

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1280 Session of
2007

INTRODUCED BY FREEMAN, STEIL, TANGRETTI, ROSS, ARGALL, LEACH,
GRUCELA, BOYD, BRENNAN, CALTAGIRONE, CARROLL, COHEN, DALLY,
GEIST, GINGRICH, HARPER, HENNESSEY, JOSEPHS, KOTIK, LENTZ,
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SWANGER, DALEY, HELM, GERGELY, FABRIZIO AND THOMAS,
MAY 8, 2007

SENATOR REGOLA, LOCAL GOVERNMENT, IN SENATE, AS AMENDED,
JUNE 25, 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 defining "traditional neighborhood
21 development"; further providing for grants of power to
22 municipalities, for standards and conditions for traditional
23 neighborhood development designations and for manuals of
24 written and graphic design guidelines; ~~and~~ providing for
25 subdivision and land development ordinance provisions
26 applicable to traditional neighborhood development, FURTHER

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1 PROVIDING FOR TIME LIMITATIONS, FOR PROCEDURE TO OBTAIN
2 PRELIMINARY OPINION AND FOR IMPLEMENTATION AGREEMENTS.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. The definition of "traditional neighborhood
6 development" in section 107(a) of the act of July 31, 1968
7 (P.L.805, No.247), known as the Pennsylvania Municipalities
8 Planning Code, reenacted and amended December 21, 1988
9 (P.L.1329, No.170) and added June 22, 2000 (P.L.495, No.68), is
10 amended to read:

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

15 * * *

16 "Traditional neighborhood development," an area of land
17 typically developed for a compatible mixture of residential
18 units for various income levels and nonresidential commercial
19 and workplace uses, including some structures that provide for a
20 mix of uses within the same building. Residences, shops,
21 offices, workplaces, public buildings and parks are interwoven
22 within the neighborhood so that all are within relatively close
23 proximity to each other. Traditional neighborhood development is
24 relatively compact[, limited in size] and oriented toward
25 pedestrian activity. It has an identifiable center and a
26 discernible edge. The center of the neighborhood is in the form
27 of a public park, commons, plaza, square or prominent
28 intersection of two or more major streets. Generally, there is a
29 hierarchy of streets laid out [in a rectilinear or grid pattern
30 of interconnecting] with an interconnected network of streets

1 and blocks that provides multiple routes from origins to
2 destinations and are appropriately designed to serve the needs
3 of pedestrians and vehicles equally.

4 * * *

5 Section 2. Sections 702-A, 706-A(d) and 708-A of the act,
6 added June 22, 2000 (P.L.495, No.68), are amended to read:

7 Section 702-A. Grant of Power.--The governing body of each
8 municipality may enact, amend and repeal provisions of a zoning
9 ordinance in order to fix standards and conditions for

10 traditional neighborhood development. The provisions for

11 standards and conditions for traditional neighborhood

12 development shall be, EXCEPT AS OTHERWISE PROVIDED IN THIS <—

13 ARTICLE, CONSISTENT WITH ARTICLE VI AND SHALL BE included within

14 the zoning ordinance, and the enactment of the traditional

15 neighborhood development provisions shall be in accordance with

16 the procedures required for the enactment of an amendment of a

17 zoning ordinance as provided in Article VI. The provisions

18 shall:

19 (1) Set forth the standards, conditions and regulations
20 for a traditional neighborhood development consistent with

21 this article. A ZONING ORDINANCE OR AMENDMENT MAY AUTHORIZE <—

22 AND PROVIDE STANDARDS, CONDITIONS AND REGULATIONS FOR

23 TRADITIONAL NEIGHBORHOOD DEVELOPMENT THAT PERMIT THE CREATION

24 OF A TRADITIONAL NEIGHBORHOOD DEVELOPMENT IN ANY PART OF THE

25 MUNICIPALITY OR IN ONE OR MORE SPECIFIED ZONING DISTRICTS, OR

26 WHICH DESIGNATE A PART OR PARTS OF THE MUNICIPALITY AS A

27 DISTRICT OR DISTRICTS WHICH ARE RESERVED EXCLUSIVELY FOR

28 TRADITIONAL NEIGHBORHOOD DEVELOPMENT.

29 [(i) †In the case of new development, a traditional <—

30 neighborhood development designation shall be in the form

1 of an overlay zone. Such an overlay zone does not need to
2 be considered a conditional use by the municipality if it
3 chooses not to.} <—

4 (ii) {In the case of either an outgrowth or <—
5 extension of existing development or urban infill, a} ~~A~~ <—
6 traditional neighborhood development designation may be
7 either in the form of an overlay zone or as an outright
8 designation, whichever the municipality decides.

9 {Outgrowths or extensions of existing development may <—
10 include development of a contiguous municipality.]

11 ~~(iii) Whenever a traditional neighborhood <—
12 development designation is an outright designation, it
13 may be a permitted use in an existing district or in a
14 proposed new district.~~

15 (2) Set forth the procedures pertaining to the
16 application for, hearing on and preliminary and final
17 approval of a traditional neighborhood development which
18 shall be consistent with this article for those applications
19 and hearings.

20 Section 706-A. Standards and Conditions for Traditional
21 Neighborhood Development.--* * *

22 (d) The provisions adopted pursuant to this article shall
23 establish standards governing the density or intensity of land
24 use in a traditional neighborhood development. The standards may
25 vary the density or intensity of land use otherwise applicable
26 to the land under the provisions of a zoning ordinance of the
27 municipality within the traditional neighborhood development. It
28 is recommended that the provisions adopted by the municipality
29 pursuant to this article include, but not be limited to, all of
30 the following:

1 (1) The amount, location and proposed use of common open
2 space, providing for parks to be distributed throughout the
3 neighborhood as well as the establishment of a centrally
4 located public commons, square, park, plaza or prominent
5 intersection of two or more major streets.

6 (2) The location and physical characteristics of the
7 site of the proposed traditional neighborhood development,
8 providing for the retaining and enhancing, where practicable,
9 of natural features such as wetlands, ponds, lakes,
10 waterways, trees of high quality, significant tree stands and
11 other significant natural features. These significant natural
12 features should be at least partially fronted by public
13 tracts whenever possible.

14 (3) The location and physical characteristics of the
15 site of the proposed traditional neighborhood development so
16 that it will develop out of the location of squares, parks
17 and other neighborhood centers and subcenters. Zoning changes
18 in building type should generally occur at mid-block rather
19 than mid-street, and buildings should tend to be zoned by
20 compatibility of building type rather than building use. The
21 proposed traditional neighborhood development should be
22 designed to work with the topography of the site to minimize
23 the amount of grading necessary to achieve a street network,
24 and some significant high points of the site should be set
25 aside for public tracts for the location of public buildings
26 or other public facilities.

27 (4) The location, design, type and use of structures
28 proposed, with most structures being placed close to the
29 street at generally the equivalent of one-quarter the width
30 of the lot or less. The distance between the sidewalk and

1 residential dwellings should, as a general rule, be occupied
2 by a semipublic attachment such as a porch or, at a minimum,
3 a covered entryway.

4 (5) The location, design, type and use of streets,
5 alleys, sidewalks and other public rights-of-way with a
6 hierarchy of streets laid out [in a rectilinear or grid
7 pattern of interconnecting] with an interconnected network of
8 streets and blocks that provide multiple routes from origins
9 to destinations and are appropriately designed to serve the
10 needs of pedestrians and vehicles equally. As such, most
11 streets, except alleys, should have sidewalks.

12 (6) The location for vehicular parking with the street
13 plan providing for on-street parking for most streets, with
14 the exception of alleys. All parking lots, except where there
15 is a compelling reason to the contrary, should be located
16 either behind or to the side of buildings and in most cases
17 should be located toward the center of blocks such that only
18 their access is visible from adjacent streets. In most cases,
19 structures located on lots smaller than 50 feet in width
20 should be served by a rear alley with all garages fronting on
21 alleys. Garages not served by an alley should be set back [a
22 minimum of 20 feet] from the front of the house or rotated so
23 that the garage doors do not face any adjacent streets.

24 (7) The minimum and maximum areas and dimensions of the
25 properties and common open space within the proposed
26 traditional neighborhood development and the approximate
27 distance from the center to the edge of the traditional
28 neighborhood development. It is recommended that the distance
29 from the center to the edge of the traditional neighborhood
30 development be approximately one-quarter mile or less and not

1 more than one-half mile. Traditional neighborhood
2 developments in excess of one-half mile distance from center
3 to edge should be divided into two or more developments.

4 (8) The site plan to provide for either a natural or
5 man-made corridor to serve as the edge of the neighborhood.
6 When standing alone, the traditional neighborhood development
7 should front on open space to serve as its edge. Such open
8 space may include, but is not limited to, parks, a golf
9 course, cemetery, farmland or natural settings such as
10 woodlands or waterways. When adjacent to existing
11 development, the traditional neighborhood development should
12 either front on open space, a street or roadway or any
13 combination hereof.

14 (9) The greatest density of housing and the
15 preponderance of office and commercial uses should be located
16 [in the center of] to anchor the traditional neighborhood
17 development. [However, if] If the neighborhood is adjacent to
18 existing development or a major roadway then office,
19 commercial and denser residential uses may be located at
20 either the edge or the center, or both. Commercial uses
21 located at the edge of the traditional neighborhood
22 development may be located adjacent to similar commercial
23 uses in order to form a greater commercial corridor.

24 * * *

25 Section 708-A. Manual of Written and Graphic Design
26 Guidelines.--Where it has adopted provisions for a traditional
27 neighborhood development, the governing body of a municipality
28 may also adopt [by ordinance], upon review and recommendation of
29 the planning commission where one exists, a manual of written
30 and graphic design guidelines [to assist applicants in the

1 preparation of proposals for a traditional neighborhood
2 development]. The manual may be included in the zoning ordinance
3 or the subdivision and land development ordinance or in both.

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

5 Section 708.1-A. Subdivision and Land Development Ordinance
6 Provisions Applicable to Traditional Neighborhood Development.--
7 The municipality may enact subdivision and land development
8 ordinance provisions applicable to a traditional neighborhood
9 development to address the design standards that are appropriate
10 to a traditional neighborhood development, including, but not
11 limited to, compactness, pedestrian orientation, street geometry
12 or other small scale design features. The provisions may be
13 included as part of any ordinance pertaining to traditional
14 neighborhood development and may be subject to modification
15 similar to section 512.1.

16 SECTION 4. SECTIONS 914.1 AND 916.2 OF THE ACT, ADDED <—
17 DECEMBER 21, 1988 (P.L.1329, NO.170), ARE AMENDED TO READ:

18 SECTION 914.1. TIME LIMITATIONS.--(A) NO PERSON SHALL BE
19 ALLOWED TO FILE ANY PROCEEDING WITH THE BOARD LATER THAN 30 DAYS
20 AFTER AN APPLICATION FOR DEVELOPMENT, PRELIMINARY OR FINAL, HAS
21 BEEN APPROVED BY AN APPROPRIATE MUNICIPAL OFFICER, AGENCY OR
22 BODY IF SUCH PROCEEDING IS DESIGNED TO SECURE REVERSAL OR TO
23 LIMIT THE APPROVAL IN ANY MANNER UNLESS SUCH PERSON ALLEGES AND
24 PROVES THAT HE HAD NO NOTICE, KNOWLEDGE, OR REASON TO BELIEVE
25 THAT SUCH APPROVAL HAD BEEN GIVEN. IF SUCH PERSON HAS SUCCEEDED
26 TO HIS INTEREST AFTER SUCH APPROVAL, HE SHALL BE BOUND BY THE
27 KNOWLEDGE OF HIS PREDECESSOR IN INTEREST. THE FAILURE OF ANYONE
28 OTHER THAN THE LANDOWNER TO APPEAL FROM AN ADVERSE DECISION ON A
29 TENTATIVE PLAN PURSUANT TO SECTION 709 [OR FROM AN ADVERSE
30 DECISION BY A ZONING OFFICER ON A CHALLENGE TO THE VALIDITY OF

1 AN ORDINANCE OR MAP] SHALL PRECLUDE AN APPEAL FROM A FINAL
2 APPROVAL EXCEPT IN THE CASE WHERE THE FINAL SUBMISSION
3 SUBSTANTIALLY DEVIATES FROM THE PLAN GIVEN TENTATIVE APPROVAL.
4 THE FAILURE OF ANYONE OTHER THAN THE LANDOWNER TO APPEAL FROM A
5 PRELIMINARY OPINION OF A ZONING OFFICER RENDERED PURSUANT TO
6 SECTION 916.2 SHALL PRECLUDE AN APPEAL FROM [A FINAL APPROVAL
7 EXCEPT IN THE CASE WHERE THE FINAL SUBMISSION SUBSTANTIALLY
8 DEVIATES FROM THE APPROVED TENTATIVE APPROVAL.] THE ISSUANCE OF
9 A ZONING PERMIT OR FROM A PRELIMINARY OR FINAL SUBDIVISION OR
10 LAND DEVELOPMENT PLAN APPROVAL ON ANY BASIS WHICH WAS THE
11 SUBJECT OF THE ZONING OFFICER'S PRELIMINARY OPINION.

12 (B) ALL APPEALS FROM DETERMINATIONS ADVERSE TO THE
13 LANDOWNERS SHALL BE FILED BY THE LANDOWNER WITHIN 30 DAYS AFTER
14 NOTICE OF THE DETERMINATION IS ISSUED.

15 SECTION 916.2. PROCEDURE TO OBTAIN PRELIMINARY OPINION.--IN
16 ORDER NOT TO UNREASONABLY DELAY THE TIME WHEN A LANDOWNER MAY
17 SECURE ASSURANCE THAT THE ORDINANCE OR MAP UNDER WHICH HE
18 PROPOSED TO BUILD IS FREE FROM CHALLENGE, OR THAT A PROPOSED USE
19 IS PERMITTED UNDER THE ZONING ORDINANCE, AND RECOGNIZING THAT
20 THE PROCEDURE FOR PRELIMINARY APPROVAL OF HIS DEVELOPMENT MAY BE
21 TOO CUMBERSOME OR MAY BE UNAVAILABLE, THE LANDOWNER MAY ADVANCE
22 THE DATE FROM WHICH TIME FOR ANY CHALLENGE TO THE ORDINANCE
23 [OR], MAP OR PROPOSED USE WILL RUN UNDER SECTION 914.1 BY THE
24 FOLLOWING PROCEDURE:

25 (1) THE LANDOWNER MAY SUBMIT PLANS AND OTHER MATERIALS
26 DESCRIBING HIS PROPOSED USE OR DEVELOPMENT TO THE ZONING
27 OFFICER FOR A PRELIMINARY OPINION, WHICH SHALL BE A
28 DETERMINATION, AS TO THEIR COMPLIANCE WITH THE APPLICABLE
29 ORDINANCES AND MAPS. SUCH PLANS AND OTHER MATERIALS SHALL NOT
30 BE REQUIRED TO MEET THE STANDARDS PRESCRIBED FOR PRELIMINARY,

1 TENTATIVE OR FINAL APPROVAL OR FOR THE ISSUANCE OF A BUILDING
2 PERMIT SO LONG AS THEY PROVIDE REASONABLE NOTICE OF THE
3 PROPOSED USE OR DEVELOPMENT AND A SUFFICIENT BASIS FOR A
4 PRELIMINARY OPINION AS TO ITS COMPLIANCE.

5 (2) THE ZONING OFFICER SHALL ISSUE A WRITTEN PRELIMINARY
6 OPINION NO LATER THAN 45 DAYS AFTER RECEIPT OF A WRITTEN
7 REQUEST FOR PRELIMINARY OPINION. IF THE ZONING OFFICER'S
8 PRELIMINARY OPINION IS THAT THE USE OR DEVELOPMENT COMPLIES
9 WITH THE ORDINANCE OR MAP, NOTICE THEREOF SHALL BE PUBLISHED
10 ONCE EACH WEEK FOR TWO SUCCESSIVE WEEKS IN A NEWSPAPER OF
11 GENERAL CIRCULATION IN THE MUNICIPALITY. SUCH NOTICE SHALL
12 INCLUDE A GENERAL DESCRIPTION OF THE PROPOSED USE OR
13 DEVELOPMENT AND ITS LOCATION, BY SOME READILY IDENTIFIABLE
14 DIRECTIVE, AND THE PLACE AND TIMES WHERE THE PLANS AND OTHER
15 MATERIALS MAY BE EXAMINED BY THE PUBLIC. THE FAVORABLE
16 PRELIMINARY APPROVAL UNDER SECTION 914.1 AND THE TIME THEREIN
17 SPECIFIED FOR COMMENCING A PROCEEDING WITH THE BOARD SHALL
18 RUN FROM THE TIME WHEN THE SECOND NOTICE THEREOF HAS BEEN
19 PUBLISHED.

20 SECTION 5. SECTION 1104(B)(1) OF THE ACT, AMENDED JUNE 22,
21 2000 (P.L.483, NO.67), IS AMENDED TO READ:

22 SECTION 1104. IMPLEMENTATION AGREEMENTS.--* * *

23 (B) COOPERATIVE IMPLEMENTATION AGREEMENTS SHALL:

24 (1) ESTABLISH THE PROCESS THAT THE PARTICIPATING
25 MUNICIPALITIES WILL USE TO ACHIEVE GENERAL CONSISTENCY
26 BETWEEN THE COUNTY OR MULTIMUNICIPAL COMPREHENSIVE PLAN AND
27 ZONING ORDINANCES, SUBDIVISION AND LAND DEVELOPMENT AND
28 CAPITAL IMPROVEMENT PLANS WITHIN PARTICIPATING
29 MUNICIPALITIES, INCLUDING [ADOPTION] ENACTMENT OF CONFORMING
30 ORDINANCES BY PARTICIPATING MUNICIPALITIES WITHIN TWO YEARS

1 AND A MECHANISM FOR RESOLVING DISPUTES OVER THE
2 INTERPRETATION OF THE MULTIMUNICIPAL COMPREHENSIVE PLAN AND
3 THE CONSISTENCY OF IMPLEMENTING PLANS AND ORDINANCES. THE
4 PARTICIPATING MUNICIPALITIES MAY AMEND THE INTERGOVERNMENTAL
5 COOPERATION AGREEMENT TO EXTEND THE TIME TO ENACT THE
6 CONFORMING ORDINANCES BY A PERIOD SPECIFIED IN THE AMENDMENT.

7 * * *

8 Section 4 6. This act shall take effect in 60 days.

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