

West's Tennessee Code Annotated

Title 13. Public Planning and Housing

Chapter 7. Zoning (Refs & Annos)

Part 2. Municipal Zoning (Refs & Annos)

T. C. A. § 13-7-201

§ 13-7-201. Grant of regulatory powers; transfer of development rights

Currentness

(a)(1) For the purpose of promoting the public health, safety, morals, convenience, order, prosperity and general welfare, the board of aldermen, board of commissioners or other chief legislative body of any municipality by whatever title designated, and hereinafter designated as "chief legislative body", is empowered, in accordance with the conditions and the procedure specified in this part and part 3 of this chapter, to regulate the location, height, bulk, number of stories and size of buildings and other structures, the percentage of the lot which may be occupied, the sizes of yards, courts and other open spaces, the density of population, and the uses of buildings, structures and land for trade, industry, residence, recreation, public activities and other purposes, and identify areas where there are inadequate or nonexistent publicly or privately owned and maintained services and facilities when the planning commission has determined the services are necessary in order for development to occur. Special districts or zones may be established in those areas deemed subject to seasonal or periodic flooding, and such regulations may be applied therein as will minimize danger to life and property, and as will secure to the citizens of Tennessee the eligibility for flood insurance under Public Law 1016, 84th Congress or subsequent related laws or regulations promulgated thereunder. Protection and encouragement of access to sunlight for solar energy systems may be considered in promulgating zoning regulations pursuant to this section.

(2)(A)(i) The transfer of development rights may be provided for in the promulgation of zoning regulations pursuant to this section. The creation, amendment or repeal of any regulations, districts or maps providing for the transfer of development rights shall be in compliance with §§ 13-7-203 and 13-7-204. The transfer of development rights shall not be subject to taxation pursuant to title 67, chapter 4 or 6; provided, that any instruments recorded in the county register's office as the result of the transfer of development rights shall be subject to the fees set out in § 8-21-1001. Any regulations authorizing the transfer of development rights shall provide that conveyances of development rights shall be in writing and shall be recorded in the office of the register of deeds and that whenever transferred development rights are allocated to any property, such allocation shall not become effective until the transferred development rights are noted in an instrument or on a plat and recorded in the office of the register of deeds.

(ii) A town, city, county, a county with a metropolitan form of government, the state of Tennessee, or a not-for-profit conservation or preservation organization may be the receiving entity of a development right without allocating or designating the transferred development right to any receiving property under its ownership or control. A town, city, county, a county with a metropolitan form of government, the state of Tennessee or a not-for-profit conservation or preservation organization shall be allowed to receive all or part of the donating property's development rights notwithstanding any local zoning regulations pertaining to any required ratio or amount of land area a receiving property must contain in relation to the land area of the donating property or of the total amount of density that a receiving property may obtain from the donating property.

(B) Subdivision (a)(2) shall be strictly construed with the specific intent to allow a local government to establish its own plan whereby the owners of property in a restrictive area (historical, agricultural, or environmental) can sell the development rights to a developer or another individual and only with the consent of the property owner and through negotiations of development rights in the free marketplace. A property owner may donate, through gift or through testamentary disposition, all or part of the

development rights of the owner's property to a town, city, county, a county with a metropolitan form of government, the state of Tennessee, or a not-for-profit conservation or preservation organization.

(C) It is the legislative intent that the provisions of this section relative to the transfer of development rights are permissive and not mandatory. Such rights shall only be transferred by contract and not by operation of law.

(D) Deleted by 2001 Pub.Acts, c. 265, § 7, eff. May 22, 2001.

(b) In any county having a population of not less than two hundred eighty-seven thousand seven hundred (287,700) nor greater than two hundred eighty-seven thousand eight hundred (287,800), according to the 1980 federal census or any subsequent federal census, the chief legislative body of any municipality is further authorized and empowered to rezone properties conditionally or based upon contract, where the agreed conditions are designed to ameliorate injuries created by the rezoning to surrounding property interests or to municipal interests.



(c) In any county having a population of not less than eighty-five thousand eight hundred (85,800) nor greater than eighty-six thousand one hundred (86,100), according to the 1990 federal census or any subsequent federal census, any municipality may, by ordinance or amendment adopted by a two-thirds (#) vote of its legislative body, rezone properties conditionally or based upon contract, where the agreed conditions are designed to ameliorate injuries created by the rezoning to surrounding property interests or to municipal interests.

Credits

1935 Pub.Acts, c. 44, § 1; 1957 Pub.Acts, c. 306, § 1; 1979 Pub.Acts, c. 259, § 9; 1984 Pub.Acts, c. 952, § 1; 1987 Pub.Acts, c. 361, §§ 2, 4; 2001 Pub.Acts, c. 265, §§ 5 to 7, eff. May 22, 2001; 2001 Pub.Acts, c. 409, § 1, eff. June 19, 2001; 2008 Pub.Acts, c. 1150, § 14, eff. June 13, 2008.

Formerly 1950 Code Supp., § 3407.1; § 13-701.

Notes of Decisions (26)

Current through end of 2010 First Ex. Sess. and 2010 Reg. Sess.

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