

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1613 Session of
1997

INTRODUCED BY STEIL, MASLAND, CONTI, MUNDY, SAYLOR, WALKO,
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STETLER, RUBLEY, LEVDANSKY, BARD AND CARONE, JUNE 11, 1997

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JUNE 11, 1997

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 the purpose of the act;
21 adding certain definitions; further providing for various
22 matters relating to the comprehensive plan and for compliance
23 by counties; providing for funding for municipal planning;
24 providing for neighboring municipalities, for infrastructure
25 and public services and for county review; further providing
26 for certain ordinances; and adding provisions relating to
27 projects of regional impact.

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

1 Section 1. Section 105 of the act of July 31, 1968 (P.L.805,
2 No.247), known as the Pennsylvania Municipalities Planning Code,
3 reenacted and amended December 21, 1988 (P.L.1329, No.170), is
4 amended to read:

5 Section 105. Purpose of Act.--It is the intent, purpose and
6 scope of this act to protect and promote safety, health and
7 morals; to accomplish coordinated development; to provide for
8 the general welfare by guiding and protecting amenity,
9 convenience, future governmental, economic, practical, and
10 social and cultural facilities, development and growth, as well
11 as the improvement of governmental processes and functions; to
12 guide uses of land and structures, type and location of streets,
13 public grounds and other facilities; to promote the conservation
14 of energy through the use of planning practices and to promote
15 the effective utilization of renewable energy sources; to
16 promote the preservation of this Commonwealth's natural
17 resources, open space and valuable farm land; to encourage
18 municipalities to prepare municipal or joint municipal
19 comprehensive plans consistent with the county comprehensive
20 plan; to encourage the preservation of agricultural land areas
21 through easements, transfer of development rights and rezoning;
22 to encourage the revitalization of established urban centers;
23 and to permit municipalities to minimize such problems as may
24 presently exist or which may be foreseen.

25 Section 2. Section 107 of the act is amended by adding
26 definitions to read:

27 Section 107. Definitions.--(a) The following words and
28 phrases when used in this act shall have the meanings given to
29 them in this subsection unless the context clearly indicates
30 otherwise:

1 * * *

2 "Multimunicipal planning agency," a planning agency comprised
3 of representatives of more than one municipality and constituted
4 to address, on behalf of the participating municipalities,
5 regional issues, including, but not limited to, agricultural and
6 open space preservation, natural and cultural resources,
7 transportation, housing and economic development.

8 * * *

9 "Regional planning agency," a planning agency that is
10 comprised of representatives of more than one county. Regional
11 planning responsibilities shall include, but not be limited to,
12 providing technical assistance to counties and municipalities,
13 preparing a regional plan consistent with the State policy plan,
14 mediating conflicts across county lines and reviewing county
15 plans for consistency with one another.

16 * * *

17 "State policy plan," a comprehensive land use and growth
18 management policy plan prepared by the State Planning Board for
19 this Commonwealth which sets broad goals and criteria for
20 municipalities and counties to use in the preparation of their
21 comprehensive plans and land use regulation.

22 * * *

23 Section 3. The act is amended by adding a section to read:

24 Section 212. Intergovernmental Cooperation.--The governing
25 body may utilize the authority granted by the act of July 12,
26 1972 (P.L.762, No.180), referred to as the Intergovernmental
27 Cooperation Law.

28 Section 4. Sections 301 and 301.4 of the act are amended to
29 read:

30 Section 301. Preparation of Comprehensive Plan.--(a) The

comprehensive plan, consisting of maps, charts and textual matter, 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, including, but not limited to, the location, character and timing of future development, that may also serve as a statement of community development objectives as provided in section 606.

(2) A plan for land use, which may include provisions for the amount, intensity, character and timing of land use proposed for residence, industry, business, agriculture, major traffic and transit facilities, utilities, community facilities, public grounds, parks and recreation, preservation of [prime] agricultural lands, flood plains and other areas of special hazards and other similar uses.

(2.1) A plan to meet the housing needs of present residents and of those individuals and families anticipated to reside in the municipality, which may include conservation of presently sound housing, rehabilitation of housing in declining neighborhoods and the accommodation of expected new housing in different dwelling types and at appropriate densities for households of all income levels.

(3) A plan for movement of people and goods, which may include expressways, highways, local street systems, parking facilities, pedestrian and bikeway systems, public 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, fire and police stations, libraries,

1 hospitals, water supply and distribution, sewerage and waste
2 treatment, solid waste management, storm drainage, and flood
3 plain management, utility corridors and associated
4 facilities, and other similar facilities or uses.

5 (4.1) A statement of the interrelationships among the
6 various plan components, which may include an estimate of the
7 environmental, energy conservation, fiscal, economic
8 development and social consequences on the municipality.

9 (4.2) A discussion of short- and long-range plan
10 implementation strategies, which may include implications for
11 capital improvements programming, new or updated development
12 regulations, and identification of public funds potentially
13 available.

14 (5) A statement indicating the relationship of the
15 existing and proposed development of the municipality to the
16 existing and proposed development and plans in contiguous
17 municipalities, to the objectives and plans for development
18 in the county of which it is a part, and to regional
19 trends[.] and to the State policy plan.

20 (6) A plan for the protection of natural and cultural
21 resources identified as requiring protection by Federal,
22 State or county agencies or by the municipality, with
23 documentation provided in the comprehensive plan. This clause
24 includes, but is not limited to, air quality, wetlands and
25 aquifer recharge zones, woodlands, steep slopes, farmland
26 types, floodplains, unique natural areas and historic sites.

27 (b) The comprehensive plan [may] should include a plan for
28 the reliable supply of water, considering current and future
29 water resources availability, uses and limitations, including
30 provisions adequate to protect water supply sources. Any such

1 plan shall be consistent with the State Water Plan and any
2 applicable water resources plan adopted by a river basin
3 commission.

4 (c) The municipal or multimunicipal comprehensive plan shall
5 be updated at least every ten years. The municipal or
6 multimunicipal comprehensive plan shall be subject to joint
7 review and comment by the local municipalities and the county
8 planning commissions or, upon request of a county planning
9 commission, a regional planning commission whenever the
10 comprehensive plan is updated or at ten-year intervals,
11 whichever comes first, to determine that the municipal
12 comprehensive plan is consistent with the county comprehensive
13 plan.

14 Section 301.4. Compliance by Counties.--(a) If a county
15 does not have a comprehensive plan, then that county shall,
16 within three years of the effective date of this act, and with
17 the active participation of the local municipalities within the
18 respective county, prepare and adopt a comprehensive plan in
19 accordance with the requirements of section 301. Municipal
20 comprehensive plans which are adopted shall be [generally]
21 consistent with the adopted county comprehensive plan. Final
22 adoption of a county comprehensive plan shall be subject to
23 review and comments by the State Planning Board to promote
24 consistency and monitor growth and development throughout this
25 Commonwealth.

26 (b) County comprehensive plans shall be consistent with the
27 State policy plan and shall include the following:

28 (1) identify areas designated for conservation of
29 important natural resources;

30 (2) identify areas designated for growth or limited

1 growth, in relation to planned infrastructure, such as
2 highways, water and sewers; and

3 (3) identify areas suitable for proposed land uses which
4 have a regional impact and significance, such as large
5 shopping centers, major industrial parks, mines and related
6 activities, office parks, storage facilities, large
7 residential developments, regional entertainment and
8 recreational complexes, hospitals, airports and port
9 facilities.

10 (c) County planning commissions should provide
11 municipalities in their county with advisory guidelines that
12 would promote consistency with the adopted county comprehensive
13 plan. These guidelines shall promote consistency with respect to
14 local planning and zoning terminology and common types of
15 municipal land use regulations, including methods of evaluation
16 of infrastructure adequacy to meet the requirements of section
17 503.2.

18 Section 5. The act is amended by adding a section to read:

19 Section 301.5. Funding of Municipal Planning.--Priority for
20 State grants to develop or revise comprehensive plans shall be
21 given to those municipalities which agree to adopt comprehensive
22 plans generally consistent with the county comprehensive plan
23 and which agree to enact a new zoning ordinance or amendment
24 which is consistent with the municipal comprehensive plan.
25 Municipalities and counties shall comply with these agreements
26 within two years unless such period is extended by the grant-
27 making agency for good cause shown. Failure to comply with the
28 agreements shall be taken into consideration for future State
29 funding.

30 Section 6. Sections 302, 303 and 306 of the act are amended

1 to read:

2 Section 302. Adoption of Comprehensive Plan and Plan

3 Amendments.--(a) The governing body shall have the power to
4 adopt and amend the comprehensive plan as a whole or in parts.

5 Before adopting or amending a comprehensive plan, or any part
6 thereof, the planning agency shall hold at least one public
7 meeting pursuant to public notice before forwarding the proposed
8 comprehensive plan or amendment thereof to the governing body.

9 In reviewing the proposed comprehensive plan, the governing body
10 shall consider the review comments of the county, contiguous
11 municipalities and the school district, as well as the public
12 meeting comments and the recommendations of the municipal
13 planning agency. The comments of the county, contiguous
14 municipalities and the local school district shall be made to
15 the governing body within 45 days of receipt, and the proposed
16 plan or amendment thereto shall not be acted upon until such
17 comment is received. If, however, the contiguous municipalities
18 and the local school district fail to respond within 45 days,
19 the governing body may proceed without their comments.

20 (b) The governing body shall hold at least one public
21 hearing pursuant to public notice. If, after the public hearing
22 held upon the proposed plan or amendment to the plan, the
23 proposed plan or proposed amendment thereto is substantially
24 revised, the governing body shall hold another public hearing,
25 pursuant to public notice, before proceeding to vote on the plan
26 or amendment thereto.

27 (c) The adoption of the comprehensive plan, or any part
28 thereof, or any amendment thereto, shall be by resolution
29 carried by the affirmative votes of not less than a majority of
30 all the members of the governing body. The resolution shall

1 refer expressly to the maps, charts, textual matter, and other
2 matters intended to form the whole or part of the plan, and the
3 action shall be recorded on the adopted plan or part.

4 (d) Counties shall formally consider amendments to their
5 comprehensive plan proposed by municipalities which are
6 considering adoption or revision of their municipal
7 comprehensive plans so as to achieve consistency between the
8 respective comprehensive plans. County comprehensive plans shall
9 be updated at least every five years. County plans shall take
10 precedence over municipal plans except that where two or more
11 municipalities request amendments to a county plan to make it
12 consistent with a multimunicipal plan, the county must accept
13 the amendments unless good cause for their refusal is
14 established.

15 Section 303. Legal Status of Comprehensive Plan Within the
16 Jurisdiction that Adopted the Plan.--(a) Whenever the governing
17 body, pursuant to the procedures provided in section 302, has
18 adopted a comprehensive plan or any part thereof, any subsequent
19 proposed action of the governing body, its departments, agencies
20 and appointed authorities shall be submitted to the planning
21 agency for its recommendations when the proposed action relates
22 to:

23 (1) the location, opening, vacation, extension,
24 widening, narrowing or enlargement of any street, public
25 ground, pierhead or watercourse;

26 (2) the location, erection, demolition, removal or sale
27 of any public structure located within the municipality;

28 (3) the adoption, amendment or repeal of an official
29 map, subdivision and land development ordinance, zoning
30 ordinance or provisions for planned residential development,

1 or capital improvements program; or

2 (4) the construction, extension or abandonment of any
3 water line, sewer line or sewage treatment facility.

4 (b) The recommendations of the planning agency including a
5 specific statement as to whether or not the proposed action is
6 in accordance with the objectives of the formally adopted
7 comprehensive plan shall be made in writing to the governing
8 body within 45 days.

9 [(c) Notwithstanding any other provision of this act, no
10 action by the governing body of a municipality shall be invalid
11 nor shall the same be subject to challenge or appeal on the
12 basis that such action is inconsistent with, or fails to comply
13 with, the provision of the comprehensive plan.]

14 (c.1) Municipal zoning, subdivision and land development
15 regulations and capital improvement programs shall be consistent
16 with the municipal comprehensive plan or, where none exists, the
17 municipal statement of community development objectives and the
18 county comprehensive plan.

19 Section 306. Municipal and County Comprehensive Plans.--(a)
20 When a municipality having a comprehensive plan is located in a
21 county which has adopted a comprehensive plan, both the county
22 and the municipality shall each give the plan of the other
23 consideration in order that the objectives of each plan can be
24 protected to the greatest extent possible.

25 (b) Within 30 days after adoption, the governing body of a
26 municipality, other than a county, shall forward a certified
27 copy of the comprehensive plan, or part thereof or amendment
28 thereto, to the county planning agency or, in counties where no
29 planning agency exists, to the governing body of the county in
30 which the municipality is located.

1 (c) Counties shall consult with municipalities and solicit
2 comment from school districts during the process of preparing or
3 updating a comprehensive plan in order to ascertain where
4 municipalities and school districts anticipate growth and where
5 additional infrastructure may be needed.

6 Section 7. The act is amended by adding sections to read:

7 Section 502.1. Neighboring Municipalities.--(a) The county
8 planning commission shall offer a mediation option to any
9 municipality which believes that its citizens will experience
10 harm as the result of a proposed subdivision or development of
11 land in a neighboring municipality. In exercising such an
12 option, the mediating parties shall meet the stipulations and
13 follow the procedures set forth in Article IX. The cost of the
14 mediation shall be shared equally by the disputing
15 municipalities unless otherwise agreed upon by the mediating
16 parties.

17 (b) In any instance where a municipality has a comprehensive
18 plan and implementing ordinances that are consistent with the
19 county plan, and a neighboring municipality that is considering
20 a change of use or subdivision and land development proposal
21 either does not have a comprehensive plan and ordinance
22 consistent with the county plan or the proposal requires a
23 variance from that consistent plan and ordinance. The governing
24 body of a neighboring municipality shall have standing to appear
25 before the governing body and the various boards and commissions
26 within a municipality considering a proposed subdivision, change
27 of land use or land development which they determine will have a
28 negative impact on the residents in their municipality.

29 Section 503.2. Infrastructure and Public Services.--(a) It
30 is the intent of the General Assembly that public facilities and

services needed to support development shall be available concurrent with the impacts of such development. In meeting this intent, public facility and service availability shall be deemed sufficient if the public facilities and services for a development are phased so that the public facilities and those related services which are deemed necessary by the local government to operate the facilities necessitated by that development are available concurrent with the impacts of the development.

(b) The subdivision and land development ordinance shall include provisions for insuring that, as a condition of approval, a municipality will require that onsite and offsite infrastructure and public services needed to support a particular level of development will be identified and provided concurrently with such development.

(c) The public services and infrastructure, unless already available, are to be consistent with the municipality's transportation capital improvements plan, Act 537 plan and capital improvements plan for water supply.

(d) Approval of an application for a subdivision or a land development may be delayed until the required infrastructure and public services are in place and available.

(e) Exceptions may be granted in regard to transportation infrastructure for geographical areas defined in the municipal and county comprehensive plans as:

(1) a downtown development or redevelopment area;

(2) an area where urban infill is to be encouraged; or

(3) an area where higher densities are to be encouraged in order to utilize public transit.

(f) The infrastructure and services deemed necessary to

1 support a development may occur in phases which are concurrent
2 with the phased completion of the development, if approval is
3 given by the local government.

4 Section 602.1. County Review; Dispute Resolution.--(a) A
5 municipal zoning ordinance that complies with sections 301(c)
6 and 303(d) of this act creates an irrebuttable presumption that
7 the ordinance is compatible with the comprehensive plan.

8 (b) The county planning commission shall offer a mediation
9 option to any municipality which believes that its citizens will
10 experience harm as the result of the adoption of a zoning
11 ordinance or an amendment to an existing zoning ordinance in a
12 neighboring municipality. In exercising such an option, the
13 mediating parties shall meet the stipulations and follow the
14 procedures set forth in Article IX. The cost of the mediation
15 shall be shared equally by the disputing municipalities unless
16 otherwise agreed upon by the mediating parties.

17 (c) Where a municipality, either through its own
18 comprehensive plan and implementing ordinances, or through a
19 multimunicipal plan and implementing ordinances, is in
20 conformity with the county comprehensive plan, and the county
21 plan taken together with consistent local municipal plans and
22 ordinances makes a reasonable amount of land in reasonable
23 geographic areas available for all uses dispersed throughout the
24 county, including a wide range of housing opportunities for all
25 income levels, a court shall consider all uses and zoning
26 densities available in the county rather than the specific
27 municipality whose ordinance is under review. The court shall
28 pay particular attention to the coordination of plans and
29 ordinances where the challenge to an ordinance involves the
30 conversion of land otherwise planned and zoned for agricultural

uses, open space, natural and historic area preservation and conservation to other uses.

(d) (1) Notwithstanding any statute or regulation to the contrary, municipalities that enter into a joint municipal zoning ordinance, in conformity with Article VIII-A of this act, or that are subject to the jurisdiction of a county zoning ordinance based on a county comprehensive plan, shall be entitled to priority consideration when applying for State financial assistance for programs, including, but not limited to:

(i) Planning.

(ii) Economic development.

(iii) Housing.

(iv) PENNVEST.

(v) Department of Transportation.

(vi) Recreation.

(vii) Open space and farmland preservation.

(2) Municipalities that enter into a joint municipal zoning ordinance, which complies to provisions of section 602.1(c) may also by agreement share tax revenues and fees generated from municipalities located within the region.

Section 8. Section 603 of the act, amended December 14, 1992 (P.L.815, No.131), is amended to read:

Section 603. Ordinance Provisions.--(a) Zoning ordinances should reflect the policy goals of the statement of community development objectives required in section 606, and give consideration to the character of the municipality, the needs of the citizens and the suitabilities and special nature of particular parts of the municipality.

(b) Zoning ordinances may permit, prohibit, regulate,

1 restrict and determine:

2 (1) Uses of land, watercourses and other bodies of
3 water.

4 (2) Size, height, bulk, location, erection,
5 construction, repair, maintenance, alteration, razing,
6 removal and use of structures.

7 (3) Areas and dimensions of land and bodies of water to
8 be occupied by uses and structures, as well as areas, courts,
9 yards, and other open spaces and distances to be left
10 unoccupied by uses and structures.

11 (4) Density of population and intensity of use.

12 (5) Protection and preservation of natural and historic
13 resources and agricultural land and activities.

14 (c) Zoning ordinances may contain:

15 (1) provisions for special exceptions and variances
16 administered by the zoning hearing board, which provisions
17 shall be in accordance with this act;

18 (2) provisions for conditional uses to be allowed or
19 denied by the governing body pursuant to public notice and
20 hearing and recommendations by the planning agency and
21 pursuant to express standards and criteria set forth in the
22 zoning ordinances. In allowing a conditional use, the
23 governing body may attach such reasonable conditions and
24 safeguards, in addition to those expressed in the ordinance,
25 as it may deem necessary to implement the purposes of this
26 act and the zoning ordinance;

27 (2.1) when an application for either a special exception
28 or a conditional use has been filed with either the zoning
29 hearing board or governing body, as relevant, and the subject
30 matter of such application would ultimately constitute either

1 a "land development" as defined in section 107 or a
2 "subdivision" as defined in section 107, no change or
3 amendment of the zoning, subdivision or other governing
4 ordinance or plans shall affect the decision on such
5 application adversely to the applicant and the applicant
6 shall be entitled to a decision in accordance with the
7 provisions of the governing ordinances or plans as they stood
8 at the time the application was duly filed. Provided,
9 further, should such an application be approved by either the
10 zoning hearing board or governing body, as relevant,
11 applicant shall be entitled to proceed with the submission of
12 either land development or subdivision plans within a period
13 of six months or longer or as may be approved by either the
14 zoning hearing board or the governing body following the date
15 of such approval in accordance with the provisions of the
16 governing ordinances or plans as they stood at the time the
17 application was duly filed before either the zoning hearing
18 board or governing body, as relevant. If either a land
19 development or subdivision plan is so filed within said
20 period, such plan shall be subject to the provisions of
21 section 508(1) through (4), and specifically to the time
22 limitations of section 508(4) which shall commence as of the
23 date of filing such land development or subdivision plan;

24 (2.2) provisions for regulating transferable development
25 rights, on a voluntary basis, including provisions for the
26 protection of persons acquiring the same, in accordance with
27 express standards and criteria set forth in the ordinance and
28 section 619.1;

29 (2.3) provisions for reciprocal agreements among
30 municipalities for a system of transfer of development rights

1 on a regional basis in order to preserve valuable farmland,
2 environmentally sensitive areas and areas of cultural or
3 historic significance;

4 (3) provisions for the administration and enforcement of
5 such ordinances;

6 (4) such other provisions as may be necessary to
7 implement the purposes of this act;

8 (5) provisions to encourage innovation and to promote
9 flexibility, economy and ingenuity in development, including
10 subdivisions and land developments as defined in this act;
11 and

12 (6) provisions authorizing increases in the permissible
13 density of population or intensity of a particular use based
14 upon expressed standards and criteria set forth in the zoning
15 ordinance, especially increases that would promote and
16 preserve farmland, environmentally sensitive areas and areas
17 of cultural or historic significance.

18 (d) Zoning ordinances may include provisions regulating the
19 siting, density and design of residential, commercial,
20 industrial and other developments in order to assure the
21 availability of reliable, safe and adequate water supplies to
22 support the intended land uses within the capacity of available
23 water resources.

24 (e) Zoning ordinances may not unduly restrict the display of
25 religious symbols on property being used for religious purposes.

26 (f) Zoning ordinances may not unreasonably restrict forestry
27 activities.

28 (g) (1) Zoning ordinances shall provide for the protection
29 of farmland and promote the establishment of agricultural
30 security areas.

1 (2) Zoning ordinances shall provide for protection of
2 identified natural and cultural features and resources,
3 including, but not limited to, air quality, wetlands and
4 aquifer recharge zones, woodlands, steep slopes, floodplains,
5 unique natural sites and unique historic sites.

6 (h) If a municipality or county wishes to rezone land, it
7 must first amend its comprehensive plan and follow the
8 procedures outlined in Article III.

9 Section 9. This act shall take effect in 60 days.