is filed with the zoning commission or, if there is no body exercising the powers of a zoning commission, with the legislative body of a city or village, a plan required under section 1 is adopted or revised, the city or village shall incorporate the airport layout plan or airport approach plan into the plan required under section 1.

(2) A zoning ordinance adopted after the effective date of the amendatory act that added this section shall be adopted after reasonable consideration of both of the following:

(a) The environs of any airport within a district.

(b) Comments received at or before a public hearing under section 4 from the airport manager of any airport.

(3) If a zoning ordinance was adopted before the effective date of the amendatory act that added this section, the zoning ordinance is not required to be consistent with any airport zoning regulations, airport layout plan, or airport approach plan. However, any zoning ordinance amendment adopted or variance granted after the effective date of the amendatory act that added this section shall not increase any inconsistency that may exist between the zoning ordinance or structures or uses and any airport zoning regulations, airport layout plan, or airport approach plan. This subsection does not limit the right under section 4 to file a protest petition concerning a zoning ordinance amendment.

(4) If a zoning ordinance is adopted after the effective date of the amendatory act that added this section, the zoning ordinance shall be consistent with any airport zoning regulations, airport layout plan, and airport approach plan. This subsection does not limit the right under section 4 to file a protect petition concerning a zoning ordinance.

125.584 Ordinances; public hearing; notice; affidavit; appointment and report of commission; transmission of summary and report; determination of boundaries or imposition of regulations; amendment and adoption of ordinances or maps; supplements; protest petition; vote; exclusion of publicly owned land; publication and contents of notice of adoption. [M.S.A. 5.2934]

Sec. 4. (1) The legislative body of a city or village may provide by ordinance for the manner in which regulations and boundaries of districts or zones shall be determined and

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enforced or amended, supplemented, or changed. At least 1 public hearing shall be held by the commission appointed to recommend zoning regulations or, if a commission does not exist, by the legislative body before a regulation becomes effective. Not less than 15 days' notice of the time and place of the public hearing shall first be published in an official paper or a paper of general circulation in the city or village. Not less than 15 days' notice of the time and place of the public hearing shall first be given by mail to each public utility company and each railroad company owning or operating any public utility or railroad within the districts or zones affected, and the airport manager of each airport, that registers its name and mailing address with the city or village clerk for the purpose of receiving the notice. An affidavit of mailing shall be maintained. A hearing shall be granted to an interested person at the time and place specified on the notice.

(2) The legislative body of a city or village, unless otherwise provided by charter, may appoint a commission to recommend in the first instance the boundaries of districts and appropriate regulations to be enforced in the districts. If a city or village has a planning commission, that commission shall be appointed to perform the duties set forth in this section. The commission shall make a tentative report and hold at least 1 public hearing before submitting its final report to the legislative body. A summary of the comments submitted at the public hearing shall be transmitted with the report of the commission to the legislative body. The legislative body may hold additional public hearings if it considers it necessary or as may be required by charter.

(3) In a city or village having a commission appointed to recommend zoning requirements, the legislative body shall not in the first instance determine the boundaries of districts or impose regulations until after the final report of the commission. In such a city or village, the legislative body shall not amend the ordinance or maps after they are adopted in the first instance until the proposed amendment has been submitted to the commission and it has held at least 1 hearing and made report thereon. In either case, the legislative body may adopt the ordinance and maps, with or without amendments, after receipt of the commission's report, or refer the ordinance and maps again to the commission for a further report.

(4) After the ordinance and maps have in the first instance been approved by the legislative body of a city or village, amendments or supplements thereto may be made as provided in this section, except that if an individual property or several adjacent properties are proposed for rezoning, notice of the proposed rezoning and hearing shall be given to the owners of the property in question at least 15 days before the hearing.

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

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

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

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

(7) Following adoption of a zoning ordinance and subsequent amendments by the legislative body of a city or village, 1 notice of adoption shall be published in a newspaper of general circulation in the city or village within 15 days after adoption. Promptly following

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adoption of a zoning ordinance or subsequent amendment by the legislative body of the city or village, a copy of the notice of adoption shall also be mailed to the airport manager of an airport entitled to notice under subsection (1).

(8) The notice of adoption under subsection (7) shall include the following information:

(a) In the case of a newly adopted zoning ordinance, the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the city (village) council of the city (village) of _____".

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

(c) The effective date of the ordinance.

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

125.600 Definitions; short title. [M.S.A. 5.2949]

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 and 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 city or village zoning commission 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) "Development rights" means the rights to develop land to the maximum intensity of development authorized by law.

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

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

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(j) “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.

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

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

Conditional effective date.

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

This act is ordered to take immediate effect.

Approved January 1, 2001.

Filed with Secretary of State January 2, 2001.

Compiler's note: Senate Bill No. 764, referred to in enacting section 1, was filed with the Secretary of State January 2, 2001, and became P.A. 2000, No. 382, Imd. Eff. January 2, 2001.
