

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1825 Session of
2003

INTRODUCED BY FREEMAN, O'NEILL, GRUCELA, STEIL, CAWLEY, CURRY,
FABRIZIO, FRANKEL, HARPER, HENNESSEY, LAUGHLIN, LESCOVITZ,
McGEEHAN, MUNDY, PETRI, PRESTON, SHANER, WASHINGTON,
YOUNGBLOOD AND VITALI, JULY 8, 2003

REFERRED TO COMMITTEE ON INTERGOVERNMENTAL AFFAIRS, JULY 8, 2003

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," providing for a temporary development
21 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
26 amended December 21, 1988 (P.L.1329, No.170), is amended by

1 adding an article to read:

2 ARTICLE VIII-B

3 Temporary Development Moratorium

4 Section 801-B. Development moratorium authorized.

5 The governing body of a municipality may place a moratorium
6 of limited duration on new development by enacting, pursuant to
7 this article, an ordinance to temporarily suspend the acceptance
8 of applications for development in order to permit enactment or
9 revision of a comprehensive plan, a subdivision and land
10 development ordinance or a zoning ordinance.

11 Section 802-B. Findings of need.

12 (a) Findings.--Prior to adopting an ordinance under section
13 801-B, the governing body, taking into consideration the
14 existing and future needs of the municipality, must make written
15 findings of need, based upon reasonably available information,
16 that the enactment or revision of a comprehensive plan, a
17 subdivision and land development ordinance, or a zoning
18 ordinance:

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

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

23 (i) to prevent the shortage or overburdening of
24 essential public facilities that would otherwise occur
25 during the effective period of the moratorium or that is
26 reasonably foreseeable as a result of any proposed or
27 anticipated development; or

28 (ii) to prevent serious public harm from
29 residential, commercial or industrial development in the
30 municipality because of the absence or inadequacy of an

1 existing comprehensive plan or a subdivision and land
2 development ordinance or a zoning ordinance.

3 (b) Limitation.--The governing body shall include with its
4 written findings of need an additional finding that the term of
5 the moratorium, as evidenced by a proposed schedule for
6 achieving its objectives, will be sufficiently limited to ensure
7 that the supply of affected housing types and of commercial and
8 industrial facilities within the municipality are not
9 unreasonably restricted.

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

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

18 Section 803-B. Enactment.

19 (a) Hearing.--After making the written findings required by
20 section 802-B and before voting on the enactment of an ordinance
21 authorized in section 801-B, the governing body shall hold a
22 public hearing on the enactment of a temporary moratorium
23 ordinance, pursuant to public notice.

24 (b) Additional notice requirements.--In addition to the
25 required contents of a public notice in accordance with section
26 107(a), the notice required under this section shall contain the
27 following:

28 (1) A statement that the written findings required under
29 section 802-B have been made and that they are available at
30 the municipal offices during regular business hours for

1 inspection by any citizen.

2 (2) A statement, if applicable, that the governing body
3 of the municipality has elected to impose a preordinance
4 temporary moratorium on new development by suspending the
5 acceptance of applications for development in accordance with
6 subsection (e) and the date on which this temporary
7 moratorium shall begin.

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

11 (d) County planning agency.--Within 30 days after enactment,
12 a copy of the ordinance shall be forwarded to the county
13 planning agency or in counties where no planning agency exists,
14 to the governing body of the county in which the municipality is
15 located.

16 (e) Suspension.--At least 10 days after the first
17 publication required for public notice of the proposed
18 ordinance, a municipality may impose a preordinance temporary
19 moratorium by suspending the acceptance of applications for
20 development. A suspension under this subsection may not exceed
21 50 days. A suspension under this subsection shall be in addition
22 to any suspension authorized by section 804-B(a) or (b).

23 Section 804-B. Term.

24 (a) Authorization.--An ordinance adopted under the authority
25 of section 801-B may authorize the temporary suspension of the
26 acceptance of applications for development for a period not to
27 exceed one year, except as provided in subsection (b) and
28 section 803-B(e).

29 (b) Extension.--A development moratorium adopted under the
30 authority of section 801-B may be extended, by ordinance, for an

1 additional 180-day period if the following conditions are met:

2 (1) The governing body must find that the findings made
3 pursuant to section 802-B still apply and that reasonable
4 progress is being made to enact or revise a comprehensive
5 plan, a subdivision and land development ordinance, or a
6 zoning ordinance.

7 (2) Before making the findings required by this
8 subsection, the governing body shall hold a public hearing on
9 the enactment of an ordinance to extend the moratorium.

10 Section 805-B. Waiver.

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

13 (b) Grant of application.--A waiver shall be granted if the
14 landowner or developer presents evidence from which the
15 governing body, after holding a hearing pursuant to subsection
16 (d), may conclude that special or unique circumstances exist so
17 that application of the moratorium to the development in
18 question would create an unnecessary hardship on the landowner
19 or developer and that granting the waiver would not
20 significantly compromise the goals sought to be achieved by the
21 adoption or revision of the comprehensive plan, subdivision and
22 land development ordinance or zoning ordinance. In granting a
23 waiver in accordance with this section, the governing body shall
24 have the right to set conditions on any approval that may be
25 granted, including limiting the waiver so that the relief
26 granted is the minimum necessary to alleviate the hardship.

27 (c) Requirements.--A waiver application must be in writing
28 and submitted to the governing body.

29 (d) Hearing.--The governing body shall hold a hearing on the
30 application for a waiver within 15 days from the date of the

1 applicant's request and shall make a determination on the waiver
2 application within 30 days after receiving the written request.

3 (e) Notice requirements.--In lieu of any other public notice
4 requirements contained in this act or any other law, a governing
5 body shall advertise a hearing required pursuant to subsection
6 (d) at least seven days prior to the date of the hearing by
7 placing notice in at least one newspaper of general circulation
8 in the area in which the development would occur.

9 Section 806-B. Definitions.

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

13 "Essential public facilities." Public infrastructure
14 services, fire protection services, police protection services,
15 emergency medical services or any other service required to
16 protect the health and safety of the residents of a
17 municipality.

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