



SENATE BILL No. 575

June 6, 1995, Introduced by Senators SCHUETTE, STILLE, NORTH, MC MANUS, ROGERS, GOUGEON, GAST and CISKY and referred to the Committee on Local, Urban and State Affairs.

A bill to amend the title of Act No. 207 of the Public Acts of 1921, entitled as amended

"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; and to provide sanctions for the violation of this act,"

as amended, being sections 125.581 to 125.592 of the Michigan Compiled Laws; and to add sections 13, 14, 15, and 20.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title of Act No. 207 of the Public Acts of
2 1921, as amended, being sections 125.581 to 125.592 of the
3 Michigan Compiled Laws, is amended and sections 13, 14, 15, and
4 20 are added to read as follows:

5 TITLE

6 An act to provide for the establishment in cities and vil-
7 lages of districts or zones within which the use of land and
8 structures and the height, area, size, and location of buildings
9 may be regulated by ordinance, and for which districts regula-
10 tions shall be established for the light and ventilation of those
11 buildings, and for which districts or zones the density of popu-
12 lation may be regulated by ordinance; to designate the use of
13 certain state licensed residential facilities; to provide by
14 ordinance for the acquisition by purchase, condemnation, or oth-
15 erwise of private property that does not conform to the regula-
16 tions and restrictions of the various zones or districts pro-
17 vided; to provide for the administering of this act; to provide
18 for amendments, supplements, or changes in zoning ordinances,
19 zones, or districts; to provide for conflict with the state hous-
20 ing code or other acts, ordinances, or regulations; ~~and~~ to pro-
21 vide sanctions for the violation of this act; TO AUTHORIZE THE
22 TRANSFER OF DEVELOPMENT RIGHTS; TO AUTHORIZE THE ESTABLISHMENT OF
23 AUTHORITIES TO PURCHASE AND HOLD DEVELOPMENT RIGHTS; TO GRANT THE
24 POWER OF EMINENT DOMAIN; AND TO AUTHORIZE THE PURCHASE OF DEVEL-
25 OPMENT RIGHTS.

1 SEC. 13. (1) THE LEGISLATIVE BODY OF A CITY OR VILLAGE MAY
2 ADOPT AN ORDINANCE TO AUTHORIZE THE TRANSFER OF DEVELOPMENT
3 RIGHTS TO ACHIEVE A DEVELOPMENT RIGHTS BENEFIT. THE ORDINANCE
4 SHALL REQUIRE THAT, AS PART OF THE DETERMINATION TO TRANSFER
5 DEVELOPMENT RIGHTS, THERE BE SPECIFIED THE DEVELOPMENT RIGHTS
6 THAT WILL REMAIN ON THE PROPERTY FROM WHICH THE DEVELOPMENT
7 RIGHTS ARE TO BE TRANSFERRED AND THE MEANS BY WHICH THE LIMITA-
8 TION OF USE OF THE PROPERTY SHALL BE LEGALLY FIXED AND SHALL RUN
9 WITH THE LAND. THE ORDINANCE SHALL SPECIFY ALL OF THE FOLLOWING
10 RELATIVE TO THE TRANSFER OF DEVELOPMENT RIGHTS:

11 (A) THE DEVELOPMENT RIGHTS BENEFITS THAT THE CITY OR VILLAGE
12 MAY SEEK.

13 (B) THE PROCEDURES BY WHICH A TRANSFER OF DEVELOPMENT RIGHTS
14 MAY BE INITIATED BY THE CITY OR VILLAGE OR BY A PROPERTY OWNER,
15 INCLUDING THE PROCEDURE AND DOCUMENTATION TO BE USED FOR THE
16 TRANSFER OF DEVELOPMENT RIGHTS.

17 (C) THE TYPE OF DEVELOPMENT RIGHTS THAT MAY BE TRANSFERRED.

18 (D) THE STANDARDS TO BE USED BY THE LEGISLATIVE BODY OF THE
19 CITY OR VILLAGE IN DETERMINING WHETHER TO GRANT A TRANSFER OF
20 DEVELOPMENT RIGHTS.

21 (E) THE STANDARDS AND PROCEDURE FOR EVALUATING AND SPECIFY-
22 ING ALL OF THE FOLLOWING:

23 (i) THE DEVELOPMENT RIGHTS TO BE TRANSFERRED, INCLUDING A
24 FORMULA FOR MEASURING DEVELOPMENT RIGHTS.

25 (ii) THE USE OF DEVELOPMENT RIGHTS THAT WILL REMAIN ON THE
26 PROPERTY FROM WHICH THE TRANSFER OF DEVELOPMENT RIGHTS IS MADE.

1 (iii) THE IDENTITY OF THE PROPERTY TO WHICH THE TRANSFER OF
2 DEVELOPMENT RIGHTS IS MADE.

3 (iv) THE DEVELOPMENT PERMITTED, AFTER THE TRANSFER, ON THE
4 PROPERTY TO WHICH THE TRANSFER OF DEVELOPMENT RIGHTS IS MADE.

5 (F) WHETHER THE TRANSFER OF DEVELOPMENT RIGHTS TO OTHER
6 LOCAL UNITS OF GOVERNMENT IS PERMITTED AND, IF SO, THE CONTENTS
7 OF AN AGREEMENT TO BE EXECUTED BY THE LEGISLATIVE BODIES OF THE
8 LOCAL UNITS OF GOVERNMENT PROVIDING FOR THE TRANSFER OF DEVELOP-
9 MENT RIGHTS.

10 (G) THE LOCATION OF SENDING ZONES.

11 (H) THE LOCATION OF RECEIVING ZONES. THE CAPACITY OF THE
12 RECEIVING ZONES SHALL BE SUFFICIENT TO RECEIVE ALL DEVELOPMENT
13 RIGHTS FROM THE SENDING ZONES.

14 (2) THE ORDINANCE AUTHORIZING THE TRANSFER OF DEVELOPMENT
15 RIGHTS SHALL NOT TAKE EFFECT UNTIL THE CITY OR VILLAGE PREPARES A
16 REPORT THAT INCLUDES ALL OF THE FOLLOWING:

17 (A) THE PRECISE LOCATION OF EACH PROPOSED SENDING AND
18 RECEIVING ZONE.

19 (B) AN ESTIMATE OF POPULATION AND ECONOMIC GROWTH DURING THE
20 NEXT 10 YEARS IN THE CITY OR VILLAGE AND EACH PROPOSED RECEIVING
21 ZONE.

22 (C) AN ESTIMATE OF THE DEVELOPMENT POTENTIAL OF EACH PRO-
23 POSED SENDING AND RECEIVING ZONE.

24 (D) AN ESTIMATE OF THE EXISTING AND PROPOSED INFRASTRUCTURE
25 OF EACH PROPOSED RECEIVING ZONE.

1 (E) FOR EACH PROPOSED RECEIVING ZONE, AN ANALYSIS OF THE
2 IMPACT UPON AND CONSISTENCY WITH THE CITY OR VILLAGE MASTER PLAN
3 OF THE TRANSFER OF DEVELOPMENT RIGHTS TO THAT RECEIVING ZONE.

4 (F) A STATEMENT OF THE LIMITATIONS UPON THE DEVELOPMENT
5 RIGHTS THAT MAY BE TRANSFERRED TO EACH RECEIVING ZONE, TAKING
6 INTO CONSIDERATION ALL OF THE FOLLOWING OBJECTIVES:

7 (i) ENSURING CONSISTENCY WITH THE CITY OR VILLAGE MASTER
8 PLAN.

9 (ii) ENSURING ADEQUATE SERVICES AND FACILITIES CONSISTENT
10 WITH THE SERVICES AND FACILITIES PLAN FOR THE RECEIVING ZONE, IN
11 TERMS OF BOTH CAPACITY AND AVAILABILITY.

12 (iii) AVOIDING UNDUE BURDEN UPON THE PEOPLE AND LAND WITHIN
13 THE RECEIVING ZONE.

14 (iv) ENSURING CONSISTENCY WITH THE PURPOSES OF THIS SECTION
15 AND WITH THIS ACT.

16 (3) AN ORDINANCE ADOPTED UNDER THIS SECTION OR SECTION 14
17 APPLIES IN ADDITION TO OTHER LAWS AND ORDINANCES ADOPTED TO
18 ACHIEVE SIMILAR PURPOSES. THIS SECTION AND SECTION 14 DO NOT
19 IMPLY THAT LAWS AND ORDINANCES THAT DO NOT CONTEMPLATE CONSIDERA-
20 TION BEING GIVEN FOR THE ACHIEVEMENT OF THE PURPOSES OF THIS SEC-
21 TION ARE INVALID.

22 (4) EXCEPT AS PROVIDED IN SECTION 14, THE TRANSFER OF DEVEL-
23 OPMENT RIGHTS FROM PROPERTY IN A SENDING ZONE SHALL COINCIDE WITH
24 THE RECEIPT OF THOSE DEVELOPMENT RIGHTS BY PROPERTY IN A RECEIV-
25 ING ZONE.

26 SEC. 14. (1) TO ACHIEVE A DEVELOPMENT RIGHTS BENEFIT, THE
27 LEGISLATIVE BODY OF A CITY OR VILLAGE THAT HAS ADOPTED AN

1 ORDINANCE UNDER SECTION 13 MAY ESTABLISH AN AUTHORITY FOR THE
2 PURPOSE OF PURCHASING AND TEMPORARILY HOLDING DEVELOPMENT
3 RIGHTS.

4 (2) IF THE LEGISLATIVE BODY OF A CITY OR VILLAGE WISHES TO
5 ESTABLISH AN AUTHORITY, THE LEGISLATIVE BODY SHALL ADOPT A RESO-
6 LUTION OF INTENT, SETTING A DATE FOR A PUBLIC HEARING ON WHETHER
7 AN ORDINANCE ESTABLISHING AN AUTHORITY SHOULD BE ADOPTED. NOTICE
8 OF THE PUBLIC HEARING SHALL BE PUBLISHED IN A NEWSPAPER OF GEN-
9 ERAL CIRCULATION IN THE CITY OR VILLAGE, NOT LESS THAN 20 OR MORE
10 THAN 40 DAYS BEFORE THE DATE OF THE HEARING. THE NOTICE SHALL
11 STATE THE TIME, DATE, AND PLACE OF THE HEARING, AND SHALL INCLUDE
12 A STATEMENT DESCRIBING THE PURPOSE OF THE AUTHORITY. AFTER THE
13 HEARING, THE LEGISLATIVE BODY OF THE CITY OR VILLAGE MAY ADOPT AN
14 ORDINANCE ESTABLISHING THE AUTHORITY.

15 (3) EXCEPT AS PROVIDED IN THIS SUBSECTION, AN AUTHORITY
16 SHALL CONSIST OF 5 MEMBERS, INCLUDING THE CHIEF ADMINISTRATIVE
17 OFFICIAL OF THE CITY OR VILLAGE, THE CITY OR VILLAGE TREASURER,
18 AND 3 MEMBERS AT LARGE APPOINTED FOR 3-YEAR TERMS BY THE MAYOR OF
19 THE CITY OR PRESIDENT OF THE VILLAGE, SUBJECT TO THE APPROVAL OF
20 THE LEGISLATIVE BODY OF THE CITY OR VILLAGE. ONE OF THE MEMBERS
21 AT LARGE SHALL BE A REPRESENTATIVE OF DEVELOPMENT INTERESTS. A
22 MEMBER AT LARGE SHALL BE A RESIDENT OF THE CITY OR VILLAGE, SHALL
23 HOLD OFFICE UNTIL HIS OR HER SUCCESSOR IS APPOINTED, AND SHALL
24 SERVE AT THE PLEASURE OF THE LEGISLATIVE BODY OF THE CITY OR
25 VILLAGE. THE ORDINANCE CREATING THE AUTHORITY MAY PROVIDE THAT
26 THE LEGISLATIVE BODY OF THE CITY OR VILLAGE SHALL SERVE AS THE
27 AUTHORITY BOARD. THE MEMBERS OF THE AUTHORITY SHALL ELECT A

1 CHAIRPERSON OF THE AUTHORITY. IF THE CITY OR VILLAGE HAS ENTERED
2 AN INTERGOVERNMENTAL AGREEMENT FOR THE CREATION OF A JOINT
3 AUTHORITY, THE AGREEMENT SHALL SPECIFY THE MEMBERSHIP AND, IF
4 APPLICABLE, THE MANNER OF APPOINTMENT OF AUTHORITY MEMBERS.

5 (4) A MEMBER OF THE AUTHORITY SHALL SERVE WITHOUT COMPENSA-
6 TION, BUT SHALL BE REIMBURSED FOR ACTUAL AND REASONABLE
7 EXPENSES.

8 (5) ACTIVITIES OF THE AUTHORITY SHALL BE FINANCED BY 1 OR
9 MORE OF THE FOLLOWING SOURCES:

10 (A) MONEY PROVIDED BY THE CITY OR VILLAGE.

11 (B) PROCEEDS FROM THE SALE OF DEVELOPMENT RIGHTS.

12 (C) GRANTS.

13 (D) DONATIONS.

14 (E) OTHER SOURCES APPROVED BY THE LEGISLATIVE BODY OF THE
15 CITY OR VILLAGE.

16 (6) THE AUTHORITY MAY ACQUIRE BY PURCHASE OR CONDEMNATION
17 PURSUANT TO THE UNIFORM CONDEMNATION PROCEDURES ACT, ACT NO. 87
18 OF THE PUBLIC ACTS OF 1980, BEING SECTIONS 213.51 TO 213.77 OF
19 THE MICHIGAN COMPILED LAWS, DEVELOPMENT RIGHTS ON PROPERTY
20 LOCATED IN A SENDING ZONE IN THE CITY OR VILLAGE. TITLE TO THE
21 DEVELOPMENT RIGHTS SHALL BE TAKEN AND HELD IN THE NAME OF THE
22 CITY OR VILLAGE.

23 (7) AT ITS DISCRETION, THE AUTHORITY MAY HOLD OR SELL DEVEL-
24 OPMENT RIGHTS THAT IT HAS ACQUIRED. THE AUTHORITY SHALL SELL
25 DEVELOPMENT RIGHTS ONLY TO A PURCHASER WHO WILL DO 1 OF THE
26 FOLLOWING:

1 (A) UTILIZE THE DEVELOPMENT RIGHTS IN A RECEIVING ZONE IN
2 ACCORDANCE WITH THE ORDINANCE ADOPTED PURSUANT TO SECTION 13.

3 (B) PERMANENTLY TERMINATE THE DEVELOPMENT RIGHTS BY OPEN
4 SPACE EASEMENT TO THE CITY OR VILLAGE, DEED RESTRICTION, OR OTHER
5 LAWFUL MEANS, IN A MANNER AND FORM APPROVED BY THE AUTHORITY.

6 (8) THE PURCHASE AND SALE OF DEVELOPMENT RIGHTS BY THE
7 AUTHORITY SHALL BE AT FAIR MARKET VALUE, BASED UPON A BONA FIDE
8 APPRAISAL. UNLESS THE LEGISLATIVE BODY OF THE CITY OR VILLAGE
9 SERVES AS THE AUTHORITY, THE PURCHASE AND SALE OF DEVELOPMENT
10 RIGHTS BY THE AUTHORITY SHALL BE SUBJECT TO APPROVAL BY THE LEG-
11 ISLATIVE BODY OF THE CITY OR VILLAGE.

12 SEC. 15. (1) BY ORDINANCE, THE LEGISLATIVE BODY OF A CITY
13 OR VILLAGE MAY AUTHORIZE THE PURCHASE OF DEVELOPMENT RIGHTS BY
14 THE CITY OR VILLAGE TO ACHIEVE A PUBLIC PURPOSE OR BENEFIT PER-
15 MITTED IN THE EXERCISE OF AUTHORITY UNDER THIS ACT. THE CITY OR
16 VILLAGE MAY PURCHASE THE DEVELOPMENT RIGHTS BY VOLUNTARY SALE OR
17 BY CONDEMNATION. THE ORDINANCE SHALL REQUIRE THAT, AS PART OF
18 THE DETERMINATION TO PURCHASE DEVELOPMENT RIGHTS, THERE SHALL BE
19 SPECIFIED THE DEVELOPMENT RIGHTS THAT WILL REMAIN ON THE PROPERTY
20 FROM WHICH THE DEVELOPMENT RIGHTS ARE TO BE TRANSFERRED AND THE
21 MEANS BY WHICH THE LIMITATION OF USE OF THE PROPERTY SHALL BE
22 LEGALLY FIXED AND SHALL RUN WITH THE LAND. THE ORDINANCE SHALL
23 SPECIFY ALL OF THE FOLLOWING RELATIVE TO THE PURCHASE OF DEVELOP-
24 MENT RIGHTS:

25 (A) THE PUBLIC PURPOSES OR BENEFITS THAT THE CITY OR VILLAGE
26 MAY SEEK.

1 (B) THE PROCEDURES BY WHICH A PURCHASE OF DEVELOPMENT RIGHTS
2 MAY BE INITIATED BY THE CITY OR VILLAGE OR BY A PROPERTY OWNER.

3 (C) THE TYPE OF DEVELOPMENT RIGHTS THAT MAY BE PURCHASED.

4 (D) THE STANDARDS TO BE USED BY THE LEGISLATIVE BODY OF THE
5 CITY OR VILLAGE IN DETERMINING WHETHER TO PURCHASE DEVELOPMENT
6 RIGHTS.

7 (E) THE STANDARDS TO BE USED BY THE LEGISLATIVE BODY OF THE
8 CITY OR VILLAGE IN EVALUATING AND SPECIFYING THE DEVELOPMENT
9 RIGHTS THAT WILL REMAIN ON THE PROPERTY AFTER THE PURCHASE.

10 (F) THE STANDARDS TO BE USED IN ESTABLISHING THE PRICE IN A
11 PURCHASE IN WHICH AN EXERCISE OF THE POWER OF EMINENT DOMAIN IS
12 NOT CONTEMPLATED.

13 (2) IF A CITY OR VILLAGE ADOPTS AN ORDINANCE PURSUANT TO
14 THIS SECTION, A PERSON MAY PETITION THE LEGISLATIVE BODY OF THE
15 CITY OR VILLAGE FOR THE PURCHASE OF DEVELOPMENT RIGHTS AND FOR
16 THE ESTABLISHMENT OF A SPECIAL ASSESSMENT DISTRICT TO PAY FOR ALL
17 OR A PORTION OF THE DEVELOPMENT RIGHTS. THE PETITION SHALL CON-
18 TAIN ALL OF THE FOLLOWING:

19 (A) A DESCRIPTION OF THE DEVELOPMENT RIGHTS TO BE PURCHASED,
20 INCLUDING A LEGAL DESCRIPTION OF THE REAL PROPERTY FROM WHICH THE
21 PURCHASE IS TO BE MADE.

22 (B) A DESCRIPTION OF THE PROPOSED SPECIAL ASSESSMENT
23 DISTRICT.

24 (C) THE SIGNATURES OF THE OWNERS OF AT LEAST 51% OF THE LAND
25 IN THE PROPOSED SPECIAL ASSESSMENT DISTRICT.

26 (3) THE CITY OR VILLAGE MAY PURCHASE DEVELOPMENT RIGHTS
27 PETITIONED FOR UNDER SUBSECTION (2) IF THE LEGISLATIVE BODY OF

1 THE CITY OR VILLAGE DETERMINES THAT THE PURCHASE OF THE
2 DEVELOPMENT RIGHTS WOULD ACCOMPLISH A PUBLIC PURPOSE OR BENEFIT
3 SET FORTH IN THE ORDINANCE AND WOULD BE IN THE BEST INTEREST OF
4 THE CITY OR VILLAGE. IF THE LEGISLATIVE BODY OF THE CITY OR VIL-
5 LAGE PURCHASES THE DEVELOPMENT RIGHTS PETITIONED FOR UNDER
6 SUBSECTION (2), THE LEGISLATIVE BODY OF THE CITY OR VILLAGE SHALL
7 PROCEED WITH RESPECT TO THE SPECIAL ASSESSMENTS IN THE MANNER
8 PROVIDED BY LAW OR CHARTER FOR FINANCING THE ACQUISITION OF PARK
9 LANDS BY SPECIAL ASSESSMENTS.

10 (4) AN ORDINANCE ADOPTED UNDER THIS SECTION APPLIES IN ADDI-
11 TION TO OTHER LAWS AND ORDINANCES ADOPTED TO ACHIEVE SIMILAR
12 PURPOSES. THIS SECTION DOES NOT INVALIDATE A LAW OR ORDINANCE
13 THAT DOES NOT CONTEMPLATE CONSIDERATION BEING GIVEN FOR THE
14 ACHIEVEMENT OF THE PURPOSES OF THIS SECTION.

15 SEC. 20. THIS ACT SHALL BE KNOWN AND MAY BE CITED AS "THE
16 CITY AND VILLAGE ZONING ACT".