

HOUSE AMENDMENT NO. _____
TO
HOUSE AMENDMENT NO. _____

Offered By

1 AMEND House Amendment No. _____ to House Committee Substitute for Senate Bill No. 330,
2 Page 3, Line 21, by deleting said line and inserting in lieu thereof the following:

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4 "by the nearest adjacent corners on opposite sides of the quarter-section corner to be established.

5 89.410. 1. The planning commission shall recommend and the council may by ordinance adopt
6 regulations governing the subdivision of land within its jurisdiction. The regulations, in addition to the
7 requirements provided by law for the approval of plats, may provide requirements for the coordinated
8 development of the city, town or village; for the coordination of streets within subdivisions with other
9 existing or planned streets or with other features of the city plan or official map of the city, town or village;
10 for adequate open spaces for traffic, recreation, light and air; and for a distribution of population and traffic;
11 provided that, the city, town or village may only impose requirements for the posting of bonds, letters of
12 credit or escrows for subdivision-related improvements as provided for in subsections 2 to 5 of this section.

13 2. The regulation may include requirements as to the extent and the manner in which the streets of
14 the subdivision or any designated portions thereto shall be graded and improved as well as including
15 requirements as to the extent and manner of the installation of all utility facilities. Compliance with all of
16 these requirements is a condition precedent to the approval of the plat. The regulations or practice of the
17 council may provide for the tentative approval of the plat previous to the improvements and utility
18 installations; but any tentative approval shall not be entered on the plat. The regulations may provide that, in
19 lieu of the completion of the work and installations previous to the final approval of a plat, the council shall
20 accept, at the option of the developer, an escrow secured with cash or an irrevocable letter of credit deposited
21 with the city, town, or village. The city, town, or village may accept a surety bond, and such bond shall be in
22 an amount and with surety and other reasonable conditions, providing for and securing the actual construction
23 and installation of the improvements and utilities within a period specified by the council and expressed in
24 the bond. The release of any such escrow, letter of credit, or bond by the city, town or village shall be as
25 specified in this section. The council may enforce the escrow or bond by all appropriate legal and equitable
26 remedies. The regulations may provide, in lieu of the completion of the work and installations previous to
27 the final approval of a plat, for an assessment or other method whereby the council is put in an assured
28 position to do the work and make the installations at the cost of the owners of the property within the
29 subdivision. The regulations may provide for the dedication, reservation or acquisition of lands and open
30 spaces necessary for public uses indicated on the city plan and for appropriate means of providing for the
31 compensation, including reasonable charges against the subdivision, if any, and over a period of time and in a
32 manner as is in the public interest. The regulations shall not require the creation of any private indentures,
33 declarations, covenants, regulations or homeowners' associations. Any such private indentures, declarations,
34 covenants, regulations or homeowners' associations that a developer may choose to create shall not be subject
35 to the regulations. However, the regulations may require script on a plat to provide for the common
36 maintenance of shared and privately maintained infrastructure.

37 3. The regulations shall provide that in the event a developer who has posted an escrow, or letter of

Action Taken _____ Date _____

1 credit, or bond with a city, town, or village in accordance with subsection 2 of this section transfers title of the
2 subdivision property prior to full release of the escrow, letter of credit, or bond, the municipality shall accept
3 a replacement escrow or letter of credit from the successor developer in the form allowed in subsection 2 of
4 this section and in the amount of the escrow or letter of credit held by the city, town, or village at the time of
5 the property transfer, and upon receipt of the replacement escrow or letter of credit, the city, town, or village
6 shall release the original escrow or letter of credit in full and release the prior developer from all further
7 obligations with respect to the subdivision improvements if the successor developer assumes all of the
8 outstanding obligations of the previous developer. The city, town, or village may accept a surety bond from
9 the successor developer in the form allowed in subsection 2 of this section and in the amount of the bond held
10 by the city, town, or village at the time of the property transfer, and upon receipt of the replacement bond, the
11 city, town, or village shall release the original bond in full, and release the prior developer from all further
12 obligations with respect to the subdivision improvements.

13 4. The regulations shall provide that any escrow or bond amount held by the city, town or village to
14 secure actual construction and installation on each component of the improvements or utilities shall be
15 released within thirty days of completion of each category of improvement or utility work to be installed,
16 minus a maximum retention of five percent which shall be released upon completion of all improvements and
17 utility work. The city, town, or village shall inspect each category of improvement or utility work within
18 twenty business days after a request for such inspection. Any such category of improvement or utility work
19 shall be deemed to be completed upon certification by the city, town or village that the project is complete in
20 accordance with the ordinance of the city, town or village including the filing of all documentation and
21 certifications required by the city, town or village, in complete and acceptable form. The release shall be
22 deemed effective when the escrow funds or bond amount are duly posted with the United States Postal
23 Service or other agreed-upon delivery service or when the escrow funds or bond amount are hand delivered to
24 an authorized person or place as specified by the owner or developer.

25 5. If the city, town or village has not released the escrow funds or bond amount within thirty days as
26 provided in this section or provided a timely inspection of the improvements or utility work after request for
27 such inspection, the city, town or village shall pay the owner or developer in addition to the escrow funds due
28 the owner or developer, interest at the rate of one and one-half percent per month calculated from the
29 expiration of the thirty-day period until the escrow funds or bond amount have been released. Any owner or
30 developer aggrieved by the city's, town's or village's failure to observe the requirements of this section may
31 bring a civil action to enforce the provisions of this section. In any civil action or part of a civil action
32 brought pursuant to this section, the court may award the prevailing party or the city, town or village the
33 amount of all costs attributable to the action, including reasonable attorneys' fees.

34 6. Nothing in this section shall apply to performance, maintenance and payment bonds required by
35 cities, towns or villages.

36 7. Before adoption of its subdivision regulations or any amendment thereof, a duly advertised public
37 hearing thereon shall be held by the council.

38 8. The provisions of subsection 2 of this section requiring the acceptance of an escrow secured by
39 cash or an irrevocable letter of credit, rather than a surety bond, at the option of the developer, all of the
40 provisions of subsection 3 of this section, and the provisions of subsections 4 and 5 of this section regarding
41 an inspection of improvements or utility work within twenty business days shall not apply to any home rule
42 city with more than four hundred thousand inhabitants and located in more than one county.

43 9. Notwithstanding the provisions of section 290.210 to the contrary, improvements secured by
44 escrow, letter of credit, or bond as provided in this section shall not be subject to the terms of sections
45 290.210 to 290.340 unless they are paid for wholly or in part out of public funds."; and"; and

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47 Further amend said bill by amending the title, enacting clause, and intersectional references
48 accordingly.

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50 THIS AMENDS NO. 1247H03.02H.