

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1917

Session of
2003

INTRODUCED BY HARPER, HERMAN, DAILEY, TANGRETTI, WATSON, BARRAR, CLYMER, CRAHALLA, DENLINGER, FEESE, FICHTER, GRUCELA, HERSHEY, McILHINNEY, O'NEILL, PAYNE, PETRI, RUBLEY, SCAVELLO, STEIL, WEBER, YOUNGBLOOD, ROSS, BALDWIN, HENNESSEY, SATHER, LaGROTTA, MUNDY, HORSEY AND ZUG, AUGUST 5, 2003

AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, NOVEMBER 17, 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," further providing for ~~contents of subdivision~~ <—
21 ~~and land development ordinance.~~ FEES CHARGED BY THE <—
22 MUNICIPALITY.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 Section 1. Section 503(1) of the act of July 31, 1968
26 (P.L.805, No.247), known as the Pennsylvania Municipalities

1 Planning Code, reenacted and amended December 21, 1988
2 (P.L.1329, No.170) and amended June 22, 2000 (P.L.495, No.68),
3 is amended to read:

4 Section 503. Contents of Subdivision and Land Development
5 Ordinance.--The subdivision and land development ordinance may
6 include, but need not be limited to:

7 (1) Provisions for the submittal and processing of
8 plats, including the charging of review fees, and
9 specifications for such plats, including certification as to
10 the accuracy of plats and provisions for preliminary and
11 final approval and for processing of final approval by stages
12 or sections of development. Such plats and surveys shall be
13 prepared in accordance with the act of May 23, 1945 (P.L.913,
14 No.367), known as the "Engineer, Land Surveyor and Geologist
15 Registration Law," except that this requirement shall not
16 preclude the preparation of a plat in accordance with the act
17 of January 24, 1966 (1965 P.L.1527, No.535), known as the
18 "Landscape Architects' Registration Law," when it is
19 appropriate to prepare the plat using professional services
20 as set forth in the definition of the "practice of landscape
21 architecture" under section 2 of that act. Review fees may
22 include reasonable and necessary charges by the
23 municipality's SOLICITOR, professional consultants, <—
24 ~~including, but not limited to, the municipality's solicitors~~
25 ~~or other providers of legal service,~~ or engineer for review
26 and report thereon to the municipality. Such review fees
27 shall be based upon a schedule established by ordinance or
28 resolution. Such review fees shall be reasonable and in
29 accordance with the ordinary and customary charges by the
30 municipal SOLICITOR, engineer or consultant for similar <—

1 service in the community, but in no event shall the fees
2 exceed the rate or cost charged by the SOLICITOR, engineer or <—
3 consultant to the municipalities when fees are not reimbursed
4 or otherwise imposed on applicants.

5 (i) In the event the applicant disputes the amount
6 of any such review fees, the applicant shall, within 14
7 days of the applicant's receipt of the bill, notify the
8 municipality that such fees are disputed, in which case
9 the municipality shall not delay or disapprove a
10 subdivision or land development application due to the
11 applicant's request over disputed fees.

12 (ii) In the event that the municipality and the
13 applicant cannot agree on the amount of review fees which
14 are reasonable and necessary, then the applicant and the
15 municipality shall follow the procedure for dispute
16 resolution set forth in section 510(g), provided that the
17 professionals resolving such dispute shall be of the same
18 profession or discipline as the consultants whose fees
19 are being disputed.

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21 SECTION 2. SECTION 510(G) OF THE ACT IS AMENDED TO READ: <—

22 SECTION 510. RELEASE FROM IMPROVEMENT BOND.--* * *

23 (G) THE MUNICIPALITY MAY PRESCRIBE THAT THE APPLICANT SHALL
24 REIMBURSE THE MUNICIPALITY FOR THE REASONABLE AND NECESSARY
25 EXPENSE INCURRED FOR THE INSPECTION OF IMPROVEMENTS. SUCH
26 REIMBURSEMENT SHALL BE BASED UPON A SCHEDULE ESTABLISHED BY
27 ORDINANCE OR RESOLUTION. SUCH EXPENSE SHALL BE REASONABLE AND IN
28 ACCORDANCE WITH THE ORDINARY AND CUSTOMARY FEES CHARGED BY THE
29 MUNICIPAL SOLICITOR, ENGINEER OR CONSULTANT FOR WORK PERFORMED
30 FOR SIMILAR SERVICES IN THE COMMUNITY, BUT IN NO EVENT SHALL THE

1 FEES EXCEED THE RATE OR COST CHARGED BY THE SOLICITOR, ENGINEER
2 OR CONSULTANT TO THE MUNICIPALITIES WHEN FEES ARE NOT REIMBURSED
3 OR OTHERWISE IMPOSED ON APPLICANTS.

4 (1) IN THE EVENT THE APPLICANT DISPUTES THE AMOUNT OF
5 ANY SUCH EXPENSE IN CONNECTION WITH THE INSPECTION OF
6 IMPROVEMENTS, THE APPLICANT SHALL, WITHIN TEN WORKING DAYS OF
7 THE DATE OF BILLING, NOTIFY THE MUNICIPALITY THAT SUCH
8 EXPENSES ARE DISPUTED AS UNREASONABLE OR UNNECESSARY, IN
9 WHICH CASE THE MUNICIPALITY SHALL NOT DELAY OR DISAPPROVE A
10 SUBDIVISION OR LAND DEVELOPMENT APPLICATION OR ANY APPROVAL
11 OR PERMIT RELATED TO DEVELOPMENT DUE TO THE APPLICANT'S
12 REQUEST OVER DISPUTED ENGINEER EXPENSES.

13 (2) IF, WITHIN 20 DAYS FROM THE DATE OF BILLING, THE
14 MUNICIPALITY AND THE APPLICANT CANNOT AGREE ON THE AMOUNT OF
15 EXPENSES WHICH ARE REASONABLE AND NECESSARY, THEN THE
16 APPLICANT AND MUNICIPALITY SHALL JOINTLY, BY MUTUAL
17 AGREEMENT, APPOINT ANOTHER PROFESSIONAL ENGINEER OR ATTORNEY,
18 AS THE CASE MAY BE, LICENSED AS SUCH IN THE COMMONWEALTH OF
19 PENNSYLVANIA TO REVIEW THE SAID EXPENSES AND MAKE A
20 DETERMINATION AS TO THE AMOUNT THEREOF WHICH IS REASONABLE
21 AND NECESSARY.

22 (3) THE PROFESSIONAL ENGINEER OR ATTORNEY SO APPOINTED
23 SHALL HEAR SUCH EVIDENCE AND REVIEW SUCH DOCUMENTATION AS THE
24 PROFESSIONAL ENGINEER OR ATTORNEY IN HIS OR HER SOLE OPINION
25 DEEMS NECESSARY AND RENDER A DECISION WITHIN 50 DAYS OF THE
26 BILLING DATE. THE APPLICANT SHALL BE REQUIRED TO PAY THE
27 ENTIRE AMOUNT DETERMINED IN THE DECISION IMMEDIATELY.

28 (4) IN THE EVENT THAT THE MUNICIPALITY AND APPLICANT
29 CANNOT AGREE UPON THE PROFESSIONAL ENGINEER OR ATTORNEY TO BE
30 APPOINTED WITHIN 20 DAYS OF THE BILLING DATE, THEN, UPON

1 APPLICATION OF EITHER PARTY, THE PRESIDENT JUDGE OF THE COURT
2 OF COMMON PLEAS OF THE JUDICIAL DISTRICT IN WHICH THE
3 MUNICIPALITY IS LOCATED (OR IF AT THE TIME THERE BE NO
4 PRESIDENT JUDGE, THEN THE SENIOR ACTIVE JUDGE THEN SITTING)
5 SHALL APPOINT SUCH ENGINEER OR ATTORNEY, WHO, IN THAT CASE,
6 SHALL BE NEITHER THE MUNICIPAL ENGINEER NOR ANY PROFESSIONAL
7 ENGINEER OR ATTORNEY WHO HAS BEEN RETAINED BY, OR PERFORMED
8 SERVICES FOR, THE MUNICIPALITY OR THE APPLICANT WITHIN THE
9 PRECEDING FIVE YEARS.

10 (5) THE FEE OF THE APPOINTED PROFESSIONAL ENGINEER OR
11 ATTORNEY FOR DETERMINING THE REASONABLE AND NECESSARY
12 EXPENSES SHALL BE PAID BY THE APPLICANT IF THE AMOUNT OF
13 PAYMENT REQUIRED IN THE DECISION IS EQUAL TO OR GREATER THAN
14 THE ORIGINAL BILL. IF THE AMOUNT OF PAYMENT REQUIRED IN THE
15 DECISION IS LESS THAN THE ORIGINAL BILL BY \$1,000 OR MORE,
16 THE MUNICIPALITY SHALL PAY THE FEE OF THE PROFESSIONAL
17 ENGINEER OR ATTORNEY, BUT OTHERWISE THE MUNICIPALITY AND THE
18 APPLICANT SHALL EACH PAY ONE-HALF OF THE FEE OF THE APPOINTED
19 PROFESSIONAL ENGINEER OR ATTORNEY.

20 Section 2 3. This act shall take effect in 60 days.

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