

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2570 Session of
2000

INTRODUCED BY VITALI, M. COHEN, BARRAR, CAWLEY, CURRY, FREEMAN,
GRUCELA, KIRKLAND, MUNDY, PISTELLA, RAMOS, STEELMAN, STURLA,
THOMAS, WALKO AND WILLIAMS, MAY 15, 2000

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MAY 15, 2000

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
21 comprehensive plans and for landowner curative amendments.

22 The General Assembly of the Commonwealth of Pennsylvania

23 hereby enacts as follows:

24 Section 1. Section 301 of the act of July 31, 1968 (P.L.805,
25 No.247), known as the Pennsylvania Municipalities Planning Code,
26 reenacted and amended December 21, 1988 (P.L.1329, No.170), is
27 amended by adding subsections to read:

1 Section 301. Preparation of Comprehensive Plan.--* * *

2 (c) The comprehensive plan may include a listing of uses
3 that the municipality deems not to be appropriate within the
4 municipality.

5 (1) Such listing of inappropriate uses shall include a
6 study, showing due diligence, of why that use is
7 inappropriate. The study must include a listing of places and
8 municipalities, within a reasonable distance, wherein that
9 use is considered to be appropriate or actually sited and a
10 certification of general consistency of these findings with
11 the county comprehensive plan.

12 (2) When a challenge to the validity of the zoning
13 ordinance adopted to effectuate the comprehensive plan is
14 brought before the court, the court shall consider any such
15 listing in rendering a decision on such a challenge.

16 (d) The comprehensive plan shall be reviewed at least every
17 ten years to determine whether the plans need to be updated. The
18 comprehensive plan shall be subject to joint review and comment
19 by the municipality involved and the county planning commission
20 whenever this comprehensive plan is updated to determine that
21 the municipal comprehensive plan is generally consistent with
22 the county comprehensive plan.

23 Section 2. Section 609.1 of the act is amended to read:

24 Section 609.1. Procedure for Landowner Curative
25 Amendments.--(a) A landowner who desires to challenge on
26 substantive grounds the validity of a zoning ordinance or map or
27 any provision thereof, which prohibits or restricts the use or
28 development of land in which he has an interest may submit a
29 curative amendment to the governing body with a written request
30 that his challenge and proposed amendment be heard and decided

1 as provided in section 916.1. The governing body shall commence
2 a hearing thereon within 60 days of the request as provided in
3 section 916.1. The curative amendment and challenge shall be
4 referred to the planning agency or agencies as provided in
5 section 609 and notice of the hearing thereon shall be given as
6 provided in section 610 and in section 916.1.

7 (b) The hearing shall be conducted in accordance with
8 section 908 and all references therein to the zoning hearing
9 board shall, for purposes of this section be references to the
10 governing body. If a municipality does not accept a landowner's
11 curative amendment brought in accordance with this subsection
12 and a court subsequently rules that the challenge has merit, the
13 court's decision shall not result in a declaration of invalidity
14 for the entire zoning ordinance and map, but only for those
15 provisions which specifically relate to the landowner's curative
16 amendment and challenge. In such case, the municipality in
17 curing the defect, need not provide relief as to the parcel of
18 land which constituted the basis for the landowner's challenge
19 to the zoning ordinance, if provisions are made by the
20 municipality to correct the defect through an amendment or
21 amendments to the existing zoning ordinance, which may or may
22 not directly affect the parcel which was the basis for the
23 challenge initially.

24 (c) The governing body of a municipality which has
25 determined that a validity challenge has merit [may accept a
26 landowner's curative amendment, with or without revision, or may
27 adopt an alternative amendment which will cure the challenged
28 defects. The governing body] shall have the option, prior to the
29 commencement of hearings in accordance with subsection (b), to
30 declare its intent, within 45 days of the landowner's request,

1 to either accept the landowner's curative amendment, with or
2 without revision, as to the landowner's property, or to adopt an
3 alternative amendment which will cure the challenged defects as
4 to property other than the landowner's property. The governing
5 body, whether proceeding under subsection (b) or proceeding in
6 accordance with this section to adopt an alternative amendment,
7 shall consider the curative amendments, plans and explanatory
8 material submitted by the landowner and shall also consider:

9 (1) the impact of the proposal upon roads, sewer
10 facilities, water supplies, schools and other public service
11 facilities;

12 (2) if the proposal is for a residential use, the impact
13 of the proposal upon regional housing needs and the
14 effectiveness of the proposal in providing housing units of a
15 type actually available to and affordable by classes of
16 persons otherwise unlawfully excluded by the challenged
17 provisions of the ordinance or map;

18 (3) the suitability of the site for the intensity of use
19 proposed by the site's soils, slopes, woodlands, wetlands,
20 flood plains, aquifers, natural resources and other natural
21 features;

22 (4) the impact of the proposed use on the site's soils,
23 slopes, woodlands, wetlands, flood plains, natural resources
24 and natural features, the degree to which these are protected
25 or destroyed, the tolerance of the resources to development
26 and any adverse environmental impacts; and

27 (5) the impact of the proposal on the preservation of
28 agriculture and other land uses which are essential to public
29 health and welfare.

30 Section 3. The amendment of section 609.1(b) of the act

1 shall apply only to challenges initiated on or after the
2 effective date of this section.

3 Section 4. This act shall take effect in 60 days.