
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 39

Session of
2003

INTRODUCED BY STEIL, BARD, CLYMER, CORRIGAN, CRUZ, GRUCELA,
HARHAI, HENNESSEY, MAITLAND, McILHINNEY, ROSS, RUBLEY,
E. Z. TAYLOR, WATSON AND YOUNGBLOOD, JANUARY 29, 2003

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JANUARY 29, 2003

AN ACT

1 Amending the act of July 31, 1968 (P.L.805, No.247), entitled,
2 as amended, "An act to empower cities of the second class A,
3 and third class, boroughs, incorporated towns, townships of
4 the first and second classes including those within a county
5 of the second class and counties of the second through eighth
6 classes, individually or jointly, to plan their development
7 and to govern the same by zoning, subdivision and land
8 development ordinances, planned residential development and
9 other ordinances, by official maps, by the reservation of
10 certain land for future public purpose and by the acquisition
11 of such land; to promote the conservation of energy through
12 the use of planning practices and to promote the effective
13 utilization of renewable energy sources; providing for the
14 establishment of planning commissions, planning departments,
15 planning committees and zoning hearing boards, authorizing
16 them to charge fees, make inspections and hold public
17 hearings; providing for mediation; providing for transferable
18 development rights; providing for appropriations, appeals to
19 courts and penalties for violations; and repealing acts and
20 parts of acts," adding provisions relating to common base
21 zoning.

22 The General Assembly of the Commonwealth of Pennsylvania

23 hereby enacts as follows:

24 Section 1. The act of July 31, 1968 (P.L.805, No.247), known
25 as the Pennsylvania Municipalities Planning Code, reenacted and
26 amended December 21, 1988 (P.L.1329, No.170), is amended by
27 adding an article to read:

1 ARTICLE V-B

2 Common Base Zoning

3 Section 501-B. Definitions.--The following words and phrases
4 when used in this article shall have the meanings given to them
5 in this section unless the context clearly indicates otherwise:

6 "Common Base Density," the dwelling unit density assigned to
7 the entire land area to be contained within the common base
8 zone. The density shall be expressed in dwelling units per acre
9 (DU/A) permitted equally in the developed zone and the
10 nondeveloped zone.

11 "Common Base Zone," all lands to be included in the zone
12 established under section 502-B.

13 "Developed zone," that portion of the overlay zone designated
14 to receive development rights under section 504-B.

15 "Development right," shall mean a transferable development
16 right as defined under section 619.1(a) and (b). For purposes of
17 this section 619.1(c) and (d) shall not be applicable.

18 "Dwelling unit," that structure or portion of a structure
19 which contains all the elements necessary to provide long-term
20 residential space to an individual or a family. For
21 commercial/industrial structures a dwelling unit shall be equal
22 to 12,000 square feet.

23 "Minor subdivision," the subdivision of land into not more
24 than two parcels and as otherwise defined by municipal
25 ordinance. No minor subdivision shall be permitted unless the
26 municipality has adopted a minor subdivision ordinance.

27 "Nondeveloped zone," land designated by the overlay zoning
28 plan that shall not be developed except as provided by this act,
29 including all natural land required for nonstructural municipal
30 purposes such as detention/retention basins, recreation fields,

1 natural preserves, environmentally sensitive land, wetlands and
2 flood plains, spray irrigation fields, lakes, stream courses and
3 other natural drainage-ways, agricultural land, all privately
4 owned forests, fields or other open lands excluding the
5 previously developed portion of any such areas. Roadways, their
6 rights-of-way or any structure in the right-of-way, land upon
7 which a structure has been placed or any impervious surface
8 shall be considered as part of the developed zone.

9 "Overlay zone," the process by which specific use zones are
10 overlaid or imposed on top of the common base developed zone.

11 "Subdivided land," includes the terms "land development" and
12 "subdivision" as defined in section 107.

13 Section 502-B. Establishing Common Base Zone.--Any
14 municipality may adopt a Common Base Zone for all or any portion
15 of its remaining nonsubdivided land in accordance with the
16 following:

17 (1) The comprehensive plan shall be amended to incorporate a
18 Common Base Zone.

19 (2) An ordinance implementing the Common Base Zone shall be
20 adopted.

21 (3) The ordinance shall define:

22 (i) Specific land area to be included in the Common Base
23 Zone.

24 (ii) A determination of the Common Base Density, expressed
25 in dwelling units per acre (DU/A), for developed zones and
26 nondeveloped zones which must be equal.

27 (iii) A time schedule, not to exceed 12 months, for the
28 adoption of the overlay zone.

29 (4) The municipality may suspend for up to 12 months
30 accepting any subdivision plans for the proposed Common Base

1 Zone until the overlay zone is adopted.

2 (5) Define procedures for any future removal of lands from
3 the Common Base Zone. Subdivided lands or lands from which the
4 development rights have been sold or transferred may not be
5 removed from the Common Base Zone.

6 Section 503-B. Overlay Zoning Plan Requirements.--(a) The
7 municipality shall create a common base overlay zone in
8 accordance with the following allocations:

9 (1) A nondeveloped zone, not to exceed 50% of the total
10 lands included in the Common Base Zone.

11 (2) A developed zone, as follows:

12 (i) Commercial/industrial of various density (10% minimum).

13 (ii) Single family detached dwelling unit of various density
14 (20% minimum).

15 (iii) Single family attached dwelling unit of various
16 density (20% minimum).

17 (b) The percentage of the nondeveloped zone may be
18 decreased, but any additional lands to be developed must be
19 allocated in the same percentage as outlined in subsection (a).

20 (c) No structures or impervious surfaces shall be permitted
21 within the nondeveloped zone. The municipality may adopt
22 regulations governing additional structures on land already
23 developed and may permit up to two minor subdivisions on any tax
24 parcel existing as of January 1, 2003, for which no subdivision
25 or land development plan has been filed, in accordance with
26 section 503(1.1).

27 (d) The buildable density, in DU/A, determined under
28 subsection (a)(2) shall not be subject to revision by the
29 governing body except as part of a comprehensive review of all
30 overlay zone densities.

1 Section 504-B. Transfer of Development Right.--(a)
2 Buildable densities as defined under section 503-B(a)(2), above
3 the common base, must be purchased from owners of nondeveloped
4 zone land. For each acre of land within the nondeveloped zone,
5 the owner may sell the rights to the common base density to
6 owners of land within the developed zone.

7 (b) Owners of land within the developed zone shall not be
8 permitted to sell any development rights, except as provided
9 under subsection (c).

10 (c) Owners of environmentally sensitive land as defined by
11 municipal ordinance within the developed zone may be permitted
12 to sell one dwelling unit per acre if such lands are permanently
13 deed-restricted in their natural state.

14 (d) Land within the nondeveloped zone from which the common
15 base density has been sold or transferred shall be deed-
16 restricted, and no further development of any kind shall be
17 permitted.

18 (e) Counties shall assess, for tax purposes, any land
19 described in subsection (d) only upon its remaining value.

20 (f) Common base density rights may be sold to owners of any
21 land within an overlay zone established in accordance with this
22 act anywhere within the same county.

23 (g) Counties may form regional compacts to permit sale of
24 common base density rights among several contiguous counties.

25 Section 505-B. Declaratory Judgment Procedure.--Any
26 interested person under a deed, will, written contract or other
27 writings constituting a contract, or whose rights, status or
28 other legal relations are affected by this article or a statute,
29 municipal ordinance, contract or franchise created under this
30 article may have determined any question of construction or

1 validity arising under the instrument, statute, ordinance,
2 contract or franchise, and obtain a declaration of rights,
3 status or other legal relations thereunder in a court of
4 competent jurisdiction.

5 Section 506-B. Owners of Land Previously Subdivided.--Owners
6 of land previously subdivided under municipal authority, that is
7 to be redeveloped, shall be granted a bonus of one dwelling unit
8 per acre.

9 Section 507-B. Zoning Challenges and Curative Amendments.--
10 Challenges to the Common Base Zone shall be filed with the court
11 of common pleas. Curative amendments shall not be submitted with
12 the challenge.

13 Section 2. This act shall take effect in 60 days.