

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

encourage and accommodate population and employment growth and a
reasonable range of housing types and may establish 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,

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.