

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1512

Session of  
1981

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INTRODUCED BY J. L. WRIGHT, SWEET, STAIRS AND ITKIN, JUNE 3,  
1981

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AS REPORTED FROM COMMITTEE ON MINES AND ENERGY MANAGEMENT, HOUSE  
OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 16, 1981

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## 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 class A  
6 through eighth classes, individually or jointly, to plan  
7 their development and to govern the same by zoning,  
8 subdivision and land development ordinances, planned  
9 residential development and other ordinances, by official  
10 maps, by the reservation of certain land for future public  
11 purpose and by the acquisition of such land; providing for  
12 the establishment of planning commissions, planning  
13 departments, planning committees and zoning hearing boards,  
14 authorizing them to charge fees, make inspections and hold  
15 public hearings; providing for appropriations, appeals to  
16 courts and penalties for violations; and repealing acts and  
17 parts of acts," providing for the promotion of energy  
18 conservation ~~through planning practices.~~ AND THE MAXIMUM  
19 FEASIBLE UTILIZATION OF RENEWABLE ENERGY SOURCES. <—

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

22 Section 1. The title, act of July 31, 1968 (P.L.805,  
23 No.247), known as the "Pennsylvania Municipalities Planning  
24 Code," amended June 1, 1972 (P.L.333, No.93), is amended to  
25 read:

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 class A 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 designed to reduce energy consumption and to provide for maximum FEASIBLE 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 appropriations, appeals to courts and penalties for violations; and repealing acts and parts of acts.

Section 2. Section 105 of the act, amended June 1, 1972 (P.L.333, No.93), is amended to read:

Section 105. Purpose of Act.--It is the intent, purpose and scope of this act to protect and promote safety, health and morals; to accomplish a coordinated development of municipalities, other than cities of the first and second class; to provide for the general welfare by guiding and protecting amenity, convenience, future governmental, economic, practical, and social and cultural facilities, development and growth, as well as the improvement of governmental processes and functions; to guide uses of land and structures, type and location of

1 streets, public grounds and other facilities; to promote the  
2 conservation of energy through the use of planning practices  
3 ~~designed to reduce energy consumption and to provide for maximum~~ <—  
4 FEASIBLE utilization of renewable energy sources; and to permit <—  
5 municipalities, other than cities of the first and second class,  
6 to minimize such problems as may presently exist or which may be  
7 foreseen. It is the further intent of this act that any  
8 recommendations made by any planning agency to any governing  
9 body shall be advisory only.

10 Section 3. Section 107 of the act is amended by adding a  
11 clause to read:

12 Section 107. Definitions.--As used in this act, except where  
13 the context clearly indicates otherwise, the following words or  
14 phrases have the ~~meaning~~ MEANINGS indicated below: <—

15 \* \* \*

16 ~~(18.1) "Renewable energy sources," any method, process or~~ <—  
17 ~~substance whose use does not diminish its availability or~~  
18 ~~abundance, including, but not limited to, biomass conversion,~~  
19 ~~geothermal energy, solar energy, wind energy, and hydroelectric~~  
20 ~~power.~~

21 (3.1) CLIMATIC," MEANS PERTAINING TO THE COMPOSITE OR <—  
22 GENERALLY PREVAILING WEATHER CONDITIONS OF A REGION, SUCH AS  
23 TEMPERATURE, AIR PRESSURE, HUMIDITY, PRECIPITATION, SUNSHINE,  
24 CLOUDINESS AND WINDS THROUGHOUT THE YEAR, AVERAGED OVER A SERIES  
25 OF YEARS.

26 \* \* \*

27 (12.05) "MICROCLIMATIC," MEANS PERTAINING TO THE VARIATION  
28 IN REGIONAL CLIMATE AT A SPECIFIC SITE, CAUSED BY TOPOGRAPHY,  
29 VEGETATION, SOIL, WATER CONDITIONS AND CONSTRUCTION.

30 \* \* \*

1        (18.1) "RENEWABLE ENERGY SOURCE," MEANS ANY METHOD, PROCESS  
2 OR SUBSTANCE WHOSE SUPPLY FOR ENERGY PLANNING PURPOSES IS  
3 REJUVENATED THROUGH NATURAL PROCESSES AND, SUBJECT TO THOSE  
4 NATURAL PROCESSES, REMAINS RELATIVELY CONSTANT, INCLUDING, BUT  
5 NOT LIMITED TO, BIOMASS CONVERSION, GEOTHERMAL ENERGY, SOLAR AND  
6 WIND ENERGY AND HYDROELECTRIC ENERGY AND EXCLUDING THOSE SOURCES  
7 OF ENERGY USED IN THE FISSION AND FUSION PROCESSES.

8        \* \* \*

9        Section 4. ~~Clause (6) of subsection~~ SUBSECTION (b) of        <—  
10 section 209.1 of the act ~~added June 1, 1972 (P.L.333, No.93),~~ is        <—  
11 amended BY ADDING A CLAUSE to read:        <—

12        Section 209.1. Powers and Duties of Planning Agency.--\* \* \*

13        (b) The planning agency at the request of the governing body  
14 may:

15        \* \* \*

16        ~~(6) Prepare and present to the governing body of the        <—~~  
17 ~~municipality an environmental study; such study to include a~~  
18 ~~statement regarding the feasibility and practicality of using~~  
19 ~~renewable energy sources, in certain places;~~

20        \* \* \*

21        (13) PREPARE AND PRESENT TO THE GOVERNING BODY OF THE        <—  
22 MUNICIPALITY A STUDY REGARDING THE FEASIBILITY AND  
23 PRACTICABILITY OF USING RENEWABLE ENERGY SOURCES IN SPECIFIC  
24 AREAS WITHIN THE MUNICIPALITY.

25        Section 5. Section 301 of the act, amended June 1, 1972  
26 (P.L.333, No.93), is amended to read:

27        Section 301. Preparation of Comprehensive Plan.--The  
28 comprehensive plan, consisting of maps, charts and textual  
29 matter, shall indicate the recommendations of the planning  
30 agency for the continuing development of the municipality. The

comprehensive plan shall include, but need not be limited to,  
the following related basic elements:

(1) A statement of objectives of the municipality concerning  
its future development;

(2) A plan for land use, which may include the amount,  
intensity, and character of land use proposed for residence,  
industry, business, agriculture, major traffic and transit  
facilities, public grounds, flood plans and other areas of  
special hazards and other similar uses;

(3) A plan for movement of people and goods, which may  
include expressways, highways, local street systems, parking  
facilities, mass transit routes, terminals, airfields, port  
facilities, railroad facilities and other similar facilities or  
uses;

(4) A plan for community facilities and utilities, which may  
include public and private education, recreation, municipal  
buildings, libraries, water supply, sewage disposal, refuse  
disposal, storm drainage, hospitals, and other similar uses;  
[and]

(5) A map or statement indicating the relationship of the  
municipality and its proposed development to adjacent  
municipalities and areas; and

(6) An energy conservation plan element which systematically  
analyzes the impact of each other component and element of the  
comprehensive plan on the present and future use of energy in  
the municipality, details specific measures contained in the  
other plan elements designed to reduce energy consumption, and  
proposes other measures that the municipality may take to reduce  
energy consumption and to provide for the maximum FEASIBLE  
utilization of renewable energy sources.

<—

1 In preparing the comprehensive plan the planning agency shall  
2 make careful surveys and studies of existing conditions and  
3 prospects for future growth in the municipality.

4 ~~Section 6. Section 503 of the act is amended by adding a~~ <—  
5 ~~clause to read:~~

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

9 \* \* \*

10 ~~(6) Provisions, within the limits of practicality and~~  
11 ~~feasibility, regulating: (i) the height, location, setback,~~  
12 ~~orientation, and use of structures; (ii) the height and location~~  
13 ~~of vegetation with respect to boundary lines; (iii) the type and~~  
14 ~~location of energy systems or their components; (iv) the design~~  
15 ~~and construction of structures to encourage or require the use~~  
16 ~~of renewable energy systems; and (v) easements to ensure access~~  
17 ~~to sunlight and climatic and microclimatic consideration.~~

18 ~~Section 7. Sections 603 and 6. SECTION 604 of the act are~~ <—  
19 ~~IS amended by adding clauses A CLAUSE to read:~~ <—

20 ~~Section 603. Ordinance Provisions. Zoning ordinances may~~ <—  
21 ~~permit, prohibit, regulate, restrict and determine:~~

22 \* \* \*

23 ~~In addition, zoning ordinances may contain:~~

24 \* \* \*

25 ~~(6) Provisions for the reduction in energy consumption and~~  
26 ~~the maximum utilization of renewable energy sources.~~

27 Section 604. Zoning Purposes.--The provisions of zoning  
28 ordinances shall be designed:

29 \* \* \*

30 ~~(4) To encourage or require the use of renewable energy~~ <—

~~systems through site orientation, building siting, landscaping,  
easements to ensure access to sunlight and climatic and  
microclimatic consideration.~~

~~Section 8. Sections 617, 701, subsection (f) of section 705,  
clause (1) of section 706, clause (4) of section 707 and clause  
(2) of subsection (b) of section 709 of the act are amended to  
read:~~

~~Section 617. Enforcement Remedies. In case any building,  
structure, landscaping, or land is, or is proposed to be,  
erected, constructed, reconstructed, altered, converted,  
maintained or used in violation of any ordinance enacted under  
this act or prior enabling laws, the governing body or, with the  
approval of the governing body, an officer of the municipality,  
in addition to other remedies, may institute in the name of the  
municipality any appropriate action or proceeding to prevent,  
restrain, correct or abate such building, structure,  
landscaping, or land, or to prevent, in or about such premises,  
any act, conduct, business or use constituting a violation.~~

~~Section 701. Purposes. In order that the purposes of this  
act be furthered in an era of increasing urbanization and of  
growing demand for housing of all types and design; to insure  
that the provisions of Article VI which are concerned in part  
with the uniform treatment of dwelling type, bulk, density, site  
orientation, building siting, landscaping, easements to ensure  
access to sunlight and climatic and microclimatic consideration,  
and open space within each zoning district, shall not be applied  
to the improvement of land by other than lot by lot development  
in a manner that would distort the objectives of that Article  
VI; to encourage innovations in residential development and  
renewal so that the growing demand for housing may be met by~~

1 ~~greater variety in type, design and layout of dwellings and by~~  
2 ~~the conservation and more efficient use of open space ancillary~~  
3 ~~to said dwellings; so that greater opportunities for better~~  
4 ~~housing and recreation may extend to all citizens and residents~~  
5 ~~of this State; and in order to encourage a more efficient use of~~  
6 ~~land and of public services and to reflect changes in the~~  
7 ~~technology of land development so that economies secured may~~  
8 ~~enure to the benefit of those who need homes; and, in aid of~~  
9 ~~these purposes, to provide a procedure which can relate the~~  
10 ~~type, design and layout of residential development to the~~  
11 ~~particular site and the particular demand for housing existing~~  
12 ~~at the time of development in a manner consistent with the~~  
13 ~~preservation of the property values within existing residential~~  
14 ~~areas, and to insure that the increased flexibility of~~  
15 ~~regulations over land development authorized herein is carried~~  
16 ~~out under such administrative standards and procedures as shall~~  
17 ~~encourage the disposition of proposals for land development~~  
18 ~~without undue delay, the following powers are granted to all~~  
19 ~~municipalities.~~

20 (4) TO PROMOTE ENERGY CONSERVATION AND THE MAXIMUM FEASIBLE <—  
21 UTILIZATION OF RENEWABLE ENERGY SOURCES.

22 SECTION 7. SUBSECTION (F) OF SECTION 705 AND CLAUSE (4) OF  
23 SECTION 707 OF THE ACT, ARE AMENDED TO READ:

24 Section 705. Standards and Conditions for Planned  
25 Residential Development.--Every ordinance adopted pursuant to  
26 the provisions of this article shall set forth all the  
27 standards, conditions and regulations by which a proposed  
28 planned residential development shall be evaluated, and said  
29 standards, conditions and regulations shall be consistent with  
30 the following provisions:



1       \* \* \*

2       (f) The authority granted a municipality by Article V to  
3 establish standards for the location, width, course and  
4 surfacing of streets, walkways, curbs, gutters, street lights,  
5 shade trees, water, sewage and drainage facilities, easements or  
6 rights-of-way for drainage and utilities, reservations of public  
7 grounds, regulations for the height, location, setback,  
8 orientation and use of structures, regulations for the height  
9 and location of vegetation with respect to boundary lines,  
10 regulations for the type and location of RENEWABLE energy <—  
11 systems or their components, regulations for the design and  
12 construction of structures to encourage or require the use of <—  
13 renewable energy systems, easements to ensure access to sunlight  
14 and climatic and microclimatic consideration, and other  
15 improvements, shall be vested in the governing body or its  
16 designated agency for the purposes of this article. The  
17 standards applicable to a particular planned residential  
18 development may be different than or modifications of the  
19 standards and requirements otherwise required of subdivisions  
20 authorized under an ordinance adopted pursuant to Article V,  
21 provided, however, that an ordinance adopted pursuant to this  
22 article shall set forth the limits and extent of any  
23 modifications or changes in such standards and requirements in  
24 order that a landowner shall know the limits and extent of  
25 permissible modifications from the standards otherwise  
26 applicable to subdivisions.

27       \* \* \*

28       ~~Section 706. Enforcement and Modification of Provisions of~~ <—  
29 ~~the Plan. To further the mutual interest of the residents of~~  
30 ~~the planned residential development and of the public in the~~

~~preservation of the integrity of the development plan, as finally approved, and to insure that modifications, if any, in the development plan shall not impair the reasonable reliance of the said residents upon the provisions of the development plan, nor result in changes that would adversely affect the public interest, the enforcement and modification of the provisions of the development plan as finally improved, whether those are recorded by plat, covenant, easement or otherwise shall be subject to the following provisions:~~

~~(1) The provisions of the development plan relating to (i) the use, bulk and location of buildings and structures, (ii) the quantity and location of common open space, except as otherwise provided in this article, and (iii) the intensity of use or the density of residential units, and (iv) site orientation, building siting, landscaping, and easements to ensure access to sunlight and climatic and microclimatic consideration, shall run in favor of the municipality and shall be enforceable in law or in equity by the municipality, without limitation on any powers of regulation otherwise granted the municipality by law.~~

~~\* \* \*~~

Section 707. Application for Tentative Approval of Planned Residential Development.--In order to provide an expeditious method for processing a development plan for a planned residential development under the terms of an ordinance adopted pursuant to the powers granted herein, and to avoid the delay and uncertainty which would arise if it were necessary to secure approval, by a multiplicity of local procedures, of a plat of subdivision as well as approval of a change in the zoning regulations otherwise applicable to the property, it is hereby declared to be in the public interest that all procedures with

1 respect to the approval or disapproval of a development plan for  
2 a planned residential development and the continuing  
3 administration thereof shall be consistent with the following  
4 provisions:

5 \* \* \*

6 (4) The ordinance shall require only such information in the  
7 application as is reasonably necessary to disclose to the  
8 governing body or its designated agency: (i) the location, size  
9 and topography of the site and the nature of the landowner's  
10 interest in the land proposed to be developed; (ii) the density  
11 of land use to be allocated to parts of the site to be  
12 developed; (iii) the location and size of the common open space  
13 and the form of organization proposed to own and maintain the  
14 common open space; (iv) the use and the approximate height, bulk  
15 and location of buildings and other structures; (v) the  
16 feasibility of proposals for the disposition of sanitary waste  
17 and storm water; (vi) the substance of covenants, grants of  
18 easements or other restrictions proposed to be imposed upon the  
19 use of the land, buildings and structures including proposed  
20 easements or grants for public utilities; (vii) the provisions  
21 for parking of vehicles and the location and width of proposed  
22 streets and public ways; (viii) the required modifications in  
23 the municipal land use regulations otherwise applicable to the  
24 subject property; ~~(viii.1) the feasibility of proposals for the~~ <—  
25 ~~requirement of the use of renewable energy systems through site~~  
26 ~~orientation, building siting, landscaping, easements to ensure~~  
27 ~~access to sunlight and climatic and microclimatic consideration;~~  
28 (VIII.1) THE FEASIBILITY OF PROPOSALS FOR ENERGY CONSERVATION <—  
29 AND THE MAXIMUM FEASIBLE UTILIZATION OF RENEWABLE ENERGY  
30 SOURCES; and (ix) in the case of development plans which call

1 for development over a period of years, a schedule showing the  
2 proposed times within which applications for final approval of  
3 all sections of the planned residential development are intended  
4 to be filed and this schedule must be updated annually, on the  
5 anniversary of its approval, until the development is completed  
6 and accepted;

7 \* \* \*

8 ~~Section 709. The Findings. \* \* \*~~ <—

9 ~~(b) The grant or denial of tentative approval by official~~  
10 ~~written communication shall include not only conclusions but~~  
11 ~~also findings of fact related to the specific proposal and shall~~  
12 ~~set forth the reasons for the grant, with or without conditions,~~  
13 ~~or for the denial, and said communication shall set forth with~~  
14 ~~particularity in what respects the development plan would or~~  
15 ~~would not be in the public interest including but not limited to~~  
16 ~~findings of fact and conclusions on the following:~~

17 \* \* \*

18 ~~(2) The extent to which the development plan departs from~~  
19 ~~zoning and subdivision regulations otherwise applicable to the~~  
20 ~~subject property, including but not limited to density, bulk and~~  
21 ~~use, site orientation, building siting, landscaping, easements~~  
22 ~~to ensure access to sunlight and climatic and microclimatic~~  
23 ~~consideration, and the reasons why such departures are or are~~  
24 ~~not deemed to be in the public interest;~~

25 \* \* \*

26 ~~Section 9. Except for the provisions of section 301 which~~  
27 ~~shall take effect in six months, this act shall take effect in~~  
28 ~~60 days.~~

29 SECTION 8. THE DEPARTMENT OF COMMUNITY AFFAIRS, IN <—  
30 COOPERATION WITH ANY APPROPRIATE AGENCY OR INSTRUMENTALITY OF

1 THE COMMONWEALTH, SHALL COOPERATE FULLY WITH POLITICAL  
2 SUBDIVISIONS IN IMPLEMENTING THE PROVISIONS OF THIS ACT. IN  
3 ADDITION, THE DEPARTMENT OF COMMUNITY AFFAIRS SHALL PUBLISH  
4 GUIDELINES WITHIN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS ACT  
5 TO ASSIST POLITICAL SUBDIVISIONS RESPONDING TO ITS PROVISIONS.

6 SECTION 9. EXCEPT FOR THE PROVISIONS OF SECTION 301 WHICH  
7 SHALL TAKE EFFECT ONE YEAR FROM THE EFFECTIVE DATE OF THIS ACT,  
8 AND WHICH SHALL BE APPLICABLE TO ALL NEW AND EXISTING  
9 COMPREHENSIVE PLANS, THIS ACT SHALL TAKE EFFECT IN 60 DAYS.