

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 904 Session of
2007

INTRODUCED BY FREEMAN, O'NEILL, GRUCELA, ROSS, LEACH, HARPER,
TANGRETTI, PETRI, BARRAR, BISHOP, CALTAGIRONE, CARROLL,
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SWANGER, VITALI, WATSON, YOUNGBLOOD AND QUINN, MARCH 22, 2007

AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF
REPRESENTATIVES, AS AMENDED, DECEMBER 11, 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," adding provisions to authorize temporary
21 development moratorium.

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

24 Section 1. The act of July 31, 1968 (P.L.805, No.247), known
25 as the Pennsylvania Municipalities Planning Code, reenacted and

1 amended December 21, 1988 (P.L.1329, No.170), is amended by
2 adding an article to read:

3 ARTICLE VIII-B

4 Temporary Development Moratorium

5 Section 801-B. Definitions.

6 The following words and phrases when used in this article
7 shall have the meanings given to them in this section unless the
8 context clearly indicates otherwise:

9 "Essential public facilities." Public infrastructure
10 services, fire protection services, police protection services,
11 emergency medical services, SCHOOL DISTRICT INFRASTRUCTURE, <—
12 CAPACITY AND SERVICES or any other service required to protect
13 the health and safety of the residents of a municipality.

14 Section 802-B. Development moratorium authorized.

15 The governing body of a municipality may place a moratorium
16 of limited duration on new development by enacting, pursuant to
17 this article, an ordinance to temporarily suspend the acceptance
18 of applications for development in order to permit enactment or
19 revision of a comprehensive plan, a subdivision and land
20 development ordinance or a zoning ordinance. THE ORDINANCE MAY <—
21 LIMIT THE MORATORIUM TO SPECIFIC GEOGRAPHICAL AREAS. THE
22 ORDINANCE MAY EXEMPT SPECIFIC USES FROM THE MORATORIUM.

23 Section 803-B. Findings of need.

24 (a) General rule.--Prior to adopting an ordinance under
25 section 802-B, the governing body, taking into consideration the
26 existing and future needs of the municipality, shall make
27 written findings of need, based upon reasonably available
28 information, that the enactment or revision of a comprehensive
29 plan, a subdivision and land development ordinance or a zoning
30 ordinance:

1 (1) will improve the health, safety or environment of
2 the people of the municipality and otherwise promote the
3 purposes of this act; and

4 (2) is necessary for any of the following reasons:

5 (i) to prevent the shortage or overburdening of
6 essential public facilities that would otherwise occur
7 during the effective period of the moratorium or that is
8 reasonably foreseeable as a result of any proposed or
9 anticipated development; or

10 (ii) to prevent serious public harm from
11 residential, commercial or industrial development in the
12 municipality because of the absence or inadequacy of an
13 existing comprehensive plan or a subdivision and land
14 development ordinance or a zoning ordinance.

15 (b) Limitation.--The governing body shall include with its
16 written findings of need an additional finding that the term of
17 the moratorium, as evidenced by a proposed schedule for
18 achieving its objectives, will be sufficiently limited to ensure
19 that the supply of affected housing types and of commercial and
20 industrial facilities within the municipality are not
21 unreasonably restricted.

22 (c) Public notice and hearing.--Before making the findings
23 required by this section, the governing body, pursuant to public
24 notice, shall hold a public hearing on the question of whether a
25 temporary development moratorium is needed for the reasons set
26 forth in subsection (a).

27 (d) Time.--Findings under this section shall be made by the
28 governing body no later than 15 days after the public hearing
29 held in accordance with subsection (c).

30 (E) COUNTY REVIEW.--AFTER MAKING THE FINDINGS REQUIRED BY

<—

1 THIS SECTION AND PRIOR TO THE ENACTMENT OF THE ORDINANCE, THE
2 GOVERNING BODY SHALL SUBMIT THE PROPOSED FINDINGS OF NEED TO THE
3 APPROPRIATE COUNTY PLANNING AGENCY OR, IN A COUNTY WHERE NO
4 PLANNING AGENCY EXISTS, TO THE GOVERNING BODY OF THE COUNTY. THE
5 PLANNING AGENCY OR GOVERNING BODY MAY PROVIDE THE MUNICIPALITY
6 WITH COMMENTS REGARDING THE FINDINGS WITHIN 30 DAYS.

7 Section 804-B. Enactment.

8 (a) Hearing.--After making the written findings required by
9 section 803-B and before voting on the enactment of an ordinance
10 authorized in section 802-B, the governing body shall hold a
11 public hearing on the enactment of a temporary moratorium
12 ordinance, pursuant to public notice.

13 (b) Additional notice requirements.--In addition to the
14 required contents of a public notice as defined in section
15 107(a), the notice required under this section shall contain the
16 following:

17 (1) A statement that the written findings required under
18 section 803-B have been made and that they are available at
19 the municipal offices during regular business hours for
20 inspection by any citizen.

21 (2) A statement, if applicable, that the governing body
22 of the municipality has elected to impose a preordinance
23 temporary moratorium on new development by suspending the
24 acceptance of applications for development in accordance with
25 subsection (e) and the date on which this temporary
26 moratorium shall begin.

27 (c) Time.--The vote on the enactment by the governing body
28 shall be within 60 days after the first publication required for
29 public notice in accordance with this section.

30 (d) County planning agency.--Within 30 days after enactment,

1 a copy of the ordinance shall be forwarded to the county
2 planning agency or in a county where no planning agency exists,
3 to the governing body of the county in which the municipality is
4 located.

5 ~~(c) Preordinance temporary moratorium. At least ten days~~ <—
6 ~~after the first publication required for public notice of the~~
7 ~~proposed ordinance, a municipality may impose a preordinance~~
8 ~~temporary moratorium by suspending the acceptance of~~
9 ~~applications for development. A suspension under this subsection~~
10 ~~may not exceed 50 days. A suspension under this subsection shall~~
11 ~~be in addition to any suspension authorized by section 805-B(a)~~
12 ~~or (b).~~

13 (E) PREORDINANCE SUSPENSION OF ACCEPTANCE OF APPLICATIONS.-- <—
14 AT THE MEETING AT WHICH THE MOTION IS ADOPTED FOR THE FIRST
15 PUBLICATION REQUIRED FOR PUBLIC NOTICE OF THE PROPOSED
16 ORDINANCE, OR AT A SUBSEQUENT MEETING, A MUNICIPALITY MAY BY
17 RESOLUTION SUSPEND THE ACCEPTANCE OF APPLICATIONS FOR
18 DEVELOPMENT. A SUSPENSION UNDER THIS SUBSECTION MAY NOT EXCEED
19 75 DAYS. A SUSPENSION UNDER THIS SUBSECTION SHALL BE IN ADDITION
20 TO ANY SUSPENSION AUTHORIZED BY SECTION 805-B(A) OR (B). NO
21 RESOLUTION TO SUSPEND ACCEPTANCE OF APPLICATIONS FOR DEVELOPMENT
22 IN ACCORDANCE WITH THIS SUBSECTION MAY BE PASSED BY A GOVERNING
23 BODY MORE THAN TWO TIMES WITHIN A 24-MONTH PERIOD.

24 Section 805-B. Term.

25 ~~(a) Authorization. An ordinance adopted under the authority~~ <—
26 (A) AUTHORIZATION.-- <—

27 (1) EXCEPT AS SET FORTH IN SUBSECTION (B) AND SECTION
28 804-B(E), AN ORDINANCE ADOPTED UNDER THE AUTHORITY of section
29 802-B may authorize the temporary suspension of the
30 acceptance of applications for development for a period not

1 ~~to exceed one year, except as provided in subsection (b) and~~ <—
2 ~~section 804-B(e).~~ 18 MONTHS IN THE CASE OF ENACTMENT OR <—
3 REVISION OF ALL OF THE FOLLOWING:

4 (I) THE COMPREHENSIVE PLAN.

5 (II) A SUBDIVISION AND LAND DEVELOPMENT ORDINANCE.

6 (III) A ZONING ORDINANCE.

7 (2) IN THE CASE OF ENACTMENT OR REVISION OF ANY ONE OR
8 TWO OF THE LAND USE MEASURES CITED IN PARAGRAPH (1)(I), (II)
9 OR (III), THE PERIOD OF SUSPENSION MAY NOT EXCEED ONE YEAR.

10 (b) Extension.--A development moratorium adopted under the
11 authority of section 802-B may be extended, by ordinance, for an
12 additional 180-day period if the following conditions are met:

13 (1) The governing body finds that the findings made
14 pursuant to section 803-B still apply and that reasonable
15 progress is being made to enact or revise a comprehensive
16 plan, a subdivision and land development ordinance, or a
17 zoning ordinance.

18 (2) Before making the findings required by this
19 subsection, the governing body holds a public hearing on the
20 enactment of an ordinance to extend the moratorium.

21 (C) ADDITIONAL MORATORIUM.--A GOVERNING BODY MAY NOT ADOPT <—
22 AN ORDINANCE PROVIDING FOR AN ADDITIONAL PERIOD OF TEMPORARY
23 SUSPENSION OF ACCEPTANCE OF APPLICATIONS FOR DEVELOPMENT UNTIL
24 AT LEAST THREE YEARS HAVE ELAPSED FROM THE END OF THE MOST
25 RECENT PRIOR TEMPORARY SUSPENSION BY ORDINANCE.

26 Section 806-B. Waiver.

27 (a) Application.--A landowner or developer may apply for a
28 waiver from a moratorium imposed under this article.

29 (b) Grant of application.--

30 (1) A waiver shall be granted if the landowner or

1 developer presents evidence from which the governing body,
2 after holding a hearing pursuant to subsection (d), concludes
3 that:

4 (i) Special or unique circumstances exist so that
5 application of the moratorium to the development in
6 question would create an unnecessary hardship on the
7 landowner or developer OR THE PROPOSED DEVELOPMENT IS <—
8 COMPOSED OF NO MORE THAN TEN UNITS AND IS OF A LIMITED
9 NATURE.

10 (ii) Granting the waiver would not significantly
11 compromise the goals sought to be achieved by the
12 adoption or revision of the comprehensive plan,
13 subdivision and land development ordinance or zoning
14 ordinance.

15 (2) In granting a waiver in accordance with this
16 section, the governing body may set conditions on any
17 approval that may be granted, including limiting the waiver
18 so that the relief granted is the minimum necessary to
19 alleviate the hardship.

20 (3) IN GRANTING A WAIVER IN ACCORDANCE WITH THIS <—
21 SECTION, THE GOVERNING BODY SHALL PROVIDE WRITTEN NOTICE TO
22 ALL SCHOOL DISTRICTS WITHIN THE JURISDICTION OF THE GOVERNING
23 BODY OF THE GRANTING OF THE WAIVER NO LATER THAN SEVEN DAYS
24 AFTER THE WAIVER'S APPROVAL.

25 (c) Requirements.--A waiver application shall be in writing
26 and submitted to the governing body.

27 (d) Hearing.--The governing body shall hold a hearing on the
28 application for a waiver within 15 days from the date of the
29 applicant's request and shall make a determination on the waiver
30 application within 30 days after receiving the written request.

1 THE GOVERNING BODY SHALL PERMIT THE PROVIDERS OF ESSENTIAL <—
2 PUBLIC FACILITIES TO PRESENT EVIDENCE IN RESPONSE TO THE WAIVER
3 REQUEST AT THE HEARING.

4 (e) Notice requirements.--In lieu of any other public notice
5 requirements contained in this act or any other law, the
6 governing body shall advertise a hearing required pursuant to <—
7 GOVERNING BODY SHALL: <—

8 (1) ADVERTISE A HEARING REQUIRED PURSUANT TO subsection
9 (d) at least seven days prior to the date of the hearing by
10 placing notice in at least one newspaper of general
11 circulation in the area in which the development would occur.

12 (2) PROVIDE SCHOOL DISTRICTS WITHIN THE MUNICIPALITY <—
13 WITH SEVEN DAYS' NOTICE OF THE HEARING.

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