

THE GENERAL ASSEMBLY OF PENNSYLVANIA

**HOUSE BILL**  
**No. 1512** Session of  
1981

INTRODUCED BY J. L. WRIGHT, SWEET, STAIRS AND ITKIN, JUNE 3,  
1981

REFERRED TO COMMITTEE ON MINES AND ENERGY MANAGEMENT,  
JUNE 3, 1981

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 class A  
6 through eighth classes, individually or jointly, to plan  
7 their development and to govern the same by zoning,  
8 subdivision and land development ordinances, planned  
9 residential development and other ordinances, by official  
10 maps, by the reservation of certain land for future public  
11 purpose and by the acquisition of such land; providing for  
12 the establishment of planning commissions, planning  
13 departments, planning committees and zoning hearing boards,  
14 authorizing them to charge fees, make inspections and hold  
15 public hearings; providing for appropriations, appeals to  
16 courts and penalties for violations; and repealing acts and  
17 parts of acts," providing for the promotion of energy  
18 conservation through planning practices.

19 The General Assembly of the Commonwealth of Pennsylvania  
20 hereby enacts as follows:

21 Section 1. The title, act of July 31, 1968 (P.L.805,  
22 No.247), known as the "Pennsylvania Municipalities Planning  
23 Code," amended June 1, 1972 (P.L.333, No.93), is amended to  
24 read:

25 AN ACT

1 To empower cities of the second class A, and third class,  
2 boroughs, incorporated towns, townships of the first and  
3 second classes including those within a county of the second  
4 class and counties of the second class A through eighth  
5 classes, individually or jointly, to plan their development  
6 and to govern the same by zoning, subdivision and land  
7 development ordinances, planned residential development and  
8 other ordinances, by official maps, by the reservation of  
9 certain land for future public purpose and by the acquisition  
10 of such land; to promote the conservation of energy through  
11 the use of planning practices designed to reduce energy  
12 consumption and to provide for maximum utilization of  
13 renewable energy sources; providing for the establishment of  
14 planning commissions, planning departments, planning  
15 committees and zoning hearing boards, authorizing them to  
16 charge fees, make inspections and hold public hearings;  
17 providing for appropriations, appeals to courts and penalties  
18 for violations; and repealing acts and parts of acts.

19 Section 2. Section 105 of the act, amended June 1, 1972  
20 (P.L.333, No.93), is amended to read:

21 Section 105. Purpose of Act.--It is the intent, purpose and  
22 scope of this act to protect and promote safety, health and  
23 morals; to accomplish a coordinated development of  
24 municipalities, other than cities of the first and second class;  
25 to provide for the general welfare by guiding and protecting  
26 amenity, convenience, future governmental, economic, practical,  
27 and social and cultural facilities, development and growth, as  
28 well as the improvement of governmental processes and functions;  
29 to guide uses of land and structures, type and location of  
30 streets, public grounds and other facilities; to promote the

1 conservation of energy through the use of planning practices  
2 designed to reduce energy consumption and to provide for maximum  
3 utilization of renewable energy sources; and to permit  
4 municipalities, other than cities of the first and second class,  
5 to minimize such problems as may presently exist or which may be  
6 foreseen. It is the further intent of this act that any  
7 recommendations made by any planning agency to any governing  
8 body shall be advisory only.

9 Section 3. Section 107 of the act is amended by adding a  
10 clause to read:

11 Section 107. Definitions.--As used in this act, except where  
12 the context clearly indicates otherwise, the following words or  
13 phrases have the meaning indicated below:

14 \* \* \*

15 (18.1) "Renewable energy sources," any method, process or  
16 substance whose use does not diminish its availability or  
17 abundance, including, but not limited to, biomass conversion,  
18 geothermal energy, solar energy, wind energy, and hydroelectric  
19 power.

20 \* \* \*

21 Section 4. Clause (6) of subsection (b) of section 209.1,  
22 added June 1, 1972 (P.L.333, No.93), is amended to read:

23 Section 209.1. Powers and Duties of Planning Agency.--\* \* \*

24 (b) The planning agency at the request of the governing body  
25 may:

26 \* \* \*

27 (6) Prepare and present to the governing body of the  
28 municipality an environmental study; such study to include a  
29 statement regarding the feasibility and practicality of using  
30 renewable energy sources, in certain places;

1       \* \* \*

2       Section 5. Section 301 of the act, amended June 1, 1972  
3 (P.L.333, No.93), is amended to read:

4       Section 301. Preparation of Comprehensive Plan.--The  
5 comprehensive plan, consisting of maps, charts and textual  
6 matter, shall indicate the recommendations of the planning  
7 agency for the continuing development of the municipality. The  
8 comprehensive plan shall include, but need not be limited to,  
9 the following related basic elements:

10       (1) A statement of objectives of the municipality concerning  
11 its future development;

12       (2) A plan for land use, which may include the amount,  
13 intensity, and character of land use proposed for residence,  
14 industry, business, agriculture, major traffic and transit  
15 facilities, public grounds, flood plans and other areas of  
16 special hazards and other similar uses;

17       (3) A plan for movement of people and goods, which may  
18 include expressways, highways, local street systems, parking  
19 facilities, mass transit routes, terminals, airfields, port  
20 facilities, railroad facilities and other similar facilities or  
21 uses;

22       (4) A plan for community facilities and utilities, which may  
23 include public and private education, recreation, municipal  
24 buildings, libraries, water supply, sewage disposal, refuse  
25 disposal, storm drainage, hospitals, and other similar uses;  
26 [and]

27       (5) A map or statement indicating the relationship of the  
28 municipality and its proposed development to adjacent  
29 municipalities and areas; and

30       (6) An energy conservation plan element which systematically

1 analyzes the impact of each other component and element of the  
2 comprehensive plan on the present and future use of energy in  
3 the municipality, details specific measures contained in the  
4 other plan elements designed to reduce energy consumption, and  
5 proposes other measures that the municipality may take to reduce  
6 energy consumption and to provide for the maximum utilization of  
7 renewable energy sources.

8 In preparing the comprehensive plan the planning agency shall  
9 make careful surveys and studies of existing conditions and  
10 prospects for future growth in the municipality.

11 Section 6. Section 503 of the act is amended by adding a  
12 clause to read:

13 Section 503. Contents of Subdivision and Land Development  
14 Ordinance.--The subdivision and land development ordinance may  
15 include, but need not be limited to:

16 \* \* \*

17 (6) Provisions, within the limits of practicality and  
18 feasibility, regulating: (i) the height, location, setback,  
19 orientation, and use of structures; (ii) the height and location  
20 of vegetation with respect to boundary lines; (iii) the type and  
21 location of energy systems or their components; (iv) the design  
22 and construction of structures to encourage or require the use  
23 of renewable energy systems; and (v) easements to ensure access  
24 to sunlight and climatic and microclimatic consideration.

25 Section 7. Sections 603 and 604 of the act are amended by  
26 adding clauses to read:

27 Section 603. Ordinance Provisions.--Zoning ordinances may  
28 permit, prohibit, regulate, restrict and determine:

29 \* \* \*

30 In addition, zoning ordinances may contain:

\* \* \*

(6) Provisions for the reduction in energy consumption and the maximum utilization of renewable energy sources.

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

\* \* \*

(4) To encourage or require the use of renewable energy systems through site orientation, building siting, landscaping, easements to ensure access to sunlight and climatic and microclimatic consideration.

Section 8. Sections 617, 701, subsection (f) of section 705, clause (1) of section 706, clause (4) of section 707 and clause (2) of subsection (b) of section 709 of the act are amended to read:

Section 617. Enforcement Remedies.--In case any building, structure, landscaping, or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of any ordinance enacted under this act or prior enabling laws, the governing body or, with the approval of the governing body, an officer of the municipality, in addition to other remedies, may institute in the name of the municipality any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping, or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation.

Section 701. Purposes.--In order that the purposes of this act be furthered in an era of increasing urbanization and of growing demand for housing of all types and design; to insure that the provisions of Article VI which are concerned in part with the uniform treatment of dwelling type, bulk, density, site

1 orientation, building siting, landscaping, easements to ensure  
2 access to sunlight and climatic and microclimatic consideration,  
3 and open space within each zoning district, shall not be applied  
4 to the improvement of land by other than lot by lot development  
5 in a manner that would distort the objectives of that Article  
6 VI; to encourage innovations in residential development and  
7 renewal so that the growing demand for housing may be met by  
8 greater variety in type, design and layout of dwellings and by  
9 the conservation and more efficient use of open space ancillary  
10 to said dwellings; so that greater opportunities for better  
11 housing and recreation may extend to all citizens and residents  
12 of this State; and in order to encourage a more efficient use of  
13 land and of public services and to reflect changes in the  
14 technology of land development so that economies secured may  
15 enure to the benefit of those who need homes; and, in aid of  
16 these purposes, to provide a procedure which can relate the  
17 type, design and layout of residential development to the  
18 particular site and the particular demand for housing existing  
19 at the time of development in a manner consistent with the  
20 preservation of the property values within existing residential  
21 areas, and to insure that the increased flexibility of  
22 regulations over land development authorized herein is carried  
23 out under such administrative standards and procedures as shall  
24 encourage the disposition of proposals for land development  
25 without undue delay, the following powers are granted to all  
26 municipalities.

27       Section 705. Standards and Conditions for Planned  
28 Residential Development.--Every ordinance adopted pursuant to  
29 the provisions of this article shall set forth all the  
30 standards, conditions and regulations by which a proposed

1 planned residential development shall be evaluated, and said  
2 standards, conditions and regulations shall be consistent with  
3 the following provisions:

4 \* \* \*

5 (f) The authority granted a municipality by Article V to  
6 establish standards for the location, width, course and  
7 surfacing of streets, walkways, curbs, gutters, street lights,  
8 shade trees, water, sewage and drainage facilities, easements or  
9 rights-of-way for drainage and utilities, reservations of public  
10 grounds, regulations for the height, location, setback,  
11 orientation and use of structures, regulations for the height  
12 and location of vegetation with respect to boundary lines,  
13 regulations for the type and location of energy systems or their  
14 components, regulations for the design and construction of  
15 structures to encourage or require the use of renewable energy  
16 systems, easements to ensure access to sunlight and climatic and  
17 microclimatic consideration, and other improvements, shall be  
18 vested in the governing body or its designated agency for the  
19 purposes of this article. The standards applicable to a  
20 particular planned residential development may be different than  
21 or modifications of, the standards and requirements otherwise  
22 required of subdivisions authorized under an ordinance adopted  
23 pursuant to Article V, provided, however, that an ordinance  
24 adopted pursuant to this article shall set forth the limits and  
25 extent of any modifications or changes in such standards and  
26 requirements in order that a landowner shall know the limits and  
27 extent of permissible modifications from the standards otherwise  
28 applicable to subdivisions.

29 \* \* \*

30 Section 706. Enforcement and Modification of Provisions of



1 the Plan.--To further the mutual interest of the residents of  
2 the planned residential development and of the public in the  
3 preservation of the integrity of the development plan, as  
4 finally approved, and to insure that modifications, if any, in  
5 the development plan shall not impair the reasonable reliance of  
6 the said residents upon the provisions of the development plan,  
7 nor result in changes that would adversely affect the public  
8 interest, the enforcement and modification of the provisions of  
9 the development plan as finally improved, whether those are  
10 recorded by plat, covenant, easement or otherwise shall be  
11 subject to the following provisions:

12 (1) The provisions of the development plan relating to (i)  
13 the use, bulk and location of buildings and structures, (ii) the  
14 quantity and location of common open space, except as otherwise  
15 provided in this article, and (iii) the intensity of use or the  
16 density of residential units, and (iv) site orientation,  
17 building siting, landscaping, and easements to ensure access to  
18 sunlight and climatic and microclimatic consideration, shall run  
19 in favor of the municipality and shall be enforceable in law or  
20 in equity by the municipality, without limitation on any powers  
21 of regulation otherwise granted the municipality by law.

22 \* \* \*

23 Section 707. Application for Tentative Approval of Planned  
24 Residential Development.--In order to provide an expeditious  
25 method for processing a development plan for a planned  
26 residential development under the terms of an ordinance adopted  
27 pursuant to the powers granted herein, and to avoid the delay  
28 and uncertainty which would arise if it were necessary to secure  
29 approval, by a multiplicity of local procedures, of a plat of  
30 subdivision as well as approval of a change in the zoning

1 regulations otherwise applicable to the property, it is hereby  
2 declared to be in the public interest that all procedures with  
3 respect to the approval or disapproval of a development plan for  
4 a planned residential development and the continuing  
5 administration thereof shall be consistent with the following  
6 provisions:

7 \* \* \*

8 (4) The ordinance shall require only such information in the  
9 application as is reasonably necessary to disclose to the  
10 governing body or its designated agency: (i) the location, size  
11 and topography of the site and the nature of the landowner's  
12 interest in the land proposed to be developed; (ii) the density  
13 of land use to be allocated to parts of the site to be  
14 developed; (iii) the location and size of the common open space  
15 and the form of organization proposed to own and maintain the  
16 common open space; (iv) the use and the approximate height, bulk  
17 and location of buildings and other structures; (v) the  
18 feasibility of proposals for the disposition of sanitary waste  
19 and storm water; (vi) the substance of covenants, grants of  
20 easements or other restrictions proposed to be imposed upon the  
21 use of the land, buildings and structures including proposed  
22 easements or grants for public utilities; (vii) the provisions  
23 for parking of vehicles and the location and width of proposed  
24 streets and public ways; (viii) the required modifications in  
25 the municipal land use regulations otherwise applicable to the  
26 subject property; (viii.1) the feasibility of proposals for the  
27 requirement of the use of renewable energy systems through site  
28 orientation, building siting, landscaping, easements to ensure  
29 access to sunlight and climatic and microclimatic consideration;  
30 and (ix) in the case of development plans which call for

1 development over a period of years, a schedule showing the  
2 proposed times within which applications for final approval of  
3 all sections of the planned residential development are intended  
4 to be filed and this schedule must be updated annually, on the  
5 anniversary of its approval, until the development is completed  
6 and accepted;

7 \* \* \*

8 Section 709. The Findings.--\* \* \*

9 (b) The grant or denial of tentative approval by official  
10 written communication shall include not only conclusions but  
11 also findings of fact related to the specific proposal and shall  
12 set forth the reasons for the grant, with or without conditions,  
13 or for the denial, and said communication shall set forth with  
14 particularity in what respects the development plan would or  
15 would not be in the public interest including but not limited to  
16 findings of fact and conclusions on the following:

17 \* \* \*

18 (2) The extent to which the development plan departs from  
19 zoning and subdivision regulations otherwise applicable to the  
20 subject property, including but not limited to density, bulk and  
21 use, site orientation, building siting, landscaping, easements  
22 to ensure access to sunlight and climatic and microclimatic  
23 consideration, and the reasons why such departures are or are  
24 not deemed to be in the public interest;

25 \* \* \*

26 Section 9. Except for the provisions of section 301 which  
27 shall take effect in six months, this act shall take effect in  
28 60 days.