

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1525 Session of 2007

INTRODUCED BY STEIL, FREEMAN, THOMAS, BOYD, CURRY, FABRIZIO, GINGRICH, GRUCELA, HENNESSEY, MARSHALL, R. MILLER, SWANGER, YOUNGBLOOD, BRENNAN, SIPTROTH AND CALTAGIRONE, JULY 6, 2007

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 18, 2008

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 definitions, for  
21 comprehensive plans and, for compliance by counties+ <—  
22 ~~providing for proposed ordinances; and further providing, for~~  
23 ~~impact fees, FOR ORDINANCE PROVISIONS and for transportation~~ <—  
24 ~~capital improvement plans.~~

25 The General Assembly of the Commonwealth of Pennsylvania  
26 hereby enacts as follows:

27 Section 1. The definitions of "public infrastructure area,"  
28 "public infrastructure services" and "rural resource area" in

1 section 107(a) of the act of July 31, 1968 (P.L.805, No.247),  
2 known as the Pennsylvania Municipalities Planning Code,  
3 reenacted and amended December 21, 1988 (P.L.1329, No.170) and  
4 added June 22, 2000 (P.L.483, No.67), are amended and the  
5 subsection is amended by adding definitions to read:

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

10 \* \* \*

11 "Capital improvements program," a proposed general schedule  
12 of all future projects listed in order of acquisition,  
13 construction or development priority together with cost  
14 estimates and the anticipated means of financing each project.  
15 Included are all major projects requiring the expenditure of  
16 public funds, over and above the annual local government's  
17 operating expenses for the purchase, construction or replacement  
18 of the physical assets of the municipality.

19 \* \* \*

20 "Infrastructure," essential services and related structures,  
21 systems, networks, developed facilities or devices, both  
22 immovable and movable, either publicly or privately owned,  
23 operated and maintained, that are provided or available to or  
24 for the benefit of persons within a municipality or the public  
25 generally or for the benefit of the Commonwealth or one or more  
26 of its political subdivisions. These include wastewater and  
27 sewage collection and treatment; potable water supply, treatment  
28 and distribution; transportation of people and goods via road,  
29 rail, air, water, mass transit, bicycle or on foot; storm water  
30 management systems and facilities; fire, police, emergency and

1 medical services; schools and educational institutions; networks  
2 and facilities for the delivery of energy and  
3 telecommunications; parks and recreation facilities, greenways;  
4 and natural and managed water resource systems, whether natural  
5 or man-made.

6 \* \* \*

7 "Public infrastructure service area," a designated growth  
8 area and all or any portion of a future growth area described in  
9 a county, municipal or multimunicipal comprehensive plan where  
10 public infrastructure services will be provided and outside of  
11 which such public infrastructure services will not be required  
12 to be publicly financed.

13 ["Public infrastructure services," services that are provided  
14 to areas with densities of one or more units to the acre, which  
15 may include sanitary sewers and facilities for the collection  
16 and treatment of sewage, water lines and facilities for the  
17 pumping and treating of water, parks and open space, streets and  
18 sidewalks, public transportation and other services that may be  
19 appropriate within a growth area, but shall exclude fire  
20 protection and emergency medical services and any other service  
21 required to protect the health and safety of residents.]

22 \* \* \*

23 "Rural resource area," an area described in a municipal or  
24 multimunicipal plan within which rural resource uses including,  
25 but not limited to, agriculture, timbering, mining, quarrying  
26 and other extractive industries, forest and game lands and  
27 recreation and tourism are encouraged and enhanced, development  
28 that is compatible with or supportive of such uses is permitted  
29 and public infrastructure services are not provided except in  
30 villages[.] and except that public safety and emergency services

1 may be provided and certain infrastructure, such as parks,  
2 greenways and water resources, may be deemed consistent and  
3 included.

4 \* \* \*

5 Section 2. Sections 301, 301.4(a), ~~302(a) and 303(c) and (d)~~ <—  
6 AND 302(A) of the act, amended June 22, 2000 (P.L.495, No.68), <—  
7 are amended to read:

8 Section 301. Preparation of Comprehensive Plan--(a) The  
9 municipal, multimunicipal or county comprehensive plan,  
10 consisting of maps, charts and textual matter, shall include,  
11 but need not be limited to, the following related basic  
12 elements:

13 (1) A statement of objectives of the municipality  
14 concerning its future development, including, but not limited  
15 to, the location, character and timing of future development,  
16 that may also serve as a statement of community development  
17 objectives as provided in section 606.

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

25 (2.1) A plan to meet the housing needs of present  
26 residents and of those individuals and families anticipated  
27 to reside in the municipality, which may include conservation  
28 of presently sound housing, rehabilitation of housing in  
29 declining neighborhoods and the accommodation of expected new  
30 housing in different dwelling types and at appropriate

1 densities for households of all income levels.

2 (3) A plan for movement of people and goods, which may  
3 include expressways, highways, local street systems, parking  
4 facilities, pedestrian and bikeway systems, trails, public  
5 transit routes, terminals, airfields, port facilities,  
6 railroad facilities and other similar facilities or uses.

7 (4) A plan for community facilities and utilities, which  
8 may include schools and institutions for public and private  
9 education, recreation, municipal buildings, fire and police  
10 stations, libraries, hospitals, water supply and  
11 distribution, sewerage and waste treatment, solid waste  
12 management, [storm drainage, and flood plain management],  
13 storm water and flood plain management systems and  
14 facilities, utility corridors and associated facilities,  
15 networks and facilities for the delivery of energy and  
16 telecommunications and other similar facilities or uses.

17 [(4.1) A statement of the interrelationships among the  
18 various plan components, which may include an estimate of the  
19 environmental, energy conservation, fiscal, economic  
20 development and social consequences on the municipality.

21 (4.2) A discussion of short- and long-range plan  
22 implementation strategies, which may include implications for  
23 capital improvements programming, new or updated development  
24 regulations, and identification of public funds potentially  
25 available.

26 (5) A statement indicating that the existing and  
27 proposed development of the municipality is compatible with  
28 the existing and proposed development and plans in contiguous  
29 portions of neighboring municipalities, or a statement  
30 indicating measures which have been taken to provide buffers

1 or other transitional devices between disparate uses, and a  
2 statement indicating that the existing and proposed  
3 development of the municipality is generally consistent with  
4 the objectives and plans of the county comprehensive plan.]

5 (6) A plan for the protection of natural and historic  
6 resources to the extent not preempted by Federal or State  
7 law. This clause includes, but is not limited to, wetlands  
8 and aquifer recharge zones, woodlands, steep slopes, prime  
9 agricultural land, agricultural security areas, flood plains,  
10 unique natural areas and historic [sites.] resources. The  
11 plan may include a scheme for a connected natural resource  
12 system throughout the municipal, multimunicipal or county  
13 planning area that encompasses water resources, woodlands,  
14 parks, greenways, conservation easements and agricultural and  
15 forest lands with conservation values, which, as a connected  
16 system contributes to ecological and community health and  
17 well-being. The plan shall be consistent with and may not  
18 exceed those requirements imposed under the following:

19 (i) act of June 22, 1937 (P.L.1987, No.394), known  
20 as "The Clean Streams Law";

21 (ii) act of May 31, 1945 (P.L.1198, No.418), known  
22 as the "Surface Mining Conservation and Reclamation Act";

23 (iii) act of April 27, 1966 (1st Sp.Sess., P.L.31,  
24 No.1), known as "The Bituminous Mine Subsidence and Land  
25 Conservation Act";

26 (iv) act of September 24, 1968 (P.L.1040, No.318),  
27 known as the "Coal Refuse Disposal Control Act";

28 (v) act of December 19, 1984 (P.L.1140, No.223),  
29 known as the "Oil and Gas Act";

30 (vi) act of December 19, 1984 (P.L.1093, No.219),

1 known as the "Noncoal Surface Mining Conservation and  
2 Reclamation Act";

3 (vii) act of June 30, 1981 (P.L.128, No.43), known  
4 as the "Agricultural Area Security Law"; ~~and~~ <—

5 (viii) act of June 10, 1982 (P.L.454, No.133),  
6 entitled "An act protecting agricultural operations from  
7 nuisance suits and ordinances under certain  
8 ~~circumstances" .[; and CIRCUMSTANCES"; AND~~ <—

9 (ix) [act of May 20, 1993 (P.L.12, No.6), known as <—  
10 the "Nutrient Management Act," ] 3 PA.C.S. CH. 5 <—

11 (RELATING TO NUTRIENT MANAGEMENT AND ODOR MANAGEMENT),

12 regardless of whether any agricultural operation within  
13 the area to be affected by the plan is a concentrated

14 animal operation as defined ~~under the act.~~ [UNDER THE <—

15 ACT.] IN THIS CHAPTER.

16 (6.1) A statement of the interrelationships among the  
17 various plan components, including the sewage facilities plan  
18 adopted by the municipality under the act of January 24, 1966  
19 (1965 P.L.1535, No.537), known as the "Pennsylvania Sewage  
20 Facilities Act," and any applicable storm water management  
21 plan adopted by the county or the municipality under the act  
22 of October 4, 1978 (P.L.864, No.167), known as the "Storm  
23 Water Management Act," as such plans may be amended and  
24 revised from time to time, which shall be included as  
25 elements of the comprehensive plan. The statement of  
26 interrelationships may include an estimate of the  
27 environmental, energy conservation, fiscal, economic  
28 development and social consequences for the municipalities  
29 affected by a municipal, multimunicipal or county  
30 comprehensive plan.

1           (6.2) Short-term and long-term implementation  
2           strategies, including implementing regulations and a capital  
3           improvements program for the acquisition, construction or  
4           development of the public infrastructure, facilities,  
5           structures, and major equipment identified in the  
6           comprehensive plan, and a list of proposed expenditures on a  
7           six-year basis and identification of public funds potentially  
8           available for such purposes. The capital improvements program  
9           shall be maintained or revised, as necessary, on an annual  
10           basis by the governing body.

11           (6.3) A statement indicating that the existing and  
12           proposed development of the municipality is compatible with  
13           the existing and proposed development and plans in contiguous  
14           portions of neighboring municipalities, or a statement  
15           indicating measures which have been taken to provide buffers  
16           or other transitional devices between disparate uses, and a  
17           statement indicating that the existing and proposed  
18           development of the municipality is generally consistent with  
19           the objectives and plans of the county comprehensive plan.

20           (7) In addition to any other requirements of this act, a  
21 county comprehensive plan shall:

22           (i) Identify land uses as they relate to important  
23 natural resources and appropriate utilization of existing  
24 minerals.

25           (ii) Identify current and proposed land uses which  
26 have a regional impact and significance, such as large  
27 shopping centers, major industrial parks, mines and  
28 related activities, office parks, storage facilities,  
29 large residential developments, regional entertainment  
30 and recreational complexes, hospitals, airports and port

1 facilities.

2 (iii) Identify a plan for the preservation and  
3 enhancement of prime agricultural land and encourage the  
4 compatibility of land use regulation with existing  
5 agricultural operations.

6 (iv) Identify a plan for historic preservation.

7 (b) The comprehensive plan shall include a plan for the  
8 reliable supply of water, considering current and future water  
9 resources availability, uses and limitations, including  
10 provisions adequate to protect water supply sources. Any such  
11 plan shall be generally consistent with the State Water Plan and  
12 any applicable water resources plan adopted by a river basin  
13 commission. It shall also contain a statement recognizing that:

14 (1) Lawful activities such as extraction of minerals may  
15 impact water supply sources and such activities are governed  
16 by statutes regulating mineral extraction that specify  
17 replacement and restoration of water supplies affected by  
18 such activities.

19 (2) Commercial agriculture production may impact water  
20 supply sources.

21 (c) The municipal or multimunicipal comprehensive plan shall  
22 be reviewed at least every ten years. The municipal or  
23 multimunicipal comprehensive plan shall be sent to the governing  
24 bodies of contiguous municipalities for review and comment and  
25 shall also be sent to the Center for Local Government Services  
26 for informational purposes. The municipal or multimunicipal  
27 comprehensive plan shall also be sent to the county planning  
28 commissions or, upon request of a county planning commission, a  
29 regional planning commission when the comprehensive plan is  
30 updated or at ten-year intervals, whichever comes first, for

1 review and comment on whether the municipal or multimunicipal  
2 comprehensive plan remains generally consistent with the county  
3 comprehensive plan and to indicate where the local plan may  
4 deviate from the county comprehensive plan.

5 (d) The municipal, multimunicipal or county comprehensive  
6 plan may identify those areas where growth and development will  
7 occur so that a full range of public infrastructure services,  
8 including sewer, water, highways, police and fire protection,  
9 public schools, parks, open space and other services can be  
10 adequately planned and provided as needed to accommodate growth.

11 (e) The municipal, multimunicipal or county comprehensive  
12 plan may incorporate a plan for economic development that  
13 includes prioritization of economic and community development  
14 projects and the integration of such projects with  
15 transportation, infrastructure, and the land use plans.

16 Section 301.4. Compliance by Counties.--(a) If a county  
17 does not have a comprehensive plan, then that county shall,  
18 within three years of the effective date of this act and with  
19 the opportunity for the review, comment and participation of the  
20 municipalities and school districts within the respective county  
21 and contiguous counties, school districts and municipalities,  
22 prepare and adopt a comprehensive plan in accordance with the  
23 requirements of section 301. [Municipal comprehensive plans  
24 which are adopted shall be generally consistent with the adopted  
25 county comprehensive plan.]

26 \* \* \*

27 Section 302. Adoption of Municipal, Multimunicipal and  
28 County Comprehensive Plans and Plan Amendments.--(a) The  
29 governing body [may] shall adopt and amend the comprehensive  
30 plan as a whole or in part. Before adopting or amending a

1 comprehensive plan, or any part thereof, the planning agency  
2 shall hold at least one public meeting before forwarding the  
3 proposed comprehensive plan or amendment thereof to the  
4 governing body. In reviewing the proposed comprehensive plan,  
5 the governing body shall consider the comments of the county,  
6 contiguous municipalities and the school district, as well as  
7 the public meeting comments and the recommendations of the  
8 municipal planning agency. The comments of the county,  
9 contiguous municipalities and the local school district shall be  
10 made to the governing body within 45 days of receipt by the  
11 governing body, and the proposed plan or amendment thereto shall  
12 not be acted upon until such comment is received. If, however,  
13 the contiguous municipalities and the local school district fail  
14 to respond within 45 days, the governing body may proceed  
15 without their comments. Municipal comprehensive plans which are  
16 adopted shall be generally consistent with the adopted county  
17 comprehensive plan.

18 \* \* \*

19 ~~Section 303. Legal Status of Comprehensive Plan Within the~~ <—  
20 ~~Jurisdiction that Adopted the Plan. \* \* \*~~

21 ~~(c) [Notwithstanding any other provision of this act, no~~  
22 ~~action by the governing body of a municipality shall be invalid~~  
23 ~~nor shall the same be subject to challenge or appeal on the~~  
24 ~~basis that such action is inconsistent with, or fails to comply~~  
25 ~~with, the provision of a comprehensive plan.]~~

26 ~~(1) A formally adopted county, municipal or~~  
27 ~~multimunicipal comprehensive plan, if one exists, shall be~~  
28 ~~used as a guide by the governing body of a municipality, its~~  
29 ~~departments, agencies and appointed authorities in adopting~~  
30 ~~or amending any land use ordinance or taking any proposed~~

~~action that is to be submitted to the planning agency in  
accordance with subsection (a).~~

~~{(d)}~~

~~(2) Municipal zoning, subdivision and land development  
regulations and capital improvement programs shall generally  
implement the municipal and multimunicipal comprehensive plan  
or, where none exists, the municipal statement of community  
development objectives.~~

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

~~Section 303.1. General Consistency. (a) In accordance with  
this section, a municipal governing body shall make a finding  
that a proposed ordinance is generally consistent with the  
comprehensive plan. A finding of general consistency shall be  
considered and made concurrently with and as part of the  
ordinance enactment process prescribed in this act and as  
further prescribed in this section.~~

~~(b) The issue of the general consistency of a proposed  
ordinance with the comprehensive plan shall be considered at the  
public hearing required to be held prior to a municipal  
governing body voting to approve the ordinance.~~

~~(c) The public notice of the public hearing shall include a  
statement that any person, including a representative of the  
municipal or county planning agency, may provide written  
comments prior to the hearing or may request to present  
testimony at the hearing on the question of whether a proposed  
ordinance is generally consistent with the comprehensive plan.~~

~~(d) After receiving comments and testimony pursuant to  
subsection (c), and prior to voting on the proposed ordinance,  
the governing body shall find that general consistency exists if  
it determines that the proposed ordinance promotes, rather than~~

1 ~~conflicts with the goals, objectives, policies and strategies~~  
2 ~~set forth in the comprehensive plan. In order to be found~~  
3 ~~generally consistent with a comprehensive plan, an ordinance~~  
4 ~~need not accomplish all of the goals, objectives, policies and~~  
5 ~~strategies set forth in the comprehensive plan.~~

6 ~~(c) The finding made pursuant to this section shall be~~  
7 ~~evidenced by a resolution of the governing body, but it need not~~  
8 ~~contain detailed findings of fact and may be in the form of a~~  
9 ~~conclusion.~~

10 ~~(f) An ordinance adopted after a finding of general~~  
11 ~~consistency as provided in this section shall not be invalid nor~~  
12 ~~shall the same be subject to challenge or appeal on the basis~~  
13 ~~that the ordinance is inconsistent with, or fails to comply~~  
14 ~~with, the comprehensive plan.~~

15 ~~(g) Applicants for any permit, approval or variance~~  
16 ~~authorized by an ordinance duly enacted by the municipal~~  
17 ~~governing body shall be entitled to rely on the land use~~  
18 ~~ordinance in effect at the time of their application.~~

19 ~~(h) A permit, approval or variance issued or granted~~  
20 ~~pursuant to a duly adopted land use ordinance, or the issuance,~~  
21 ~~approval or denial of any of the following may not be challenged~~  
22 ~~on the basis that it is inconsistent with, or fails to comply~~  
23 ~~with, a comprehensive plan:~~

24 ~~(1) A zoning permit, variance, special exception or~~  
25 ~~conditional use.~~

26 ~~(2) A preliminary or final subdivision or land~~  
27 ~~development plan, development plan or program for a planned~~  
28 ~~residential development.~~

29 ~~(3) A demolition or building permit, certificate of~~  
30 ~~occupancy or other approval or permit required for~~

1 ~~construction, land development, subdivision or occupancy.~~

2 ~~(i) A finding of general consistency in accordance with this~~  
3 ~~section shall satisfy all requirements of this act concerning an~~  
4 ~~ordinance's implementation of, or general consistency with, the~~  
5 ~~comprehensive plan.~~

6 ~~(j) Nothing in this act shall prevent either of the~~  
7 ~~following:~~

8 ~~(1) The concurrent amendment of a zoning ordinance with~~  
9 ~~a comprehensive plan in accordance with section 603(j) in~~  
10 ~~order to maintain general consistency of the ordinance with~~  
11 ~~the comprehensive plan.~~

12 ~~(2) The implementation of a multimunicipal comprehensive~~  
13 ~~plan by participating municipalities through one or more~~  
14 ~~cooperative implementation agreements, not inconsistent with~~  
15 ~~this section, for the purpose of achieving general~~  
16 ~~consistency in accordance with section 1104.~~

17 ~~(k) The following words and phrases when used in this~~  
18 ~~section shall have the meanings given to them in this subsection~~  
19 ~~unless the context clearly indicates otherwise:~~

20 ~~"Comprehensive plan," a formally adopted municipal or~~  
21 ~~multimunicipal comprehensive plan adopted pursuant to this act.~~

22 ~~"Ordinance," a land use ordinance or an amendment of a land~~  
23 ~~use ordinance adopted pursuant to this act.~~

24 Section 4 3. Section 503-A(d) of the act, added December 19, <—  
25 1990 (P.L.1343, No.209), is amended to read:

26 Section 503-A. Grant of Power.--\* \* \*

27 (d) Impact fees may be used for those costs incurred for  
28 improvements designated in the transportation capital  
29 improvement program which are attributable to new development,  
30 including the acquisition of land and rights-of-way;

1 engineering, legal and planning costs; and all other costs which  
2 are directly related to road improvements within the service  
3 area or areas, including debt service. Impact fees shall not be  
4 imposed or used for costs associated with any of the following:

5 (1) Construction, acquisition or expansion of municipal  
6 facilities other than capital improvements identified in the  
7 transportation capital improvements plan required by this  
8 act.

9 (2) Repair, operation or maintenance of existing or new  
10 capital improvements.

11 (3) Upgrading, updating, expanding or replacing existing  
12 capital improvements to serve existing developments in order  
13 to meet stricter safety, efficiency, environmental or  
14 regulatory standards not attributable to new development.

15 (4) Upgrading, updating, expanding or replacing existing  
16 capital improvements to remedy deficiencies in service to  
17 existing development or fund deficiencies in existing  
18 municipal capital improvements resulting from a lack of  
19 adequate municipal funding over the years for maintenance or  
20 capital construction costs.

21 (5) Preparing and developing the land use assumptions,  
22 roadway sufficiency analysis and transportation capital  
23 improvement plan, except that impact fees may be used for no  
24 more than a proportionate amount of the cost of professional  
25 consultants incurred in preparing a roadway sufficiency  
26 analysis [of infrastructure within] for a specified  
27 transportation service area, such allowable proportion to be  
28 calculated by dividing the total costs of all road  
29 improvements in the adopted transportation capital  
30 improvement program within the transportation service area

1 attributable to projected future development within the  
2 service area, as defined in section 504-A(e)(1)(iii), by the  
3 total costs of all road improvements in the adopted  
4 transportation capital improvement program within the  
5 specific transportation service area, as defined in section  
6 504-A.

7 \* \* \*

8 ~~Section 5. Section 504 A(d)(1) of the act, amended June 22,~~ <—  
9 ~~2000 (P.L.495, No.68), is amended to read:~~

10 SECTION 4. SECTIONS 504-A(D)(1) AND 603(B) OF THE ACT, <—  
11 AMENDED JUNE 22, 2000 (P.L.495, NO.68), ARE AMENDED TO READ:

12 Section 504-A. Transportation Capital Improvements Plans.--\*

13 \* \*

14 (d) (1) Upon adoption of the land use assumptions by the  
15 municipality, the advisory committee shall prepare, or cause  
16 to be prepared, a roadway sufficiency analysis which shall  
17 establish the existing level of [infrastructure] sufficiency  
18 and preferred levels of service within any designated area or  
19 areas of the municipality as described by the resolution  
20 adopted pursuant to the creation of the advisory committee.  
21 The roadway sufficiency analysis shall be prepared for any  
22 highway, road or street within the designated area or areas  
23 on which the need for road improvements attributable to  
24 projected future new development is anticipated. The  
25 municipality shall commission a traffic or transportation  
26 engineer or planner to assist the advisory committee in the  
27 preparation of the roadway sufficiency analysis.  
28 Municipalities may jointly commission such engineer or  
29 planner to assist in the preparation of multiple municipality  
30 roadway sufficiency analyses. In preparing the roadway

1 sufficiency analysis report, the engineer may consider and  
2 refer to previously produced professional studies and reports  
3 relevant to the production of the roadway sufficiency  
4 analysis as required by this section. It shall be deemed that  
5 the roads, streets and highways not on the roadway  
6 sufficiency analysis report are not impacted by future  
7 development. The roadway sufficiency analysis shall include  
8 the following components:

9 (i) The establishment of existing volumes of traffic  
10 and existing levels of service.

11 (ii) The identification of a preferred level of  
12 service established pursuant to the following:

13 (A) The level of service shall be one of the  
14 categories of road service as defined by the  
15 Transportation Research Board of the National Academy  
16 of Sciences or the Institute of Transportation  
17 Engineers. The municipality may choose to select a  
18 level of service on a transportation service area  
19 basis as the preferred level of service. The  
20 preferred levels of service shall be designated by  
21 the governing body of the municipality following  
22 determination of the existing level of service as  
23 established by the roadway sufficiency analysis. If  
24 the preferred level of service is designated as  
25 greater than the existing level of service, the  
26 municipality shall be required to identify road  
27 improvements needed to correct the existing  
28 deficiencies.

29 (B) Following adoption of the preferred level of  
30 service, such level of service may be waived for a

1 particular road segment or intersection if the  
2 municipality finds that one or more of the following  
3 effectively precludes provision of road improvements  
4 necessary to meet the level of service: geometric  
5 design limitations, topographic limitations or the  
6 unavailability of necessary right-of-way.

7 (iii) The identification of existing deficiencies  
8 which need to be remedied to accommodate existing traffic  
9 at the preferred level of service.

10 (iv) The specification of the required road  
11 improvements needed to bring the existing level of  
12 service to the preferred level of service.

13 (v) A projection of anticipated traffic volumes,  
14 with a separate determination of pass-through trips, for  
15 a period of not less than five years from the date of the  
16 preparation of the roadway sufficiency analysis based  
17 upon the land use assumptions adopted under this section.

18 (vi) The identification of forecasted deficiencies  
19 which will be created by "pass-through" trips.

20 \* \* \*

21 SECTION 603. ORDINANCE PROVISIONS.--\* \* \*

←

22 (B) ZONING ORDINANCES, EXCEPT TO THE EXTENT THAT THOSE  
23 REGULATIONS OF MINERAL EXTRACTION BY LOCAL ORDINANCES AND  
24 ENACTMENTS HAVE HERETOFORE BEEN SUPERSEDED AND PREEMPTED BY THE  
25 ACT OF MAY 31, 1945 (P.L.1198, NO.418), KNOWN AS THE "SURFACE  
26 MINING CONSERVATION AND RECLAMATION ACT," THE ACT OF DECEMBER  
27 19, 1984 (P.L.1093, NO.219), KNOWN AS THE "NONCOAL SURFACE  
28 MINING CONSERVATION AND RECLAMATION ACT," AND THE ACT OF  
29 DECEMBER 19, 1984 (P.L.1140, NO.223), KNOWN AS THE "OIL AND GAS  
30 ACT," AND TO THE EXTENT THAT THE SUBSIDENCE IMPACTS OF COAL

1 EXTRACTION ARE REGULATED BY THE ACT OF APRIL 27, 1966 (1ST  
2 SP.SESS., P.L.31, NO.1), KNOWN AS "THE BITUMINOUS MINE  
3 SUBSIDENCE AND LAND CONSERVATION ACT," AND THAT REGULATION OF  
4 ACTIVITIES RELATED TO COMMERCIAL AGRICULTURAL PRODUCTION WOULD  
5 EXCEED THE REQUIREMENTS IMPOSED UNDER [THE ACT OF MAY 20, 1993  
6 (P.L.12, NO.6), KNOWN AS THE "NUTRIENT MANAGEMENT ACT," ] 3  
7 PA.C.S. CH. 5 (RELATING TO NUTRIENT MANAGEMENT AND ODOR  
8 MANAGEMENT REGARDLESS OF WHETHER ANY AGRICULTURAL OPERATION  
9 WITHIN THE AREA TO BE AFFECTED BY THE ORDINANCE WOULD BE A  
10 CONCENTRATED ANIMAL OPERATION AS DEFINED [BY THE "NUTRIENT  
11 MANAGEMENT ACT," ] IN THIS CHAPTER, THE ACT OF JUNE 30, 1981  
12 (P.L.128, NO.43), KNOWN AS THE "AGRICULTURAL AREA SECURITY LAW,"  
13 OR THE ACT OF JUNE 10, 1982 (P.L.454, NO.133), ENTITLED "AN ACT  
14 PROTECTING AGRICULTURAL OPERATIONS FROM NUISANCE SUITS AND  
15 ORDINANCES UNDER CERTAIN CIRCUMSTANCES," OR THAT REGULATION OF  
16 OTHER ACTIVITIES ARE PREEMPTED BY OTHER FEDERAL OR STATE LAWS,  
17 MAY PERMIT, PROHIBIT, REGULATE, RESTRICT AND DETERMINE:

18 (1) USES OF LAND, WATERCOURSES AND OTHER BODIES OF  
19 WATER.

20 (2) SIZE, HEIGHT, BULK, LOCATION, ERECTION,  
21 CONSTRUCTION, REPAIR, MAINTENANCE, ALTERATION, RAZING,  
22 REMOVAL AND USE OF STRUCTURES.

23 (3) AREAS AND DIMENSIONS OF LAND AND BODIES OF WATER TO  
24 BE OCCUPIED BY USES AND STRUCTURES, AS WELL AS AREAS, COURTS,  
25 YARDS, AND OTHER OPEN SPACES AND DISTANCES TO BE LEFT  
26 UNOCCUPIED BY USES AND STRUCTURES.

27 (4) DENSITY OF POPULATION AND INTENSITY OF USE.

28 (5) PROTECTION AND PRESERVATION OF NATURAL AND HISTORIC  
29 RESOURCES AND PRIME AGRICULTURAL LAND AND ACTIVITIES.

30 \* \* \*

1 Section 5. Section 1103 of the act, amended June 22, 2000 ←  
2 (P.L.483, No.67), is amended to read:

3 Section 1103. County or Multimunicipal Comprehensive  
4 Plans.--(a) The comprehensive plan that is the subject of an  
5 agreement may be developed by the municipalities or, at the  
6 request of the municipalities, by the county planning agency, or  
7 agencies in the case of a plan covering municipalities in more  
8 than one county, in cooperation with municipalities within the  
9 area and shall include all the elements required or authorized  
10 in section 301 for the region of the plan, including a plan to  
11 meet the housing needs of present residents and those  
12 individuals and families anticipated to reside in the area of  
13 the plan, which may include conservation of presently sound  
14 housing, rehabilitation of housing in declining neighborhoods  
15 and the accommodations of expected new housing in different  
16 dwelling types and of appropriate densities for households of  
17 all income levels. The plan may:

18 (1) Designate growth areas where:

19 (i) Orderly and efficient development to accommodate  
20 the projected growth of the area within the next 20 years  
21 is planned for residential and mixed use densities of one  
22 unit or more per acre.

23 (ii) Commercial, industrial and institutional uses  
24 to provide for the economic and employment needs of the  
25 area and to insure that the area has an adequate tax base  
26 are planned for.

27 (iii) [Services] Infrastructure to serve such  
28 development [are] is provided or planned for.

29 (2) Designate potential future growth areas where future  
30 development is planned for densities to accompany the orderly

1 extension and provision of [services] infrastructure.

2 (3) Designate rural resource areas, if applicable,  
3 where:

4 (i) Rural resource uses are planned for.

5 (ii) Development at densities that are compatible  
6 with rural resource uses are or may be permitted.

7 (iii) Infrastructure extensions or improvements are  
8 not intended to be publicly financed by municipalities,  
9 except in villages, unless the participating or affected  
10 municipalities agree that such [service] infrastructure  
11 should be provided to an area for health or safety  
12 reasons to support or be consistent with rural resources  
13 or to accomplish one or more of the purposes set forth in  
14 section 1101.

15 (4) Plan for the accommodation of all categories of uses  
16 within the area of the plan, provided, however, that all uses  
17 need not be provided in every municipality but shall be  
18 planned and provided for within a reasonable geographic area  
19 of the plan.

20 (5) Plan for developments of areawide significance and  
21 impact, particularly those identified in section 301(3) and  
22 (4).

23 (6) Plan for the conservation and enhancement of the  
24 natural, scenic, historic and aesthetic resources within the  
25 area of the plan.

26 \* \* \*

27 Section 7 6. This act shall take effect in 60 days.

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