

THE GENERAL ASSEMBLY OF PENNSYLVANIA

**HOUSE BILL**

**No. 1851** Session of  
2001

INTRODUCED BY McILHINNEY, CLYMER, CREIGHTON, FREEMAN, GRUCELA,  
HARPER, RUBLEY, SCHRODER, WATSON AND YUDICHAK, JULY 11, 2001

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JULY 11, 2001

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 zoning purposes, for  
21 classifications and for procedure for landowner curative  
22 amendments.

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

25 Section 1. Sections 604 and 605 of the act of July 31, 1968  
26 (P.L.805, No.247), known as the Pennsylvania Municipalities  
27 Planning Code, reenacted and amended December 21, 1988  
28 (P.L.1329, No.170), are amended to read:

1 Section 604. Zoning Purposes.--The provisions of zoning  
2 ordinances shall be designed:

3 (1) To promote, protect and facilitate any or all of the  
4 following: the public health, safety, morals, and the general  
5 welfare; coordinated and practical community development and  
6 proper density of population; emergency management  
7 preparedness and operations, airports, and national defense  
8 facilities, the provisions of adequate light and air, access  
9 to incident solar energy, police protection, vehicle parking  
10 and loading space, transportation, water, sewerage, schools,  
11 recreational facilities, public grounds, the provision of a  
12 safe, reliable and adequate water supply for domestic,  
13 commercial, agricultural or industrial use, and other public  
14 requirements[; as well as preservation of the natural, scenic  
15 and historic values in the environment and preservation of  
16 forests, wetlands, aquifers and floodplains].

17 (2) To prevent one or more of the following:  
18 overcrowding of land, blight, danger and congestion in travel  
19 and transportation, loss of health, life or property from  
20 fire, flood, panic or other dangers.

21 (3) To preserve forests, prime agriculture and farmland  
22 considering topography, soil type and classification, and  
23 present use.

24 (4) To provide for the use of land within the  
25 municipality for residential housing of various dwelling  
26 types encompassing all basic forms of housing, including  
27 single-family and two-family dwellings, and a reasonable  
28 range of multifamily dwellings in various arrangements,  
29 mobile homes and mobile home parks, provided, however, that  
30 no zoning ordinance shall be deemed invalid for the failure

1 to provide for any other specific dwelling type.

2 (5) To accommodate reasonable overall community growth,  
3 including population and employment growth, and opportunities  
4 for development of a variety of residential dwelling types  
5 and nonresidential uses.

6 (6) To provide for development zoning districts to  
7 encourage and accommodate population and employment growth  
8 and a reasonable range of housing types and to provide for  
9 resource protection zoning districts and regulations to  
10 preserve and protect natural, scenic, historic and cultural  
11 resources, including the preservation of open space and rural  
12 landscapes, the preservation of surface and groundwater  
13 resources, wetlands, aquifers and flood plains. A zoning  
14 ordinance which makes adequate provisions for its fair share  
15 of population growth and housing types and for commercial and  
16 industrial growth in a development zoning district shall not  
17 be deemed invalid because development and uses of the same  
18 type and densities are prohibited or limited in other zoning  
19 districts.

20 (7) To foster the revitalization of this Commonwealth's  
21 cities and older towns and suburbs through joint municipal  
22 planning and zoning.

23 Section 605. Classifications.--In any municipality, other  
24 than a county, which enacts a zoning ordinance, no part of such  
25 municipality shall be left unzoned. The provisions of all zoning  
26 ordinances may be classified so that different provisions may be  
27 applied to different classes of situations, uses and structures  
28 and to such various districts of the municipality as shall be  
29 described by a map made part of the zoning ordinance. A zoning  
30 ordinance may establish development zoning districts to

1 encourage and accommodate population and employment growth and a  
2 reasonable range of housing types and may establish resource  
3 protection zoning districts and regulations to preserve and  
4 protect natural, scenic, historic and cultural resources,  
5 including the preservation of open space and rural landscapes,  
6 the preservation of surface and groundwater resources, wetlands,  
7 aquifers and flood plains. Where zoning districts are created,  
8 all provisions shall be uniform for each class of uses or  
9 structures, within each district, except that additional  
10 classifications may be made within any district:

11 (1) For the purpose of making transitional provisions at  
12 and near the boundaries of districts.

13 (1.1) For the purpose of regulating nonconforming uses  
14 and structures.

15 (2) For the regulation, restriction or prohibition of  
16 uses and structures at, along or near:

17 (i) major thoroughfares, their intersections and  
18 interchanges, transportation arteries and rail or transit  
19 terminals;

20 (ii) natural or artificial bodies of water, boat  
21 docks and related facilities;

22 (iii) places of relatively steep slope or grade, or  
23 other areas of hazardous geological or topographic  
24 features;

25 (iv) public buildings and public grounds;

26 (v) aircraft, helicopter, rocket, and spacecraft  
27 facilities;

28 (vi) places having unique historical, architectural  
29 or patriotic interest or value; or

30 (vii) flood plain areas, agricultural areas,

1 sanitary landfills, and other places having a special  
2 character or use affecting and affected by their  
3 surroundings.

4 As among several classes of zoning districts, the provisions  
5 for permitted uses may be mutually exclusive, in whole or in  
6 part.

7 (3) For the purpose of encouraging innovation and the  
8 promotion of flexibility, economy and ingenuity in  
9 development, including subdivisions and land developments as  
10 defined in this act, and for the purpose of authorizing  
11 increases in the permissible density of population or  
12 intensity of a particular use based upon expressed standards  
13 and criteria set forth in the zoning ordinance.

14 (4) For the purpose of regulating transferable  
15 development rights on a voluntary basis.

16 Section 2. Section 609.1 of the act is amended by adding  
17 subsections to read:

18 Section 609.1. Procedure for Landowner Curative  
19 Amendments.--\* \* \*

20 (b.1) In a substantive validity challenge to a zoning  
21 ordinance, where the zoning ordinance represents a balanced  
22 effort to achieve the zoning purposes provided in section 604  
23 and the challenged provision substantially promotes a valid  
24 zoning purpose as set forth in section 604, the zoning ordinance  
25 shall be presumed valid.

26 (b.2) Where a challenge to the validity of a zoning  
27 ordinance is based on a claim that the ordinance fails to  
28 provide for a municipality's fair share of population growth, a  
29 reasonable range of housing types or fails to make adequate  
30 provision for commercial and industrial uses, a zoning ordinance

1 is presumed valid if:

2 (1) it was developed by a qualified professional community  
3 planner utilizing generally accepted population and housing  
4 projections in the region and, when adopted, provided adequate  
5 areas to meet the population and housing projections for a ten-  
6 year horizon; and

7 (2) the population and housing projections utilized and the  
8 areas provided to meet the population and housing projections  
9 are consistent with a comparable analysis by a county or  
10 regional planning commission encompassing the area where the  
11 municipality is located.

12 Where a zoning ordinance provides for projected population and  
13 housing growth meeting a ten-year horizon, an ordinance shall  
14 not be deemed invalid because the area set aside for development  
15 was fully developed before the end of that period.

16 (b.3) Where a challenge to the validity of a zoning  
17 ordinance is based on a claim that density and lot area  
18 requirements are unreasonable or confiscatory, a zoning  
19 ordinance is presumed valid which provides for transferable  
20 development rights and the transferable development rights  
21 assigned to the subject property offset any adverse impact of a  
22 limitation as to the permitted lot area or density of the  
23 property.

24 (b.4) A zoning ordinance shall not be deemed invalid or  
25 confiscatory for providing reasonable regulations which limit  
26 development on land containing natural resources which are  
27 protected under section 604(6).

28 \* \* \*

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