

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 866 Session of
2007

INTRODUCED BY KAUFFMAN, CALTAGIRONE, COX, FREEMAN, GIBBONS,
GRUCELA, HERSHEY, HESS, M. KELLER, KORTZ, R. MILLER, MOUL,
MYERS, PEIFER, READSHAW, REICHLEY, ROCK, SAYLOR, SCHRODER,
SIPTROTH, M. SMITH AND SONNEY, MARCH 22, 2007

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MARCH 22, 2007

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.

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

24 Section 1. Section 503(11) of the act of July 31, 1968
25 (P.L.805, No.247), known as the Pennsylvania Municipalities
26 Planning Code, reenacted and amended December 21, 1988

1 (P.L.1329, No.170), is amended and the section is amended by
2 adding paragraphs to read:

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

6 * * *

7 (11) [Provisions] Subject to the requirements of
8 paragraph (13), provisions requiring the public dedication of
9 land suitable for the use intended; and, upon agreement with
10 the applicant or developer, the construction of recreational
11 facilities, the payment of fees in lieu thereof, the private
12 reservation of the land, or a combination, for park or
13 recreation purposes as a condition precedent to final plan
14 approval[, provided that:].

15 (12) Subject to the requirements of paragraph (13),
16 provisions requiring the imposition of fees in lieu of the
17 public dedication of land or as otherwise authorized in
18 paragraph (11) to be used for the operation or maintenance of
19 park or recreational facilities, whether operated or
20 maintained by the municipality or by another municipality, as
21 a condition precedent to final plan approval.

22 (13) Provisions satisfying the following requirement in
23 order to implement paragraphs (11) and (12):

24 (i) The provisions of [this paragraph] paragraphs
25 (11) and (12) shall not apply to any plan application,
26 whether preliminary or final, pending at the time of
27 enactment of such provisions.

28 (ii) The ordinance includes definite standards for
29 determining the proportion of a development to be
30 dedicated and the amount of any fee to be paid in lieu

1 thereof.

2 (iii) The land or fees, or combination thereof, are
3 to be used only for the purpose of providing, operating
4 or maintaining park or recreational facilities accessible
5 to the development.

6 (iv) The governing body has a formally adopted
7 recreation plan[,] and the park [and] or recreational
8 facilities are in accordance with definite principles and
9 standards contained in the subdivision and land
10 development ordinance.

11 (v) The amount and location of land to be dedicated
12 or the fees to be paid shall bear a reasonable
13 relationship to the use of the park [and] or recreational
14 facilities by future inhabitants of the development or
15 subdivision.

16 (vi) A fee authorized under [this subsection]
17 paragraph (11) or (12) shall, upon its receipt by a
18 municipality, be deposited in [an interest-bearing
19 account] one or more interest-bearing accounts, clearly
20 identifying the specific [recreation facilities] park or
21 recreational facilities, operation or maintenance, or any
22 combination thereof, as applicable, for which the fee was
23 received. Interest earned on such accounts shall become
24 funds of that account. Funds from such accounts shall be
25 expended only in properly allocable portions of the cost
26 incurred to construct [the specific recreation], operate
27 or maintain the specific park or recreational facilities
28 for which the funds were collected.

29 (vii) Upon request of any person who paid any fee
30 under [this subsection] paragraph (11) or (12), the

1 municipality shall refund such fee, plus interest
2 accumulated thereon from the date of payment, if the
3 municipality had failed to utilize the fee paid for the
4 purposes set forth in this section within three years
5 from the date such fee was paid.

6 (viii) No municipality shall have the power to
7 require the construction of park or recreational
8 facilities or the dedication of land, or the payment of
9 fees in lieu thereof, or private reservation except as
10 may be provided by statute.

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