

## No. 1996-165

## AN ACT

## SB 1197

Amending the act of July 31, 1968 (P.L.805, No.247), entitled, as amended, "An act to empower cities of the second class A, and third class, boroughs, incorporated towns, townships of the first and second classes including those within a county of the second class and counties of the second through eighth classes, individually or jointly, to plan their development and to govern the same by zoning, subdivision and land development ordinances, planned residential development and other ordinances, by official maps, by the reservation of certain land for future public purpose and by the acquisition of such land; to promote the conservation of energy through the use of planning practices and to promote the effective utilization of renewable energy sources; providing for the establishment of planning commissions, planning departments, planning committees and zoning hearing boards, authorizing them to charge fees, make inspections and hold public hearings; providing for mediation; providing for transferable development rights; providing for appropriations, appeals to courts and penalties for violations; and repealing acts and parts of acts," further providing for contents of subdivision and land development ordinance, for enforcement notice and for conditional uses; and making an editorial change.

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

Section 1. Section 503(1) of the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code, reenacted and amended December 21, 1988 (P.L.1329, No.170), is amended to read:

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

(1) Provisions for the submittal and processing of plats, including the charging of review fees, and specifications for such plats, including certification as to the accuracy of plats and provisions for preliminary and final approval and for processing of final approval by stages or sections of development. Such plats and surveys shall be prepared in accordance with the act of May 23, 1945 (P.L.913, No.367), known as the [**"Professional Engineers Registration Law."**] ***"Engineer, Land Surveyor and Geologist Registration Law,"*** *except that this requirement shall not preclude the preparation of a plat in accordance with the act of January 24, 1966 (1965 P.L.1527, No.535), known as the "Landscape Architects' Registration Law," when it is appropriate to prepare the plat using professional services as set forth in the definition of the "practice of landscape architecture" under section 2 of that act.* Review fees may include reasonable and necessary charges by the municipality's professional consultants or engineer for review and report thereon to the municipality. Such review fees shall be based upon a schedule established

by ordinance or resolution. Such review fees shall be reasonable and in accordance with the ordinary and customary charges by the municipal engineer or consultant for similar service in the community, but in no event shall the fees exceed the rate or cost charged by the engineer or consultant to the municipalities when fees are not reimbursed or otherwise imposed on applicants.

(i) In the event the applicant disputes the amount of any such review fees, the applicant shall, within ten days of the billing date, notify the municipality that such fees are disputed, in which case the municipality shall not delay or disapprove a subdivision or land development application due to the applicant's request over disputed fees.

(ii) In the event that the municipality and the applicant cannot agree on the amount of review fees which are reasonable and necessary, then the applicant and the municipality shall follow the procedure for dispute resolution set forth in section 510(g).

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Section 2. Section 616.1 of the act is amended by adding subsections to read:

Section 616.1. Enforcement Notice.—\* \* \*

*(d) In any appeal of an enforcement notice to the zoning hearing board, the municipality shall have the responsibility of presenting its evidence first.*

*(e) Any filing fee paid by a party to appeal an enforcement notice to the zoning hearing board shall be returned to the appealing party by the municipality if the zoning hearing board or any court in a subsequent appeal rules in the appealing party's favor.*

Section 3. Section 913.2 of the act is amended to read:

Section 913.2. Governing Body's Functions; Conditional Uses.—*(a) Where the governing body, in the zoning ordinances, has stated conditional uses to be granted or denied by the governing body pursuant to express standards and criteria, the governing body shall hold hearings on and decide requests for such conditional uses in accordance with such standards and criteria. In granting a conditional use, the governing body may attach such reasonable conditions and safeguards, in addition to those expressed in the ordinance, as it may deem necessary to implement the purposes of this act in the zoning ordinance.*

*(b) (1) The governing body shall render a written decision or, when no decision is called for, make written findings on the conditional use application within 45 days after the last hearing before the governing body. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefor. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.*

*(2) Where the governing body fails to render the decision within the period required by this subsection or fails to hold the required hearing within 60 days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the governing body to meet or render a decision as hereinabove provided, the governing body shall give public notice of the decision within ten days from the last day it could have met to render a decision in the same manner as required by the public notice requirements of this act. If the governing body shall fail to provide such notice, the applicant may do so.*

*(3) Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him no later than the day following its date.*

Section 4. All acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 5. This act shall take effect in 60 days.

APPROVED—The 18th day of December, A.D. 1996.

THOMAS J. RIDGE