

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1605 Session of  
1999

INTRODUCED BY McILHINNEY, BARD, BELFANTI, CORRIGAN, DRUCE,  
GORDNER, RAMOS, ROSS, STEIL AND RUBLEY, JUNE 8, 1999

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JUNE 8, 1999

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

1 (P.L.1329, No.170), are amended to read:

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

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

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

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

25 (4) To provide for the use of land within the  
26 municipality for residential housing of various dwelling  
27 types encompassing all basic forms of housing, including  
28 single-family and two-family dwellings, and a reasonable  
29 range of multifamily dwellings in various arrangements,  
30 mobile homes and mobile home parks, provided, however, that

1 no zoning ordinance shall be deemed invalid for the failure  
2 to provide for any other specific dwelling type.

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

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

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

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

ordinance may establish development zoning districts having as  
their primary purpose to encourage and accommodate population  
and employment growth and a reasonable range of housing types  
and resource protection zoning districts and regulations to  
preserve and protect natural, scenic, historic and cultural  
resources, including the preservation of open space and rural  
landscapes, the preservation of surface and groundwater  
resources, wetlands, aquifers and flood plains. Where zoning  
districts are created, all provisions shall be uniform for each  
class of uses or structures, within each district, except that  
additional classifications may be made within any district:

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

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

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

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

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

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

(iv) public buildings and public grounds;

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

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

(vii) flood plain areas, agricultural areas, sanitary landfills, and other places having a special character or use affecting and affected by their surroundings.

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

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

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

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

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

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

(b.2) Where a challenge to the validity of a zoning ordinance is based on a claim that the ordinance fails to provide for a municipality's fair share of population growth, a reasonable range of housing types or fails to make adequate

provision for commercial and industrial uses, a zoning ordinance is presumed valid if:

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

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

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

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

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

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