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Pennsylvania Municipalities Planning Code

Act of 1968, P.L.805, No.247
as reenacted and amended

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Pennsylvania Municipalities Planning Code

Act of 1968, P.L.805, No.247
as reenacted and amended.

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#6 The Zoning Hearing Board
#7 Special Exceptions, Conditional Uses and Variances
#8 Subdivision and Land Development
#9 The Zoning Officer
#10 Reducing Land Use Barriers to Affordable Housing

NOTE: These publications are periodically revised or updated to reflect changes in Pennsylvania planning law.

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An Act

To empower cities of the second class A, and third class, boroughs, incorporated towns, townships of the first and second classes including those within a county of the second class and counties of the second class through eighth classes, individually or jointly, to plan their development and to govern the same by zoning, subdivision and land development ordinances, planned residential development and other ordinances, by official maps, by the reservation of certain land for future public purpose and by the acquisition of such land; to promote the conservation of energy through the use of planning practices and to promote the effective utilization of renewable energy sources; providing for the establishment of planning commissions, planning departments, planning committees and zoning hearing boards, authorizing them to charge fees, make inspections and hold public hearings; providing for mediation; providing for transferable development rights; providing for appropriations, appeals to courts and penalties for violations; and repealing acts and parts of acts, adding definitions; providing for intergovernmental cooperative planning and implementation agreements; further providing for repeals; and making an editorial change, further providing for the purpose of the act; adding certain definitions; further providing for various matters relating to the comprehensive plan and for compliance by counties; providing for funding for municipal planning and for neighboring municipalities; further providing certain ordinances; adding provisions relating to projects of regional impact, providing for traditional neighborhood development; further providing for grant of power, for contents of subdivision and land development ordinance, for approval of plats and for recording of plats and deeds; and providing for municipal authorities and water companies and for transferable development rights, further providing for recording plats and deeds, for applicability of ordinance amendments and for validity of ordinance amendments and for validity of ordinance and substantive questions, further providing for planning commission, for zoning ordinance amendment, for procedure for landowner curative amendments, for certain findings, for hearings and for governing body's functions, further providing for purpose of act; defining "no-impact home-based business" and further providing for ordinance provisions, for procedure for landowner curative amendments, for hearing and for governing body's functions.

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

Article 1 - General Provisions

Section 101. Short Title. This act shall be known and may be cited as the "Pennsylvania Municipalities Planning Code."

Section 102. Effective Date. This act shall take effect January 1, 1969.

Section 103. Construction of Act. The provisions of this act shall not affect any act done, contract executed or liability incurred prior to its effective date, or affect any suit or prosecution pending or to be instituted, to enforce any right, rule, regulation, or ordinance or to punish any offense against any such repealed laws or against any ordinance enacted under them. All ordinances, resolutions, regulations and rules made pursuant to any act of Assembly repealed by this act shall continue in effect as if such act had not been repealed, except as the provisions are inconsistent herewith. The provisions of other acts relating to municipalities other than cities of the first and second class and counties of the second class are made a part of this act and this code shall be construed to give effect to all provisions of other acts not specifically repealed.

Section 104. Constitutional Construction. The provisions of this act shall be severable, and if any of its provisions shall be held to be unconstitutional, the validity of any of the remaining provisions of this act shall not be affected. It is hereby declared as the legislative intention that this act would have been adopted had such unconstitutional provision not been included therein.

Section 105. Purpose of Act. It is the intent, purpose and scope of this act to protect and promote safety, health and morals; to accomplish coordinated development; to provide for the general welfare by guiding and protecting amenity, convenience, future governmental, economic, practical, and social and cultural facilities, development and growth, as well as the improvement of governmental processes and functions; to guide uses of land and structures, type and location of streets, public grounds and other facilities; to promote the conservation of energy through the use of planning practices and to promote the effective utilization of renewable energy sources; to promote the preservation of this Commonwealth's natural and historic resources and prime agricultural land; to encourage municipalities to adopt municipal or joint municipal comprehensive plans generally consistent with the county comprehensive plan; to promote small business development and foster a business-friendly environment in this Commonwealth; to ensure that municipalities adopt zoning ordinances which are generally consistent with the municipality's comprehensive plan; to encourage the preservation of prime agricultural land and natural and historic resources through easements, transfer of development rights and rezoning; to ensure that municipalities enact zoning ordinances that facilitate the present and future economic viability of existing agricultural operations in this Commonwealth and do not prevent or impede the owner or operator's need to change or expand their operations in the future in order to remain viable; to encourage the revitalization of established urban centers; and to permit municipalities to minimize such problems as may presently exist or which may be foreseen and wherever the provisions of this act promote, encourage, require or authorize governing bodies to protect, preserve or conserve open land, consisting of natural resources, forests and woodlands, any actions taken to protect, preserve or conserve such land shall not be for the purposes of precluding access for forestry.

Section 106. Appropriations, Grants and Gifts. The governing body of every municipality is hereby authorized and empowered to make such appropriations as it may see fit, to accept gifts, grants or bequests from public and private sources for the purpose of carrying out the powers and duties conferred by this act, and to enter into agreements regarding the acceptance or utilization of such grants, gifts or bequests further providing for recording plats and deeds, for applicability of ordinance amendments and for validity of ordinance and substantive questions.

Section 107. Definitions.

(a) The following words and phrases when used in this act shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Agricultural operation," an enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock and livestock products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development within the agricultural industry.

"Applicant," a landowner or developer, as hereinafter defined, who has filed an application for development including his heirs, successors and assigns.

"Application for development," every application, whether preliminary, tentative or final, required to be filed and approved prior to start of construction or development including but not limited to an application for a building permit, for the approval of a subdivision plat or plan or for the approval of a development plan.

"Appointing authority," the mayor in cities; the board of commissioners in counties; the council in incorporated towns and boroughs; the board of commissioners in townships of the first class; and the board of supervisors in townships of the second class; or as may be designated in the law providing for the form of government.

"Authority," a body politic and corporate created pursuant to the act of May 2, 1945 (P.L.382, No.164), known as the "Municipality Authorities Act of 1945."

"Center for Local Government Services." The Governor's Center for Local Government Services located within the Department of Community and Economic Development.

"City" or "cities," cities of the second class A and third class.

"Common open space," a parcel or parcels of land or an area of water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of a development, not including streets, off-street parking areas, and areas set aside for public facilities.

"Conditional use," a use permitted in a particular zoning district pursuant to the provisions in Article VI.

"Consistency," an agreement or correspondence between matters being compared which denotes a reasonable rational, similar, connection or relationship.

"County," any county of the second class through eighth class.

"County Comprehensive Plan," a land use and growth management plan prepared by the county planning commission and adopted by the county commissioners which establishes broad goals and criteria for municipalities to use in preparation of their comprehensive plan and land use regulation.

"Designated growth area," a region within a county or counties described in a municipal or multimunicipal plan that preferably includes and surrounds a city, borough or village, and within which residential and mixed use development is permitted or planned for at densities of one unit to the acre or more, commercial, industrial and institutional uses are permitted or planned for and public infrastructure services are provided or planned.

"Developer," any landowner, agent of such landowner, or tenant with the permission of such land-owner, who makes or causes to be made a subdivision of land or a land development.

“Development of regional significance and impact,” any land development that, because of its character, magnitude, or location will have substantial effect upon the health, safety, or welfare of citizens in more than one municipality.

“Development plan,” the provisions for development, including a planned residential development, a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open space and public facilities. The phrase “provisions of the development plan” when used in this act shall mean the written and graphic materials referred to in this definition.

“Electronic notice,” notice given by a municipality through the Internet of the time and place of a public hearing and the particular nature of the matter to be considered at the hearing.

“Forestry,” the management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes, which does not involve any land development.

“Future growth area,” an area of a municipal or multimunicipal plan outside of and adjacent to a designated growth area where residential, commercial industrial and institutional uses and development are permitted or planned at varying densities an d public infrastructure services may or may not be provided, but future development at greater densities is planned to accompany the orderly extension an provision of public infrastructure services.

“General consistency, generally consistent,” that which exhibits consistency.

“Governing body,” the council in cities, boroughs and incorporated towns; the board of commissioners in townships of the first class; the board of supervisors in townships of the second class; the board of commissioners in counties of the second class through eighth class or as may be designated in the law providing for the form of government.

“Land development,” any of the following activities:

(1) The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:

    (i) a group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or

    (ii) the division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

(2) A subdivision of land.

(3) Development in accordance with section 503(1.1).

“Landowner,” the legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person having a proprietary interest in land.

“Lot,” a designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

“Mailed notice,” notice given by a municipality by first class mail of the time and place of a public hearing and the particular nature of the matter to be considered at the hearing.

“Mediation,” a voluntary negotiating process in which parties in a dispute mutually select a neutral mediator to assist them in jointly exploring and settling their differences, culminating in a written agreement which the parties themselves create and consider acceptable.

“Minerals,” any aggregate or mass of mineral matter, whether or not coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat and crude oil and natural gas.

“Mobilehome,” a transportable, single family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

“Mobilehome lot,” a parcel of land in a mobilehome park, improved with the necessary utility connections and other appurtenances necessary for the erections thereon of a single mobilehome.

“Mobilehome park,” a parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobilehome lots for the placement thereon of mobilehomes.

"Multimunicipal plan," a plan developed and adopted by any number of contiguous municipalities, including a joint municipal plan as authorized by this act, except that all of the municipalities participating in the plan need not be contiguous, if all of them are within the same school district.

“Multimunicipal planning agency,” a planning agency comprised of representatives of more than one municipality and constituted as a joint municipal planning commission in accordance with Article XI, or otherwise by resolution of the participating municipalities, to address, on behalf of the participating municipalities, multimunicipal issues, including, but not limited to, agricultural and open space preservation, natural and historic resources, transportation, housing and economic development.

“Municipal authority,” a body politic and corporate created pursuant to the act of May 2, 1945 (P.L.382, No.164), known as the “Municipality Authorities Act of 1945.”

“Municipal engineer,” a professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for a municipality, planning agency or joint planning commission.

“Municipality,” any city of the second class A or third class, borough, incorporated town, township of the first or second class, county of the second class through eighth class, home rule municipality, or any similar general purpose unit of government which shall hereafter be created by the General Assembly.

“No-impact home-based business,” a business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use. The business or commercial activity must satisfy the following requirements:

(1) The business activity shall be compatible with the residential use of the property and surrounding residential uses.

(2) The business shall employ no employees other than family members residing in the dwelling.

(3) There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.

(4) There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.

(5) The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.

(6) The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.

(7) The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.

(8) The business may not involve any illegal activity.

"Nonconforming lot," a lot the area or dimension of which was lawful prior to the adoption or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

"Nonconforming structure," a structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

"Nonconforming use," a use, whether of land or of structure, which does not comply with the applicable use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment, or prior to the application of such ordinance or amendment to its location by reason of annexation.

"Official map," a map adopted by ordinance pursuant to Article IV.

"Planned residential development," an area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, or combination of residential and nonresidential uses, the development plan for which does not correspond in lot size, bulk, type of dwelling, or use, density, or intensity, lot coverage and required open space to the regulations established in any one district created, from time to time, under the provisions of a municipal zoning ordinance.

"Planning agency," a planning commission, planning department, or a planning committee of the governing body.

"Plat," the map or plan of a subdivision or land development, whether preliminary or final.

"Preservation or protection," when used in connection with natural and historic resources, shall include means to conserve and safeguard these resources from wasteful or destructive use, but shall not be interpreted to authorize the unreasonable restriction of forestry, mining or other lawful uses of natural resources.

"Prime agricultural land," land used for agricultural purposes that contains soils of the first, second or third class as defined by the United States Department of Agriculture natural resource and conservation services county soil survey.

"Professional consultants," Persons who provide expert or professional advice, including, but not limited to, architects, attorneys, certified public accountants, engineers, geologists, land surveyors, landscape architects or planners.

“Public grounds,” includes:

(1) parks, playgrounds, trails, paths and other recreational areas and other public areas

(2) sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities

(3) publicly owned or operated scenic and historic sites.

“Public hearing,” a formal meeting held pursuant to public notice by the governing body or planning agency, intended to inform and obtain public comment, prior to taking action in accordance with this act.

“Public infrastructure area,” a designated growth area and all or any portion of a future growth area described a county or multimunicipal comprehensive plan where public infrastructure services will be provided and outside of which such public infrastructure services will not be required to be publicly financed.

“Public infrastructure services,” services that are provided to areas with densities of one or more units to the acre, which may include sanitary sewers and facilitates for the collection and treatment of sewage, water lines and facilitates for the pumping and treating of water, parks and open space, streets and sidewalks, public transportation and other services that may be appropriated within a growth area, but shall exclude fire protection and emergency medical services and any other service required to protect the health an safety of residents.

“Public meeting,” a forum held pursuant to notice under 65 Pa. C.S. CH. 7 (Relating to open meetings).

“Public notice,” notice published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing.

“Regional planning agency,” a planning agency that is comprised of representatives of more than one county. Regional planning responsibilities shall include providing technical assistance to counties and municipalities, mediating conflicts across county lines and reviewing county comprehensive plans for consistency with one another.

“Renewable energy source,” any method, process or substance whose supply is rejuvenated through natural processes and, subject to those natural processes, remains relatively constant, including, but not limited to, biomass conversion, geothermal energy, solar and wind energy and hydroelectric energy and excluding those sources of energy used in the fission and fusion processes.

“Rural resource area,” an area described in a municipal or multimunicipal plan within which rural resource uses including, but not limited to, agriculture, timbering, mining, quarrying and other extractive industries, forest and game lands and recreation and tourism are encouraged and enhanced, development that is compatible with or supportive of such uses in permitted, and public infrastructure services are not provided except in villages.

“Special exception,” a use permitted in a particular zoning district pursuant to the provisions of Articles VI and IX.

“Specific plan,” a detailed plan for nonresidential development of an area covered by a municipal or multimunicipal comprehensive plan, which when approved and adopted by the participating municipalities through ordinances and agreements supersedes all other applications.

“State Land Use and Growth Management Report,” a comprehensive land use and growth management report to be prepared by the Center for Local Government Services and which shall contain information, data and conclusions regarding growth and development patterns in this Commonwealth and which will offer recommendations to commonwealth agencies for coordination of executive action, regulation and programs.

“Street,” includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct and any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private.

“Structure,” any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

“Subdivision,” the division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development: Provided, however, That the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

“Substantially completed,” where, in the judgment of the municipal engineer, at least 90% (based on the cost of the required improvements for which financial security was posted pursuant to section 509) of those improvements required as a condition for final approval have been completed in accordance with the approved plan, so that the project will be able to be used, occupied or operated for its intended use.

“Traditional neighborhood development,” an area of land typically developed for a compatible mixture of residential units for various income levels and nonresidential commercial and workplace uses, including some structures that provide for a mix of uses within the same building. Residences, shops, offices, workplaces, public buildings, and parks are interwoven within the neighborhood so that all are within relatively close proximity to each other. Traditional neighborhood development is relatively compact and oriented toward pedestrian activity. It has an identifiable center and a discernible edge. The center of the neighborhood is in the form of a public park, commons, plaza, square or prominent intersection of two or more major streets. Generally, there is a hierarchy of streets laid out with an interconnected network of streets and blocks that provides multiple routes from origins to destinations and are appropriately designed to serve the needs of pedestrians and vehicles equally.

“Transferable development rights,” the attaching of development rights to specified lands which are desired by a municipality to be kept undeveloped, but permitting those rights to be transferred from those lands so that the development potential which they represent may occur on other lands where more intensive development is deemed to be appropriate.

“Variance,” relief granted pursuant to the provisions of Articles VI and IX.

“Village, an unincorporated settlement that is part of a township where residential and mixed use densities of one unit to the acre or more exist or are permitted and commercial, industrial or institutional uses exist or are permitted.

“Water survey,” an inventory of the source, quantity, yield and use of groundwater and surface-water resources within a municipality.

(b) The following words and phrases when used in Articles IX and X-A shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

“Board,” any body granted jurisdiction under a land use ordinance or under this act to render final adjudications.

“Decision,” final adjudication of any board or other body granted jurisdiction under any land use ordinance or this act to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to the court of common pleas of the county and judicial district wherein the municipality lies.

“Determination,” final action by an officer, body or agency charged with the administration of any land use ordinance or applications thereunder, except the following:

(1) the governing body.

(2) the zoning hearing board.

(3) the planning agency, only if and to the extent the planning agency is charged with final decision on preliminary or final plans under the subdivision and land development ordinance or planned residential development provisions.

Determinations shall be appealable only to the boards designated as having jurisdiction for such appeal.

“Hearing,” an administrative proceeding conducted by a board pursuant to section 909.1.

“Land use ordinance,” any ordinance or map adopted pursuant to the authority granted in Articles IV, V, VI and VII.

“Report,” any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant other than a solicitor to any other body, board, officer or consultant for the purpose of assisting the recipient of such report in the rendering of any decision or determination. All reports shall be deemed recommendatory and advisory only and shall not be binding upon the recipient, board, officer, body or agency, nor shall any appeal lie therefrom. Any report used, received or considered by the body, board, officer or agency rendering a determination or decision shall be made available for inspection to the applicant and all other parties to any proceeding upon request, and copies thereof shall be provided at cost of reproduction.

Section 108. Optional Notice of Ordinance or Decision; Procedural Validity Challenges.

(a) It is the intent of this section to allow optional public notice of municipal action in order to provide an opportunity to challenge, in accordance with section 1002-A (b) or section 1002.1-A, the validity of an ordinance or decision on the basis that a defect in procedure resulted in a deprivation of constitutional rights, and to establish a period of limitations for raising such challenges.

(b) Notice that municipal action has been taken to adopt an ordinance or enter a decision, regardless of whether the municipal actions was taken before or after the effective date of this section, may be provided through publication, at any time, once each week for two successive weeks in a newspaper of general circulation in the municipality by the following:

(1) The governing body of the municipality.

(2) In the case of a ordinance, any resident or landowner in the municipality.

(3) In the case of a decision, the applicant requesting the decision or the landowner or successor in interest of the property subject to or affected by the decision.

(c) Each notice shall contain the following:

(1) If the notice relates to an ordinance:

(i) The municipality's ordinance number.

(ii) A brief statement of the general content of the ordinance.

(iii) The address of the municipal building where the full text of the ordinance may be reviewed by members of the public.

(2) If the notice relates to a decision:

(i) The name of the applicant or owner of the subject property.

(ii) The street address or location of the subject property.

(iii) The file number or docket number of the decision.

(iv) A brief description of the nature of the decision.

(v) The date upon which the decision was issued.

(vi) The address of the municipal building where the full text of the decision may be reviewed by members of the public.

(3) In addition to the requirements of paragraphs (1) and (2), the publication of each notice authorized by the section shall contain a statement that the publication is intended to provide notification of an ordinance or decision and that any person claiming a right to challenge the validity of the ordinance or decision must bring legal action within 30 days of the publication of the second notice.

(4) The person providing notice as authorized by this section shall provide proof of publication to the municipality adopting the ordinance or decision for retention with municipal records. Failure to comply with this paragraph shall not invalidate any notice provided in accordance with this section or the applicability of the period of limitation in subsection (d).

(d) Notwithstanding this or any other act, in order to provide certainty of the validity of an ordinance or decision, any appeal or action contesting the validity of an ordinance based on a procedural defect in the process of enactment or the validity of a decision based on a procedural or substantive defect shall be dismissed, with prejudice, as untimely if not filed within the 30th day following the second publication of the notice authorized in this section.

(e) Any appeal or action filed within the 30-day period referred to in subsection (d) shall be taken to court of common pleas and shall be conducted in accordance with and subject to the procedures set forth in 42 Pa.C.S. § 5571.1 (relating to appeals from ordinances, resolutions, maps, etc.) in the case of challenges to ordinances or section 1002.1-A in the case of challenges to decisions.

(f) Where no appeal or action contesting the procedural validity of an ordinance or the procedural or substantive validity of a decision is filed within the period set forth in subsection (d), the ordinance or decision shall be deemed to be reaffirmed and reissued on the date of the second publication of the optional notice permitted under this section.

(g) An appeal shall be exempt from the time limitation in subsection (d) only if the party bringing the appeal establishes that the application of the time limitation in subsection (d) would result in an unconstitutional deprivation of due process.

(h) Nothing in this section shall be construed to abrogate, repeal, extend or otherwise modify the time for appeal as set forth in section 1002-A, where the appellant was a party to proceedings prior to the entry of a decision or otherwise had an adequate opportunity to bring a timely action in accordance with section 1002-A to contest the procedural validity of an ordinance or the proceduarl or substantive validity of a decision.
(108 added July 4, 2008, P.L.319, No.39)

Compiler's Note: Section 6 of Act 39 of 2008, which added section 108, provided that section 108 shall apply beginning on the effective date of an amendment of 42 Pa.C.S. that provides for appeals from ordinances, resolutions, maps and similar actions of a political subdivision. Section 5571.1 of Title 42 (relating to appeals from ordinances, resolutions, maps, etc.) was added July 4, 2008, P.L.325, No.40, effective immediately.

Section 109. Notice. In any case in which mailed notice or electronic notice is required by this act, the following shall apply:

(1) An owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within a municipality may request that the municipality provide written or electronic notice of a public hearing which may affect such tract or parcel of land.

(2) Mailed notice shall be required only if an owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality has made a written request that the notice be mailed and has supplied the municipality with a stamped, self-addressed envelope prior to a public hearing.

(3) Electronic notice shall be required only if an owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality has made a written request that notice be sent electronically and has supplied the municipality with an electronic address prior to a public hearing and only if that municipality maintains the capability of generating an electronic notice. An owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality making the request and supplying an electronic address may at any time notify the municipality that the owner of the tract or parcel of land located within the municipality or the owner of the mineral rights in the tract or parcel of land within the municipality no longer will accept electronic notice, and, in that event, the municipality may no longer provide electronic notice.

(4) An owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality who has requested a mailed notice shall be solely responsible for the number, accuracy and sufficiency of the envelopes supplied. The municipality shall not be responsible or liable if the owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality does not provide to the municipality notice of any changes in the owner's mailing address.

(5) An owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality who has requested electronic notice shall be solely responsible for the accuracy and functioning of the electronic address provided to the municipality. The municipality shall not be responsible or liable if the owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality does not provide to the municipality notice of any changes to the owner's electronic address.

(6) A municipality shall deposit a mailed notice in the United States mail or provide electronic notice not more than 30 and not less than seven days prior to the scheduled date of the hearing as shown on the notice.

(7) For each public hearing, the municipal secretary or zoning officer shall prepare, sign and maintain a list of all mailed notices, mailing dates, electronic notices and electronic notice dates. The signed list shall constitute a presumption that the notice was given.

(8) The mailed notice shall be deemed received by an owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality on the date deposited in the United States mail.

(9) The electronic notice shall be deemed received by an owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality on the date the municipality electronically notifies the owner.

(10) Failure of an owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality to receive a requested mailed notice or electronic notice shall not be deemed to invalidate any action or proceedings under this act.

Article II - Planning Agencies

Section 201. Creation of Planning Agencies. The governing body of any municipality shall have the power to create or abolish, by ordinance, a planning commission or planning department, or both. An ordinance which creates both a planning commission and a planning department shall specify which of the powers and duties conferred on planning agencies by this act; each shall exercise and may confer upon each additional powers, duties and advisory functions not inconsistent with this act. In lieu of a planning commission or planning department, the governing body may elect to assign the powers and duties conferred by this act upon a planning committee comprised of members appointed from the governing body. The engineer for the municipality, or an engineer appointed by the governing body, shall serve the planning agency as engineering advisor. The solicitor for the municipality, or an attorney appointed by the governing body, shall serve the planning agency as legal advisor.

Section 202. Planning Commission. If the governing body of any municipality shall elect to create a planning commission, such commission shall have not less than three nor more than nine members. Except for elected or appointed officers or employees of the municipality, members of the commission may receive compensation in an amount fixed by the governing body. Compensation shall not exceed the rate of compensation authorized to be paid to members of the governing body. Without exception, members of the planning commission may be reimbursed for necessary and reasonable expenses. However, elected or appointed officers or employees of the municipality shall not, by reason of membership thereon, forfeit the right to exercise the powers, perform the duties or receive the compensations of the municipal offices held by them during such membership.

Section 203. Appointment, Term and Vacancy.

(a) All members of the commission shall be appointed by the appointing authority of the municipality. All such appointments shall be approved by the governing body, except where the governing body is the appointing authority.

(b) The term of each of the members of the commission shall be for four years, or until his successor is appointed and qualified, except that the terms of the members first appointed pursuant to this act shall be so fixed that on commissions of eight members or less no more than two shall be reappointed or replaced during any future calendar year, and on commissions of nine members no more than three shall be so reappointed or replaced.

(c) The chairman of the planning commission shall promptly notify the appointing authority of the municipality concerning vacancies in the commission, and such vacancy shall be filled for the unexpired term. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by appointment for the unexpired term according to the terms of this article.

(d) Should the governing body of any municipality determine to increase the number of members of an already existing planning commission, the additional members shall be appointed as provided in this article. If the governing body of any municipality shall determine to reduce the number of members on any existing planning commission, such reduction shall be effectuated by allowing the terms to expire and by making no new appointments to fill the vacancy. Any reduction or increase shall be by ordinance.

Section 204. Members of Existing Commissions. (204 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 205. Membership. All of the members of the planning commission shall be residents of the municipality. On all planning commissions appointed pursuant to this act, a certain number of the members, designated as citizen members shall not be officers or employees of the municipality. On a commission of three members at least two shall be citizen members. On a commission of four or five members at least three shall be citizen members. On a commission of either six or seven members at least five shall be citizen members, and on commissions of either eight or nine members at least six shall be citizen members.

Section 206. Removal. Any member of a planning commission once qualified and appointed may be removed from office for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the governing body taken after the member has received 15 days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing. Any appointment to fill a vacancy created by removal shall be only for the unexpired term.

Section 207. Conduct of Business. The commission shall elect its own chairman and vice-chairman and create and fill such other offices as it may determine. Officers shall serve annual terms and may succeed themselves. The commission may make and alter by laws and rules and regulations to govern its procedures consistent with the ordinances of the municipality and the laws of the Commonwealth. The commission shall keep a full record of its business and shall annually make a written report by March 1 of each year of its activities to the governing body. Interim reports may be made as often as may be necessary, or as requested by the governing body.

Section 208. Planning Department Director. For the administration of each planning department, the appointing authority may appoint a director of planning who shall be, in the opinion of the appointing authority, qualified for the duties of his position. Each such appointment shall be with the approval of the governing body, except where the governing body is the appointing authority. The director of planning shall be in charge of the administration of the department, and shall exercise the powers and be subject to the duties that are granted or imposed on a planning agency by this act, except that where a municipality creates both a planning commission and a planning department, the director of planning shall exercise only those powers and be subject to only those duties which are specifically conferred upon him by ordinance enacted pursuant to this article.

Section 209.1. Powers and Duties of Planning Agency.

(a) The planning agency shall at the request of the governing body have the power and shall be required to:

  (1) Prepare the comprehensive plan for the development of the municipality as set forth in this act, and present it for the consideration of the governing body.

  (2) Maintain and keep on file records of its action. All records and files of the planning agency shall be in the possession of the governing body.

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

  (1) Make recommendations to the governing body concerning the adoption or amendment of an official map.

  (2) Prepare and present to the governing body of the municipality a zoning ordinance, and make recommendations to the governing body on proposed amendments to it as set forth in this act.

  (3) Prepare, recommend and administer subdivision and land development and planned residential development regulations, as set forth in this act.

  (4) Prepare and present to the governing body of the municipality a building code and a housing code and make recommendations concerning proposed amendments thereto.

  (5) Do such other acts or make such studies as may be necessary to fulfill the duties and obligations imposed by this act.

(6) Prepare and present to the governing body of the municipality an environmental study.

(7) Submit to the governing body of a municipality a recommended capital improvements program.

(7.1) Prepare and present to the governing body of the municipality a water survey, which shall consistent with the State Water Plan and any applicable water resources plan adopted by a river basin commission. The water survey shall be conducted in consultation with any public water supplier in the area to be surveyed.

(8) Promote public interest in, and understanding of, the comprehensive plan and planning.

(9) Make recommendations to governmental, civic and private agencies and individuals as to the effectiveness of the proposals of such agencies and individuals.

(10) Hold public hearings and meetings.

(10.1) Present testimony before any board.

(11) Require from other departments and agencies of the municipality such available information as relates to the work of the planning agency.

(12) In the performance of its functions, enter upon any land to make examinations and surveys with the consent of the owner.

(13) Prepare and present to the governing body of the municipality a study regarding the feasibility and practicability of using renewable energy sources in specific areas within the municipality.

(14) Review the zoning ordinance, subdivision and land development ordinance, official map, provisions for planned residential development, and such other ordinances and regulations governing the development of land no less frequently than it reviews the comprehensive plan.

Section 210. Administrative and Technical Assistance. The appointing authority may employ administrative and technical services to aid in carrying out the provisions of this act either as consultants on particular matters or as regular employees of the municipality. A county planning agency, with the consent of its governing body may perform planning services for any municipality whose governing body requests such assistance and may enter into agreements or contracts for such work.

Section 211. Assistance. The planning agency may, with the consent of the governing body, accept and utilize any funds, personnel or other assistance made available by the county, the Commonwealth or the Federal government or any of their agencies, or from private sources. The governing body may enter into agreements or contracts regarding the acceptance or utilization of the funds or assistance in accordance with the governmental procedures of the municipality.

Section 212. Intergovernmental Cooperation. For the purposes of this act, the governing body may utilize the authority granted under 53 PA.C.S. §§ 2303(a) (relating to intergovernmental cooperation authorized) and 2315 (Relating to effect of joint cooperation agreements).

Article III - Comprehensive Plan

Section 301. Preparation of Comprehensive Plan.

(a) The municipal, multimunicipal or county comprehensive plan, consisting of maps, charts and textual matter, shall include, but need not be limited to, the following related basic elements:

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

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

(2.1) A plan to meet the housing needs of present residents and of those individuals and families anticipated to reside in the municipality, which may include conservation of presently sound housing, rehabilitation of housing in declining neighborhoods and the accommodation of expected new housing in different dwelling types and at appropriate densities for households of all income levels.

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

(4) A plan for community facilities and utilities, which may include public and private education, recreation, municipal buildings, fire and police stations, libraries, hospitals, water supply and distribution, sewerage and waste treatment, solid waste management, storm drainage, and flood plain management, utility corridors and associated facilities, and other similar facilities or uses.

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

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

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

(6) A plan for the protection of natural and historic resources to the extent not preempted by federal or state law. This clause includes, but is not limited to, wetlands and aquifer recharge zones, woodlands, steep slopes, prime agricultural land, flood plains, unique natural areas and historic sites. The plan shall be consistent with and may not exceed those requirements imposed under the following:

(i) Act of June 22, 1937 (P.L.1987, No.394), known as “The Clean Streams Law”.

(ii) Act of May 31, 1945 (P.L.1198, No.418), known as the “Surface Mining Conservation and Reclamation Act”.

(iii) Act of April 27, 1966 (1st SP.SESS., P.L.31, No.1), known as "The Bituminous Mine Subsidence and Land Conservation Act".

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

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

(vi) Act of December 19, 1984 (P.L.1093, No.219), known as the "Noncoal Surface Mining Conservation and Reclamation Act".

(vii) Act of June 30, 1981 (P.L.128, No.43), known as the "Agricultural Area Security Law".

(viii) Act of June 10, 1982 (P.L.454, No.133), entitled "An Act Protecting Agricultural Operations from Nuisance Suits and Ordinances Under Certain Circumstances".

(ix) Act of May 20, 1993 (P.L.12, No.6), known as the "Nutrient Management Act," regardless of whether any agricultural operation within the area to be affected by the plan is a concentrated animal operation as defined under the act.

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

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

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

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

(iv) Identify a plan for historic preservation.

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

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

(2) Commercial agriculture production impact water supply sources.

(c) The municipal or multimunicipal comprehensive plan shall be reviewed at least every ten years. The municipal or multimunicipal comprehensive plan shall be sent to the governing bodies of contiguous municipalities for review and comment and shall also be sent to the Center for Local Government Services for informational purposes. The municipal or multimunicipal comprehensive plan shall also be sent to the county planning commissions or, upon request of a county planning commission, a regional planning commission when the comprehensive plan is updated or at ten-year intervals, whichever comes first, for review and comment on whether the municipal or multimunicipal comprehensive plan remains generally consistent with the county comprehensive plan and to indicate where the local plan may deviate from the county comprehensive plan.

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

Section 301.1. Energy Conservation Plan Element. To promote energy conservation and the effective utilization of renewable energy sources, the comprehensive plan may include an energy conservation plan element which systematically analyzes the impact of each other component and element of the comprehensive plan on the present and future use of energy in the municipality, details specific measures contained in the other plan elements designed to reduce energy consumption and proposes other measures that the municipality may take to reduce energy consumption and to promote the effective utilization of renewable energy sources.

Section 301.2. Surveys by Planning Agency. In preparing the comprehensive plan, the planning agency shall make careful surveys, studies and analyses of housing, demographic, and economic characteristics and trends; amount, type and general location and interrelationships of different categories of land use; general location and extent of transportation and community facilities; natural features affecting development; natural, historic and cultural resources; and the prospects for future growth in the municipality.

Section 301.3. Submission of Plan to County Planning Agency. If a county planning agency has been created for the county in which the municipality is located, then at least 45 days prior to the public hearing required in section 302 on the comprehensive plan or amendment thereof, the municipality shall forward a copy of that plan or amendment to the county planning agency for its comments. At the same time, the municipality shall also forward copies of the proposed plan or amendment to all contiguous municipalities and to the local school district for their review and comments.

Section 301.4. Compliance by Counties.

(a) If a county does not have a comprehensive plan, then that county shall, within three years of the effective date of this act, and with the opportunity for the review, comment and participation of the municipalities and school districts within the respective county and contiguous counties school districts and municipalities, prepare and adopt a comprehensive plan in accordance with the requirements of section 301. Municipal comprehensive plans which are adopted shall be generally consistent with the adopted county comprehensive plan.

(b) County planning commissions shall publish advisory guidelines to promote general consistency with the adopted county comprehensive plan. These guidelines shall promote uniformity with respect to local planning and zoning terminology and common types of municipal land use regulations.

Section 301.5 Funding of Municipal Planning. Priority for state grants to develop or revise comprehensive plans shall be given to those municipalities which agree to adopt comprehensive plans generally consistent with the county comprehensive plan and which agree to enact a new zoning ordinance or amendment which would fully implement the municipal comprehensive plan. No more than 25% of the total funds available for these grants shall be disbursed under priority status pursuant to this provision. Municipalities and counties shall comply with these agreements within three years. Failure to comply with the agreements shall be taken into consideration for future state funding.

Section 302. Adoption of Municipal, Multimunicipal and County Comprehensive Plans and Plan Amendments.

(a) The governing body may adopt and amend the comprehensive plan as a whole or in part. Before adopting or amending a comprehensive plan, or any part thereof, the planning agency shall hold at least one public meeting before forwarding the proposed comprehensive plan or amendment thereof to the governing body. In reviewing the proposed comprehensive plan, the governing body shall consider the comments of the county, contiguous municipalities and the school district, as well as the public meeting comments and the recommendations of the municipal planning agency. The comments of the county, contiguous municipalities and the local school district shall be made to the governing body within 45 days of receipt, by the governing body, and the proposed plan or amendment thereto shall not be acted upon until such comment is received. If, however, the contiguous municipalities and the local school district fail to respond within 45 days, the governing body may proceed without their comments.

(a.1) The governing body of the county may adopt and amend the county comprehensive plan in whole or in part. Before adopting or amending a comprehensive plan, or any part thereof, the county planning agency shall hold at least one public meeting before forwarding the proposed comprehensive plan or amendment thereof to the governing body. In reviewing the proposed comprehensive plan, the governing body shall consider the comments of municipalities and school districts within the county and contiguous school districts, municipalities and counties as well as the public meeting comments and the recommendations of the county planning agency. The comments of the counties, municipalities and school districts shall be made to the governing body within 45 days of receipt by the governing body, and the proposed comprehensive plan or amendment thereto shall not be acted upon until such comment is received. If, however, the counties, municipalities and school districts fail to respond within 45 days, the governing body may proceed without their comments.

(b) The governing body shall hold at least one public hearing pursuant to public notice. If, after the public hearing held upon the proposed plan or amendment to the plan, the proposed plan or proposed amendment thereto is substantially revised, the governing body shall hold another public hearing, pursuant to public notice, before proceeding to vote on the plan or amendment thereto.

(c) The adoption of the comprehensive plan, or any part thereof, or any amendment thereto, shall be by resolution carried by the affirmative votes of not less than a majority of all the members of the governing body. The resolution shall refer expressly to the maps, charts, textual matter, and other matters intended to form the whole or part of the plan, and the action shall be recorded on the adopted plan or part.

(d) Counties shall in accordance with subsection (a.1) consider amendments to their comprehensive plan proposed by municipalities which are considering adoption or revision of their municipal comprehensive plans so as to achieve general consistency between the respective plans. County comprehensive plans shall be updated at least every ten years. Where two or more contiguous municipalities request amendments to a county comprehensive plan for the purpose of achieving general consistency between the municipal plans or multimunicipal plan and the county comprehensive plan, the county must accept the amendments unless good cause for their refusal is established.

Section 303. Legal Status of Comprehensive Plan Within the Jurisdiction that Adopted the Plan.

(a) Whenever the governing body, pursuant to the procedures provided in section 302, has adopted a comprehensive plan or any part thereof, any subsequent proposed action of the governing body, its departments, agencies and appointed authorities shall be submitted to the planning agency for its recommendations when the proposed action relates to:

(1) the location, opening, vacation, extension, widening, narrowing or enlargement of any street, public ground, pierhead or watercourse;

(2) the location, erection, demolition, removal or sale of any public structure located within the municipality; adoption, amendment or repeal of an official map, subdivision and land development ordinance, zoning ordinance or provisions for planned residential development, or capital improvements program; or

(3) the adoption, amendment or repeal of an official map, subdivision and land development ordinance, zoning ordinance or provisions for planned residential development, or capital improvements program: or

(4) the construction, extension or abandonment of any water line, sewer line or sewage treatment facility.

(b) The recommendations of the planning agency including a specific statement as to whether or not the proposed action is in accordance with the objectives of the formally adopted comprehensive plan shall be made in writing to the governing body within 45 days.

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

(d) 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 304. Legal Status of County Comprehensive Plans Within Municipalities.

(a) Following the adoption of a comprehensive plan or any part thereof by a county, pursuant to the procedures in section 302, any proposed action of the governing body of a municipality, its departments, agencies and appointed authorities within the county shall be submitted to the county planning agency for its recommendations if the proposed action relates to:

(1) the location, opening, vacation, extension, widening, narrowing or enlargement of any street, public ground, pierhead or watercourse;

(2) the location, erection, demolition, removal or sale of any public structures located within the municipality;

(3) the adoption, amendment or repeal of any comprehensive plan, official map, subdivision or land ordinance, zoning ordinance or provisions for planned residential development; or

(4) the construction, extension or abandonment of any water line, sewer line or sewage treatment facility.

(b) The recommendation of the planning agency shall be made to the governing body of the municipality within 45 days and the proposed action shall not be taken until such recommendation is made. If, however, the planning agency fails to act within 45 days, the governing body shall proceed without its recommendation.

Section 305. The Legal Status of Comprehensive Plans Within School Districts. Following the adoption of a comprehensive plan or any part thereof by any municipality or county governing body, pursuant to the procedures in section 302, any proposed action of the governing body of any public school district located within the municipality or county relating to the location, demolition, removal, sale or lease of any school district structure or land shall be submitted to the municipal and county planning agencies for their recommendations at least 45 days prior to the execution of such proposed action by the governing body of the school district.

Section 306. Municipal and County Comprehensive Plans.

(a) When a municipality having a comprehensive plan is located in a county which has adopted a comprehensive plan, both the county and the municipality shall each give the plan of the other consideration in order that the objectives of each plan can be protected to the greatest extent possible.

(b) Within 30 days after adoption, the governing body of a municipality, other than a county, shall forward a certified copy of the comprehensive plan, or part thereof or amendment thereto, to the county planning agency or, in counties where no planning agency exists, to the governing body of the county in which the municipality is located.

(c) Counties shall consult with municipalities and solicit comment from school districts, municipal authorities, the Center for Local Government Services, for information purposes, and public utilities during the process of preparing or upgrading a county comprehensive plan in order to determine future growth needs.

Section 307. State Land Use and Growth Management Report. The Center for Local Government Services shall issue a land use and growth management report by the year 2005 and shall review and update the report at five-year intervals.

Article IV - Official Map

Section 401. Grant of Power.

(a) The governing body of each municipality shall have the power to make or cause to be made an official map of all or a portion of the municipality which may show appropriate elements or portions of elements of the comprehensive plan adopted pursuant to section 302 with regard to public lands and facilities, and which may include, but need not be limited to:

(1) Existing and proposed public streets, watercourses and public grounds, including widenings, narrowings, extensions, diminutions, openings or closing of same.

(2) Existing and proposed public parks, playgrounds and open space reservations.

(3) Pedestrian ways and easements.

(4) Railroad and transit rights-of-way and easements.

(5) Flood control basins, floodways and flood plains, storm water management areas and drainage easements.

(6) Support facilities, easements and other properties held by public bodies undertaking the elements described in section 301.

(b) For the purposes of taking action under this section, the governing body or its authorized designee may make or cause to be made surveys and maps to identify, for the regulatory purposes of this article, the location of property, trafficway alignment or utility easement by use of property records, aerial photography, photogrammetric mapping or other method sufficient for identification, description and publication of the map components. For acquisition of lands and easements, boundary descriptions by metes and bounds shall be made and sealed by a licensed surveyor.

Section 402. Adoption of the Official Map and Amendments Thereto.

(a) Prior to the adoption of the official map or part thereof, or any amendments to the official map, the governing body shall refer the proposed official map, or part thereof or amendment thereto, with an accompanying ordinance describing the proposed map, to the planning agency for review. The planning agency shall report its recommendations on said proposed official map and accompanying ordinance, part thereof, or amendment thereto within 45 days unless an extension of time shall be agreed to by the governing body. If, however, the planning agency fails to act within 45 days, the governing body may proceed without its recommendations.

(b) The county and adjacent municipalities may offer comments and recommendations during said 45-day review period in accordance with section 408. Local authorities, park boards, environmental boards and similar public bodies may also offer comments and recommendations to the governing body or planning agency if requested by same during said 45-day review period. Before voting on the enactment of the proposed ordinance and official map, or part thereof or amendment thereto, the governing body shall hold a public hearing pursuant to public notice.

(c) Following adoption of the ordinance and official map, or part thereof or amendment thereto, a copy of same, verified by the governing body, shall be submitted to the recorder of deeds of the county in which the

municipality is located and shall be recorded within 60 days of the effective date. The fee for recording and indexing ordinances and amendments shall be paid by the municipality enacting the ordinance or amendment and shall be in the amount prescribed by law for the recording of ordinances by the recorder of deeds.

Section 403. Effect of Approved Plats on Official Map. After adoption of the official map, or part thereof, all streets, watercourses and public grounds and the elements listed in section 401 on final, recorded plats which have been approved as provided by this act shall be deemed amendments to the official map. Notwithstanding any of the other terms of this article, no public hearing need be held or notice given if the amendment of the official map is the result of the addition of a plat which has been approved as provided by this act.

Section 404. Effect of Official Map on Mapped Streets, Watercourses and Public Grounds. The adoption of any street, street lines or other public lands pursuant to this article as part of the official map shall not, in and of itself, constitute or be deemed to constitute the opening or establishment of any street nor the taking or acceptance of any land, nor shall it obligate the municipality to improve or maintain any such street or land. The adoption of proposed watercourses or public grounds as part of the official map shall not, in and of itself, constitute or be deemed to constitute a taking or acceptance of any land by the municipality.

Section 405. Buildings in Mapped Streets, Watercourses or Other Public Grounds. For the purpose of preserving the integrity of the official map of the municipality, no permit shall be issued for any building within the lines of any street, watercourse or public ground shown or laid out on the official map. No person shall recover any damages for the taking for public use of any building or improvements constructed within the lines of any street, watercourse or public ground after the same shall have been included in the official map, and any such building or improvement shall be removed at the expense of the owner. However, when the property of which the reserved location forms a part, cannot yield a reasonable return to the owner unless a permit shall be granted, the owner may apply to the governing body for the grant of a special encroachment permit to build. Before granting any special encroachment permit authorized in this section, the governing body may submit the application for a special encroachment permit to the local planning agency and allow the planning agency 30 days for review and comment and shall give public notice and hold a public hearing at which all parties in interest shall have an opportunity to be heard. A refusal by the governing body to grant the special encroachment permit applied for may be appealed by the applicant to the zoning hearing board in the same manner, and within the same time limitation, as is provided in Article IX.

Section 406. Time Limitations on Reservations for Future Taking. The governing body may fix the time for which streets, watercourses and public grounds on the official map shall be deemed reserved for future taking or acquisition for public use. However, the reservation for public grounds shall lapse and become void one year after an owner of such property has submitted a written notice to the governing body announcing his intentions to build, subdivide or otherwise develop the land covered by the reservation, or has made formal application for an official permit to build a structure for private use, unless the governing body shall have acquired the property or begun condemnation proceedings to acquire such property before the end of the year.

Section 407. Release of Damage Claims or Compensation. The governing body may designate any of its agencies to negotiate with the owner of land under the following circumstances:

(1) whereon reservations are made;

(2) whereon releases of claims for damages or compensation for such reservations are required; or

(3) whereon agreements indemnifying the governing body from claims by others may be required.

Any releases or agreements, when properly executed by the governing body and the owner and recorded, shall be binding upon any successor in title.

Section 408. Notice to Other Municipalities.

(a) When any county has adopted an official map in accordance with the terms of this article, a certified copy of the map and the ordinances adopting it shall be sent to every municipality within said county. All amendments shall be sent to the aforementioned municipalities. The powers of the governing bodies of counties to adopt, amend and repeal official maps shall be limited to land and watercourses in those municipalities wholly or partly within the county which have no official map in effect at the time an official map is introduced before the governing body of the county, and until the municipal official map is in effect. The adoption of an official map by any municipality, other than a county, whose land or watercourses are subject to county official mapping, shall act as a repeal pro tanto of the county official map within the municipality adopting such ordinance. Notwithstanding any of the other terms or conditions of this section the county official map shall govern as to county streets and public grounds, facilities and improvements, even though such streets or public grounds, facilities and improvements are located in a municipality which has adopted an official map.

(b) When a municipality proposes to adopt an official map, or any amendment thereto, a copy of the map and the proposed ordinance adopting it, or any amendment thereto, shall be forwarded for review to the county planning agency, or if no such agency exists to the governing body of the county at the same time it is submitted for review to the municipal planning agency. The comments of the county planning agency shall be made to the governing body of the municipality within 45 days, and the proposed action shall not be taken until such comments are received. If, however, the planning agency fails to act within 45 days, the governing body may proceed without its comments.

(c) Additionally, if any municipality proposes to adopt an official map, or amendment thereto, that shows any street or public lands intended to lead into any adjacent municipality a copy of said official map or amendment shall be forwarded to such adjacent municipality for review and comment by the governing body and planning agency of the adjacent municipality. The comments of the adjacent municipality shall be made to the governing body of the municipality proposing the adoption within 45 days, and the proposed action shall not be taken until such comments are received. If, however, the adjacent municipality fails to act within 45 days, the governing body of the proposing municipality may proceed without its comments. When a municipality adopts an official map, a certified copy of the map, the ordinance adopting it and any later amendments shall be forwarded, within 30 days after adoption, to the county planning agency or, in counties where no planning agency exists, to the governing body of the county in which the municipality is located. Additionally, if any municipality adopts an official map, or amendment thereto, that shows any street or public lands intended to lead into any adjacent municipality, a certified copy of said official map or amendment shall be forwarded to such adjacent municipality.

Article V - Subdivision and Land Development

Section 501. Grant of Power. The governing body of each municipality may regulate subdivisions and land development within the municipality by enacting a subdivision and land development ordinance. The ordinance shall require that all subdivision and land development plats of land situated within the municipality shall be submitted for approval to the governing body or, in lieu thereof, to a planning agency designated in the ordinance for this purpose, in which case any planning agency action shall be considered as action of the governing body. All powers granted herein to the governing body or the planning agency shall be exercised in accordance with the provisions of the subdivision and land development ordinance. In the case of any development governed by planned residential development provisions adopted pursuant to Article VII, however, the applicable provisions of the subdivision and land development ordinance shall be as modified by such provisions and the procedures which shall be followed in the approval of any plat, and the rights and duties of the parties thereto shall be governed by Article VII and the provisions adopted thereunder. Provisions regulating mobilehome parks shall be set forth in separate and distinct articles of any subdivision and land development ordinance adopted pursuant to Article V or any planned residential development provisions adopted pursuant to Article VII.

Section 502. Jurisdiction of County Planning Agencies; Adoption by Reference of County Subdivision and Land Development Ordinances.

(a) When any county has adopted a subdivision and land development ordinance in accordance with the terms of this article, a certified copy of the ordinance shall be sent to every municipality within the county. All amendments shall also be sent to the aforementioned municipalities. The powers of governing bodies of counties to enact, amend and repeal subdivision and land development ordinances shall be limited to land in those municipalities wholly or partly within the county which have no subdivision and land development ordinance in effect at the time a subdivision and land development ordinance is introduced before the governing body of the county, and until the municipal subdivision and land development ordinance is in effect and a certified copy of such ordinance is filed with the county planning agency, if one exists.

(b) The enactment of a subdivision and land development ordinance by any municipality, other than a county, whose land is subject to a county subdivision and land development ordinance shall act as a repeal protanto of the county subdivision and land development ordinance within the municipality adopting such ordinance. However, applications for subdivision and land development located within a municipality having adopted a subdivision and land development ordinance as set forth in this article shall be forwarded upon receipt by the municipality to the county planning agency for review and report together with a fee sufficient to cover the costs of the review and report which fee shall be paid by the applicant: Provided, That such municipalities shall not approve such applications until the county report is received or until the expiration of 30 days from the date the application was forwarded to the county.

(c) Further, any municipality other than a county may adopt by reference the subdivision and land development ordinance of the county, and may by separate ordinance designate the county planning agency, with the county planning agency's concurrence, as its official administrative agency for review and approval of plats.

Section 502.1. Contiguous Municipalities.

(a) The county planning commission shall offer a mediation option to any municipality which believes that its citizens will experience harm as the result of an applicant's proposed subdivision or development of land in a contiguous municipality, if the municipalities agree. In exercising such an option, the municipalities shall comply with the procedures set forth in Article IX. The cost of the mediation shall be shared equally by the municipalities unless otherwise agreed. The applicant shall have the right to participate in the mediation.

(b) The governing body of the municipality may appear and comment before the governing body of a contiguous municipality and the various boards and commissions of the contiguous municipality considering a proposed subdivision, change of land use or land development.

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

(1) Provisions for the submittal and processing of plats, including the charging of review fees, and specifications for such plats, including certification as to the accuracy of plats and provisions for preliminary and final approval and for processing of final approval by stages or sections of development. Such plats and surveys shall be prepared in accordance with the act of May 23,1945 (P.L.913, No.367), known as the "Engineer, Land Surveyor and Geologist Registration Law," except that this requirement shall not preclude the preparation of a plat in accordance with the act of January 24, 1966 (1965 P.L.1527, No.535), known as the "Landscape Architects' Registration Law," when it is appropriate to prepare the plat using professional services as set forth in the definition of the "practice of landscape architecture" under section 2 of that act. Review fees may include reasonable and necessary charges by the municipality's professional consultants for review and report thereon to the municipality. Such review fees shall be based upon a schedule established by ordinance or resolution. Such review fees shall be reasonable and in accordance with the ordinary and customary charges for similar service in the community, but in no event shall the fees exceed the rate or cost charged by the professional consultant for comparable services to the municipality for services which are not reimbursed or otherwise imposed on applicants. Fees charged to the municipality relating to any appeal of a decision on an application shall not be considered review fees and may not be charged to an applicant.

(i) The governing body shall submit to the applicant an itemized bill showing work performed, identifying the person performing the services and the time and date spent for each task. Nothing in this subparagraph shall prohibit interim itemized billing or municipal escrow or other security requirements. In the event the applicant disputes the amount of any such review fees, the applicant shall, no later than 100 days after the date of transmittal of the bill to the applicant, notify the municipality and the municipality's professional consultant that such fees are disputed, and shall explain the basis of their objections to the fees charged, in which case the municipality shall not delay or disapprove a subdivision or land development application due to the applicant's dispute over fees. Failure of the applicant to dispute a bill within 100 days shall be a waiver of the applicant's right to arbitration of that bill under section 510 (g).

(ii) In the event that the municipality's professional consultant and the applicant cannot agree on the amount of review fees which are reasonable and necessary, then the applicant and the municipality shall follow the procedure for dispute resolution set forth in section 510(g), provided that the arbitrator resolving such dispute shall be of the same profession or discipline as the professional consultant whose fees are being disputed.

(iii) Subsequent to a decision on an application, the governing body shall submit to the applicant an itemized bill for review fees, specifically designated as a final bill. The final bill shall include all review fees incurred at least through the date of the decision on the application. If for any reason additional review is required subsequent to the decision, including inspections and other work to satisfy the conditions of the approval, the review fees shall be charged to the applicant as a supplement to the final bill.

(1.1) Provisions for the exclusion of certain land development from the definition of land development contained in section 107 only when such land development involves:

(i) the conversion of an existing single-family detached dwelling or single family semi-detached dwelling into not more than three residential units, unless such units are intended to be a condominium;

(ii) the addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building; or

(iii) the addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park. For purposes of this subclause, an amusement park is defined as a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by proper authorities.

(2) Provisions for insuring that:

(i) the layout or arrangement of the subdivision or land development shall conform to the comprehensive plan and to any regulations or maps adopted in furtherance thereof;

(ii) streets in and bordering a subdivision or land development shall be coordinated, and be of such widths and grades and in such locations as deemed necessary to accommodate prospective traffic, and facilitate fire protection;

(iii) adequate easements or rights-of-way shall be provided for drainage and utilities;

(iv) reservations if any by the developer of any area designed for use as public grounds shall be suitable size and location for their designated uses; and

(v) land which is subject to flooding, subsidence or underground fires either shall be made safe for the purpose for which such land is proposed to be used, or that such land shall be set aside for uses which shall not endanger life or property or further aggravate or increase the existing menace.

(3) Provisions governing the standards by which streets shall be designed, graded and improved, and walkways, curbs, gutters, street lights, fire hydrants, water and sewage facilities and other improvements shall be installed as a condition precedent to final approval of plats in accordance with the requirements of section 509. The standards shall insure that the streets be improved to such a condition that the streets are passable for vehicles which are intended to use that street: Provided, however, That no municipality shall be required to accept such streets for public dedication until the streets meet such additional standards and specifications as the municipality may require for public dedication.

(4) Provisions which take into account phased land development not intended for the immediate erection of buildings where streets, curbs, gutters, street lights, fire hydrants, water and sewage facilities and other improvements may not be possible to install as a condition precedent to final approval of plats, but will be a condition precedent to the erection of buildings on lands included in the approved plat.

(4.1) Provisions which apply uniformly throughout the municipality regulating minimum setback lines and minimum lot sizes which are based upon the availability of water and sewage, in the event the municipality has not enacted a zoning ordinance.

(5) Provisions for encouraging and promoting flexibility, economy and ingenuity in the layout and design of subdivisions and land developments, including provisions authorizing alterations in site requirements and for encouraging other practices which are in accordance with modern and evolving principles of site planning and development.

(6) Provisions for encouraging the use of renewable energy systems and energy-conserving building design.

(7) Provisions for soliciting reviews and reports from adjacent municipalities and other governmental agencies affected by the plans.

(8) Provisions for administering waivers or modifications to the minimum standards of the ordinance in accordance with section 512.1, when the literal compliance with mandatory provisions is shown to the satisfaction of the governing body or planning agency, where applicable, to be unreasonable, to cause undue hardship, or when an alternative standard can be demonstrated to provide equal or better results.

(9) Provisions for the approval of a plat, whether preliminary or final, subject to conditions acceptable to the applicant and a procedure for the applicant's acceptance or rejection of any conditions which may be imposed, including a provision that approval of a plat shall be rescinded automatically upon the applicant's failure to accept or reject such conditions within such time limit as may be established by the governing ordinance.

(10) Provisions and standards for insuring that new developments incorporate adequate provisions for a reliable, safe and adequate water supply to support intended uses within the capacity of available resources.

(11) Provisions requiring the public dedication of land suitable for the use intended; and, upon agreement with the applicant or developer, the construction of recreational facilities, the payment of fees in lieu thereof, the private reservation of the land, or a combination, for park or recreation purposes as a condition precedent to final plan approval, provided that:

(i) The provisions of this paragraph shall not apply to any plan application, whether preliminary or final, pending at the time of enactment of such provisions.

(ii) The ordinance includes definite standards for determining the proportion of a development to be dedicated and the amount of any fee to be paid in lieu thereof.

(iii) The land or fees, or combination thereof, are to be used only for the purpose of providing park or recreational facilities accessible to the development.

(iv) The governing body has a formally adopted recreation plan, and the park and recreational facilities are in accordance with definite principles and standards contained in the subdivision and land development ordinance.

(v) The amount and location of land to be dedicated or the fees to be paid shall bear a reasonable relationship to the use of the park and recreational facilities by future inhabitants of the development or subdivision.

(vi) A fee authorized under this subsection shall, upon its receipt by a municipality, be deposited in an interest-bearing account, clearly identifying the specific recreation facilities for which the fee was received. Interest earned on such accounts shall become funds of that account. Funds from such accounts shall be expended only in properly allocable portions of the cost incurred to construct the specific recreation facilities for which the funds were collected.

(vii) Upon request of any person who paid any fee under this subsection, the municipality shall refund such fee, plus interest accumulated thereon from the date of payment, if the municipality had failed to utilize the fee paid for the purposes set forth in this section within three years from the date such fee was paid.

(viii) No municipality shall have the power to require the construction of recreational facilities or the dedication of land, or fees in lieu thereof, or private reservation except as may be provided by statute.

Section 503.1. Water Supply. Every ordinance adopted pursuant to this article shall include a provision that, if water is to be provided by means other than by private wells owned and maintained by the individual owners of lots within the subdivision or development, applicants shall present evidence to the governing body or planning agency, as the case may be, that the subdivision or development is to be supplied by a certificated public utility, a bona fide cooperative association of lot owners, or by a municipal corporation, authority or utility. A copy of a Certificate of Public Convenience from the Pennsylvania Public Utility Commission or an application for such certificate, a cooperative agreement or a commitment or agreement to serve the area in question, whichever is appropriate, shall be acceptable evidence.

Section 504. Enactment of Subdivision and Land Development Ordinance.

(a) Before voting on the enactment of a proposed subdivision and land development ordinance, the governing body shall hold a public hearing thereon pursuant to public notice. A brief summary setting forth the principal provisions of the proposed ordinance and a reference to the place within the municipality where copies of the proposed ordinance may be secured or examined shall be incorporated in the public notice. Unless the proposed subdivision and land development ordinance shall have been prepared by the planning agency, the governing body shall submit the ordinance to the planning agency at least 45 days prior to the hearing on such ordinance to provide the planning agency an opportunity to submit recommendations. If a county planning agency shall have been created for the county in which the municipality adopting the ordinance is located, then, at least 45 days prior to the public hearing on the ordinance, the municipality shall submit the proposed ordinance to said county planning agency for recommendations.

(b) Within 30 days after adoption, the governing body of a municipality, other than a county, shall forward a certified copy of the subdivision and land development ordinance to the county planning agency or, in counties where no planning agency exists, to the governing body of the county in which the municipality is located.

Section 505. Enactment of Subdivision and Land Development Ordinance Amendment.

(a) Amendments to the subdivision and land development ordinance shall become effective only after a public hearing held pursuant to public notice in the manner prescribed for enactment of a proposed ordinance by this article. In addition, in case of an amendment other than that prepared by the planning agency, the governing body shall submit each such amendment to the planning agency for recommendations at least 30 days prior to the date fixed for the public hearing on such proposed amendment. If a county planning agency shall have been created for the county in which the municipality proposing the amendment is located, then, at least 30 days prior to the hearing on the amendment, the municipality shall submit the proposed amendment to said county planning agency for recommendations.

(b) Within 30 days after adoption, the governing body of a municipality, other than a county, shall forward a certified copy of any amendment to the subdivision and land development ordinance to the county planning agency or, in counties where no planning agency exists, to the governing body of the county in which the municipality is located.

Section 506. Publication, Advertisement and Availability of Ordinance.

(a) Proposed subdivision and land development ordinances and amendments shall not be enacted unless notice of proposed enactment is given in the manner set forth in this section, and shall include the time and place of the meeting at which passage will be considered, a reference to a place within the municipality where copies of the proposed ordinance or amendment may be examined without charge or obtained for a charge not greater than the cost thereof. The governing body shall publish the proposed ordinance or amendment once in one newspaper of general circulation in the municipality not more than 60 days nor less than seven days prior to passage. Publication of the proposed ordinance or amendment shall include either the full text thereof or the title and a brief summary, prepared by the municipal solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:

(1) A copy thereof shall be supplied to a newspaper of general circulation in the municipality at the time the public notice is published.

(2) An attested copy of the proposed ordinance shall be filed in the county law library or other county office designated by the county commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing said ordinances.

(b) In the event substantial amendments are made in the proposed ordinance or amendment, before voting upon enactment, the governing body shall, at least ten days prior to enactment, readvertise, in one newspaper of general circulation in the municipality, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.

(c) Subdivision and land development ordinances and amendments may be incorporated into official ordinance books by reference with the same force and effect as if duly recorded therein.

Section 507. Effect of Subdivision and Land Development Ordinance. Where a subdivision and land development ordinance has been enacted by a municipality under the authority of this article no subdivision or land development of any lot, tract or parcel of land shall be made, no street, sanitary sewer, storm sewer, water main or other improvements in connection therewith shall be laid out, constructed, opened or dedicated for public use or travel, or for the common use of occupants of buildings abutting thereon, except in accordance with the provisions of such ordinance.

Section 508. Approval of Plats. All applications for approval of a plat (other than those governed by Article VII), whether preliminary or final, shall be acted upon by the governing body or the planning agency within such time limits as may be fixed in the subdivision and land development ordinance but the governing body or the planning agency shall render its decision and communicate it to the applicant not later than 90 days following the date of the regular meeting of the governing body or the planning agency (whichever first reviews the application) next following the date the application is filed, or after a final order of the court remanding an application, provided that should the said next regular meeting occur more than 30 days following the filing of the application, or the final order of the court, the said 90-day period shall be measured from the 30th day following the day the application has been filed.

(1) The decision of the governing body or the planning agency shall be in writing and shall be communicated to the applicant personally or mailed to him at his last known address not later than 15 days following the decision.

(2) When the application is not approved in terms as filed the decision shall specify the defects found in the application and describe the requirements which have not been met and shall, in each case, cite to the provisions of the statute or ordinance relied upon.

(3) Failure of the governing body or agency to render a decision and communicate it to the applicant within the time and in the manner required herein shall be deemed an approval of the application in terms as presented unless the applicant has agreed in writing to an extension of time or change in the prescribed manner of presentation of communication of the decision, in which case, failure to meet the extended time or change in manner of presentation of communication shall have like effect.

(4) Changes in the ordinance shall affect plats as follows:

(i) From the time an application for approval of a plat, whether preliminary or final, is duly filed as provided in the subdivision and land development ordinance, and while such application is pending approval or disapproval, no change or amendment of the zoning, subdivision or other governing ordinance or plan shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed. In addition, when a preliminary application has been duly approved, the applicant shall be entitled to final approval in accordance with the terms of the approved preliminary application as hereinafter provided. However, if an application is properly and finally denied, any subsequent application shall be subject to the intervening change in governing regulations.

(ii) When an application for approval of a plat, whether preliminary or final, has been approved without conditions or approved by the applicant's acceptance of conditions, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied to affect adversely the right of the applicant to commence and to complete any aspect of the approved development in accordance with the terms of such approval within five years from such approval. The five-year period shall be extended for the duration of any litigation, including appeals, which prevent the commencement or completion of the development, and for the duration of any sewer or utility moratorium or prohibition which was imposed subsequent to the filing of an application for preliminary approval of a plat. In the event of an appeal filed by any party from the approval or disapproval of a plat, the five-year period shall be extended by the total time from the date the appeal was filed until a final order in such matter has been entered and all appeals have been concluded and any period for filing appeals or requests for reconsideration have expired. Provided, however, no extension shall be based upon any water or sewer moratorium which was in effect as of the date of the filing of a preliminary application.

(iii) Where final approval is preceded by preliminary approval, the aforesaid five-year period shall be counted from the date of the preliminary approval. In the case of any doubt as to the terms of a preliminary approval, the terms shall be construed in the light of the provisions of the governing ordinances or plans as they stood at the time when the application for such approval was duly filed.

(iv) Where the landowner has substantially completed the required improvements as depicted upon the final plat within the aforesaid five-year limit, or any extension thereof as may be granted by the governing body, no change of municipal ordinance or plan enacted subsequent to the date of filing of the preliminary plat shall modify or revoke any aspect of the approved final plat pertaining to zoning classification or density, lot, building, street or utility location.

(v) In the case of a preliminary plat calling for the installation of improvements beyond the five-year period, a schedule shall be filed by the landowner with the preliminary plat delineating all proposed sections as well as deadlines within which applications for final plat approval of each section are intended to be filed. Such schedule shall be updated annually by the applicant on or before the anniversary of the preliminary plat approval, until final plat approval of the final section has been granted and any modification in the aforesaid schedule shall be subject to approval of the governing body in its discretion.

(vi) Each section in any residential subdivision or land development, except for the last section, shall contain a minimum of 25% of the total number of dwelling units as depicted on the preliminary plan, unless a lesser percentage is approved by the governing body in its discretion. Provided the landowner has not defaulted with regard to or violated any of the conditions of the preliminary plat approval, including compliance with landowner's aforesaid schedule of submission of final plats for the various sections, then the aforesaid protections afforded by substantially completing the improvements depicted upon the final plat within five years shall apply and for any section or sections, beyond the initial section, in which the required improvements have not been substantially completed within said five-year period the aforesaid protections shall apply for an additional term or terms of three years from the date of final plat approval for each section.

(vii) Failure of landowner to adhere to the aforesaid schedule of submission of final plats for the various sections shall subject any such section to any and all changes in zoning, subdivision and other governing ordinance enacted by the municipality subsequent to the date of the initial preliminary plan submission.

(5) Before acting on any subdivision plat, the governing body or the planning agency, as the case may be, may hold a public hearing thereon after public notice.

(6) No plat which will require access to a highway under the jurisdiction of the Department of Transportation shall be finally approved unless the plat contains a notice that a highway occupancy permit is required pursuant to section 420 of the act of June 1, 1945 (P.L.1242, No.428), known as the "State Highway Law," before driveway access to a State highway is permitted. The department shall, within sixty days of the date of receipt of an application for a highway occupancy permit,

(i) approve the permit, which shall be valid thereafter unless, prior to commencement of construction thereunder, the geographic, physical or other conditions under which the permit is approved change, requiring modification or denial of the permit, in which event the department shall give notice thereof in accordance with regulations,

(ii) deny the permit,

(iii) return the application for additional information or correction to conform with department regulations or,

(iv) determine that no permit is required in which case the department shall notify the municipality and the applicant in writing. If the department shall fail to take any action within the 60-day period, the permit will be deemed to be issued. The plat shall be marked to indicate that access to the State highway shall be only as authorized by a highway occupancy permit. Neither the department nor any municipality to which permit-issuing authority has been delegated under section 420 of the "State Highway Law" shall be liable in damages for any injury to persons or property arising out of the issuance or denial of a driveway permit, or for failure to regulate any driveway. Furthermore, the municipality from which the building permit approval has been requested shall not be held liable for damages to persons or property arising out of the issuance or denial of a driveway permit by the department.

(7) The municipality may offer a mediation option as an aid in completing proceedings authorized by this section. In exercising such an option, the municipality and mediating parties shall meet the stipulations and follow the procedures set forth in Article IX.

Section 508.1. Notice to School District. Each month a municipality shall notify in writing the superintendent of a school district in which a plan for a residential development was finally approved by the municipality during the preceding month. The notice shall include, but not be limited to, the location of the development, the number and types of units to be included in the development and the expected construction schedule of the development.

Section 509. Completion of Improvements or Guarantee Thereof Prerequisite to Final Plat Approval.

(a) No plat shall be finally approved unless the streets shown on such plat have been improved to a mud-free or otherwise permanently passable condition, or improved as may be required by the sub-division and land development ordinance and any walkways, curbs, gutters, street lights, fire hydrants, shade trees, water mains, sanitary sewers, storm sewers and other improvements as may be required by the subdivision and land development ordinance have been installed in accordance with such ordinance. In lieu of the completion of any improvements required as a condition for the final approval of a plat, including improvements or fees required pursuant to section 509(I), the subdivision and land development ordinance shall provide for the deposit with the municipality of financial security in an amount sufficient to cover the costs of such improvements or common amenities including, but not limited to, roads, storm water detention and/or retention basins and other related drainage facilities, recreational facilities, open space improvements, or buffer or screen plantings which may be required. The applicant shall not be required to provide financial security for the costs of any improvements for which financial security is required by and provided to the Department of Transportation in connection with the issuance of a highway occupancy permit pursuant to section 420 of the act of June 1, 1945 (P.L.1242, No.428) known as the "State Highway Law."

(b) When requested by the developer, in order to facilitate financing, the governing body or the planning agency, if designated, shall furnish the developer with a signed copy of a resolution indicating approval of the final plat contingent upon the developer obtaining a satisfactory financial security. The final plat or record plan shall not be signed nor recorded until the financial improvements agreement is executed. The resolution or letter of contingent approval shall expire and be deemed to be revoked if the financial security agreement is not executed within 90 days unless a written extension is granted by the governing body; such extension shall not be unreasonably withheld and shall be placed in writing at the request of the developer.

(c) Without limitation as to other types of financial security which the municipality may approve, which approval shall not be unreasonably withheld, Federal or Commonwealth chartered lending institution irrevocable letters of credit and restrictive or escrow accounts in such lending institutions shall be deemed acceptable financial security for the purposes of this section.

(d) Such financial security shall be posted with a bonding company or Federal or Commonwealth chartered lending institution chosen by the party posting the financial security, provided said bonding company or lending institution is authorized to conduct such business within the Commonwealth.

(e) Such bond, or other security shall provide for, and secure to the public, the completion of any improvements which may be required on or before the date fixed in the formal action of approval or accompanying agreement for completion of the improvements.

(f) The amount of financial security to be posted for the completion of the required improvements shall be equal to 110% of the cost of completion estimated as of 90 days following the date scheduled for completion by the developer. Annually, the municipality may adjust the amount of the financial security by comparing the actual cost of the improvements which have been completed and the estimated cost for the completion of the remaining improvements as of the expiration of the 90th day after either the original date scheduled for completion or a rescheduled date of completion. Subsequent to said adjustment, the municipality may require the developer to post additional security in order to assure that the financial security equals said 110%. Any additional security shall be posted by the developer in accordance with this subsection.

(g) The amount of financial security required shall be based upon an estimate of the cost of completion of the required improvements, submitted by an applicant or developer and prepared by a professional engineer licensed as such in this Commonwealth and certified by such engineer to be a fair and reasonable estimate of such cost. The municipality, upon the recommendation of the municipal engineer, may refuse to accept such estimate for good cause shown. If the applicant or developer and the municipality are unable to agree upon an estimate, then the estimate shall be recalculated and recertified by another professional engineer licensed as such in this Commonwealth and chosen mutually by the municipality and the applicant or developer. The estimate certified by the third engineer shall be presumed fair and reasonable and shall be the final estimate. In the event that a third engineer is so chosen, fees for the services of said engineer shall be paid equally by the municipality and the applicant or developer.

(h) If the party posting the financial security requires more than one year from the date of posting of the financial security to complete the required improvements, the amount of financial security may be increased by an additional 10% for each one-year period beyond the first anniversary date from posting of financial security or to an amount not exceeding 110% of the cost of completing the required improvements as reestablished on or about the expiration of the preceding one-year period by using the above bidding procedure.

(i) In the case where development is projected over a period of years, the governing body or the planning agency may authorize submission of final plats by section or stages of development subject to such requirements or guarantees as to improvements in future sections or stages of development as it finds essential for the protection of any finally approved section of the development.

(j) As the work of installing the required improvements proceeds, the party posting the financial security may request the governing body to release or authorize the release, from time to time, such portions of the financial security necessary for payment to the contractor or contractors performing the work. Any such requests shall be in writing addressed to the governing body, and the governing body shall have 45 days from receipt of such request within which to allow the municipal engineer to certify, in writing, to the governing body that such portion of the work upon the improvements has been competed in accordance with the approved plat. Upon such certification the governing body shall authorize release by the bonding company or lending institution of an amount as estimated by the municipal engineer fairly representing the value of the improvements completed or, if the governing body fails to act within said 45-day period, the governing body shall be deemed to have approved the release of funds as requested. The governing body may, prior to final release at the time of completion and certification by its engineer, retain of 10% of the original amount of the posted financial security for of the aforesaid improvements.

(k) Where the governing body accepts dedication of all or some of the required improvements following completion, the governing body may require the posting of financial security to secure structural integrity of said dedicated improvements as well as the functioning of said dedicated improvements in accordance with the design and specifications as depicted on the final plat for a term not to exceed 18 months from the date of acceptance of dedication. Said financial security shall be of the same type as otherwise required in this section with regard to installation of such improvements, and the amount of the financial security shall not exceed 15% of the actual cost of installation of said dedicated improvements.

(l) If water mains or sanitary sewer lines, or both, along with apparatus or facilities related thereto, are to be installed under the jurisdiction and pursuant to the rules and regulations of a public utility or municipal authority separate and distinct from the municipality, financial security to assure proper completion and maintenance thereof shall be posted in accordance with the regulations of the controlling public utility or municipal authority and shall not be included within the financial security as otherwise required by this section.

(m) If financial security has been provided in lieu of the completion of improvements required as a condition for the final approval of a plat as set forth in this section, the municipality shall not condition the issuance of building, grading or other permits relating to the erection or placement of improvements, including buildings, upon the lots or land as depicted upon the final plat upon actual completion of the improvements depicted upon the approved final plat. Moreover, if said financial security has been provided, occupancy permits for any building or buildings to be erected shall not be withheld following: the improvement of the streets providing access to and from existing public roads to such building or buildings to a mud-free or otherwise permanently passable condition, as well as the completion of all other improvements as depicted upon the approved plat, either upon the lot or lots or beyond the lot or lots in question if such improvements are necessary for the reasonable use of or occupancy of the building or buildings. Any ordinance or statute inconsistent herewith is hereby expressly repealed.

Section 510. Release from Improvement Bond.

(a) When the developer has completed all of the necessary and appropriate improvements, the developer shall notify the municipal governing body, in writing, by certified or registered mail, of the completion of the aforesaid improvements and shall send a copy thereof to the municipal engineer. The municipal governing body shall, within ten days after receipt of such notice, direct and authorize the municipal engineer to inspect all of the aforesaid improvements. The municipal engineer shall, thereupon, file a report, in writing, with the municipal governing body, and shall promptly mail a copy of the same to the developer by certified or registered mail. The report shall be made and mailed within 30 days after receipt by the municipal engineer of the aforesaid authorization from the governing body; said report shall be detailed and shall indicate approval or rejection of said improvements, either in whole or in part, and if said improvements, or any portion thereof, shall not be approved or shall be rejected by the municipal engineer, said report shall contain a statement of reasons for such nonapproval or rejection.

(b) The municipal governing body shall notify the developer, within 15 days of receipt of the engineer's report, in writing by certified or registered mail of the action of said municipal governing body with relation thereto.

(c) If the municipal governing body or the municipal engineer fails to comply with the time limitation provisions contained herein, all improvements will be deemed to have been approved and the developer shall be released from all liability, pursuant to its performance guaranty bond or other security agreement.

(d) If any portion of the said improvements shall not be approved or shall be rejected by the municipal governing body, the developer shall proceed to complete the same and, upon completion, the same procedure of notification, as outlined herein, shall be followed.

(e) Nothing herein, however, shall be construed in limitation of the developer's right to contest or question by legal proceedings or otherwise, any determination of the municipal governing body or the municipal engineer.

(f) Where herein reference is made to the municipal engineer, he shall be a duly registered professional engineer employed by the municipality or engaged as a consultant thereto.

(g) The municipality may prescribe that the applicant shall reimburse the municipality for the reasonable and necessary expense incurred in connection with the inspection of improvements. The applicant shall not be required to reimburse the governing body for any inspection which is duplicative of inspections conducted by other governmental agencies or public utilities. The burden of proving that any inspection is duplicative shall be upon the objecting applicant. Such reimbursement shall be based upon a schedule established by ordinance or resolution. Such expense shall be reasonable and in accordance with the ordinary and customary fees charged by the municipality's professional consultant for work performed for similar services in the community, but in no event shall the fees exceed the rate or cost charged by the professional consultant to the municipality for comparable services when fees are not reimbursed or otherwise imposed on applicants.

(1) The governing body shall submit to the applicant an itemized bill showing the work performed in connection with the inspection of improvements performed, identifying the person performing the services and the time and date spent for each task. In the event the applicant disputes the amount of any such expense in connection with the inspection of improvements, the applicant shall, no later than 100 days after the date of transmittal of a bill for inspection services, notify the municipality and the municipality's professional consultant that such inspection expenses are disputed as unreasonable or unnecessary and shall explain the basis of their objections to the fees charged, in which case the municipality shall not delay or disapprove a request for release of financial security, a subdivision or land development application or any approval or permit related to development due to the applicant's dispute of inspection expenses. Failure of the applicant to dispute a bill within 100 days shall be a waiver of the applicant's right t arbitration of that bill under this section.

(1.1) Subsequent to the final release of financial security for completion of improvements for a subdivision or land development or any phase thereof, the professional consultant shall submit to the governing body a bill for inspection services, specifically designated as a final bill, which the governing body shall submit to the applicant. The final bill shall include inspection fees incurred through the release of financial security.

(2) If, the professional consultant and the applicant cannot agree on the amount of expenses which are reasonable and necessary, then the applicant shall have the right, within 100 days of the transmittal of the final bill or supplement to the final bill to the applicant, to request the appointment of another professional consultant to serve as an arbitrator. The applicant and professional consultant whose fees are being challenged shall by mutual agreement, appoint another professional consultant to review any bills the applicant has disputed and which remain unresolved and make a determination as to the amount thereof which is reasonable and necessary. The arbitrator shall be of the same profession as the professional consultant whose fees are being challenged.

(3) The arbitrator so appointed shall hear such evidence and review such documentation as the arbitrator in his or her sole opinion deems necessary and shall render a decision no later than 50 days after the date of appointment. Based on the decision of the arbitrator, the applicant or the professional consultant whose fees were challenged shall be required to pay any amounts necessary to implement the decision within 60 days. In the event the municipality has paid the professional consultant an amount in excess of the amount determined to be reasonable and necessary, the professional consultant shall within 60 days reimburse the excess payment

(4) In the event that the municipality's professional consultant and applicant cannot agree upon the arbitrator to be appointed within 20 days of the request for appointment of an arbitrator, then, upon application of either party, the President Judge of the Court of Common Pleas of the judicial district in which the municipality is located (or if at the time there be no President Judge, then the senior active judge then sitting) shall appoint such arbitrator, who, in that case, shall be neither the municipality's professional consultant nor any professional consultant who has been retained by, or performed services for, the municipality or the applicant within the preceding five years.

(5) The fee of the arbitrator shall be paid by the applicant if the disputed fee is upheld by the arbitrator. The fee of the arbitrator shall be paid by the charging party if the disputed fee is $2,500 or greater than the payment decided by the arbitrator. The fee of the arbitrator shall be paid in an equal amount by the applicant and the charging party if the disputed fee is less than $2,500 of the payment decided by the arbitrator.

(6) In the event that the disputed fees have been paid and the arbitrator finds that the disputed fees are unreasonable or excessive by more than $10,000, the arbitrator shall:

(i) award the amount of the fees found to be unreasonable or excessive to the party that paid the disputed fee; and

(ii) impose a surcharge of 4% of the amount found as unreasonable or excessive to be paid to the party that paid the disputed fee.

(7) A municipality or an applicant shall have 100 days after paying a fee to dispute any fee charged as being unreasonable or excessive.

Section 511. Remedies to Effect Completion of Improvements. In the event that any improvements which may be required have not been installed as provided in the subdivision and land development ordinance or in accord with the approved final plat the governing body of the municipality is hereby granted the power to enforce any corporate bond, or other security by appropriate legal and equitable remedies. If proceeds of such bond, or other security are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by said security, the governing body of the municipality may, at its option, install part of such improvements in all or part of the subdivision or land development and may institute appropriate legal or equitable action to recover the moneys necessary to complete the remainder of the improvements. All of the proceeds, whether resulting from the security or from any legal or equitable action brought against the developer, or both, shall be used solely for the installation of the improvements covered by such security, and not for any other municipal purpose.

Section 512.1. Modifications.

(a) The governing body or the planning agency, if authorized to approve applications within the subdivision and land development ordinance, may grant a modification of the requirements of one or more provisions if the literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that such modification will not be contrary to the public interest and that the purpose and intent of the ordinance is observed.

(b) All requests for a modification shall be in writing and shall accompany and be a part of the application for development. The request shall state in full the grounds and facts of unreasonableness or hardship on which the request is based, the provision or provisions of the ordinance involved and the minimum modification necessary.

(c) If approval power is reserved by the governing body, the request for modification may be referred to the planning agency for advisory comments.

(d) The governing body or the planning agency, as the case may be, shall keep a written record of all action on all requests for modifications.

Section 513. Recording Plats and Deeds.

(a) Upon the approval of a final plat, the developer shall within 90 days of such final approval or 90 days after the date of delivery of an approved plat signed by the governing body, following completion of conditions imposed for such approval, whichever is later, record such plat in the office of the recorder of deeds of the county in which the municipality is located. Whenever such plat approval is required by a municipality, the recorder of deeds of the county shall not accept any plat for recording, unless such plat officially notes the approval of the governing body and review by the county planning agency, if one exists.

(b) The recording of the plat shall not constitute grounds for assessment increases until such time as lots are sold or improvements are installed on the land included within the subject plat.

Section 514. Effect of Plat Approval on Official Map. After a plat has been approved and recorded as provided in this article, all streets and public grounds on such plat shall be, and become a part of the official map of the municipality without public hearing.

Section 515. Penalties. (515 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 515.1. Preventive Remedies.

(a) In addition to other remedies, the municipality may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure or premises. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.

(b) A municipality may refuse to issue any permit or grant any approval necessary to further improve or develop any real property which has been developed or which has resulted from a subdivision of real property in violation of any ordinance adopted pursuant to this article. This authority to deny such a permit or approval shall apply to any of the following applicants:

(1) The owner of record at the time of such violation.

(2) The vendee or lessee of the owner of record at the time of such violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.

(3) The current owner of record who acquired the property subsequent to the time of violation without regard as to whether such current owner had actual or constructive knowledge of the violation.

(4) The vendee or lessee of the current owner of record who acquired the property subsequent to the time of violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation. As an additional condition for issuance of a permit or the granting of an approval to any such owner, current owner, vendee or lessee for the development of any such real property, the municipality may require compliance with the conditions that would have been applicable to the property at the time the applicant acquired an interest in such real property.

Section 515.2. Jurisdiction. District justices shall have initial jurisdiction in proceedings brought under section 515.3.

Section 515.3. Enforcement Remedies.

(a) Any person, partnership or corporation who or which has violated the provisions of any subdivision or land development ordinance enacted under this act or prior enabling laws shall, upon being found liable therefor in a civil enforcement proceeding commenced by a municipality, pay a judgment of not more than $500 plus all court costs, including reasonable attorney fees incurred by the municipality as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the municipality may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation.

(b) The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment.

(c) Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the municipality the right to commence any action for enforcement pursuant to this section.

Article V-A - Municipal Capital Improvement

** Compiler's Note: (a)(9) of Act 1996-58, which created the Department of Community and Economic Development and abolished the Department of Community Affairs, provided that housing, community assistance and other functions under Article V-A are transferred from the Department of Community Affairs to the Department of Community and Economic Development.*

(Art. added Dec. 19, 1990, P.L.1343, No.209)

Section 501-A. Purposes. To further the purposes of this act in an era of increasing development and of a corresponding demand for municipal capital improvements, to insure that the cost of needed capital improvements be applied to new developments in a manner that will allocate equitably the cost of those improvements among property owners and to respond to the increasing difficulty which municipalities are experiencing in developing revenue sources to fund new capital infrastructure from the public sector, the following powers are granted to all municipalities, other than counties, which municipalities have adopted either a municipal or county comprehensive plan, subdivision and land development ordinance and zoning ordinance.

Section 502-A. Definitions. The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Adjusted for family size," adjusted in a manner which results in an income eligibility level which is lower for households with fewer than four people, or higher for households with more than four people, than the base income eligibility level determined as provided in the definition of low- to moderate-income persons based upon a formula as established by the rule of the agency.

“Adjusted gross income,” all wages, assets, regular cash or noncash contributions or gifts from persons outside the household, and such other resources and benefits as may be determined to be income by rule of the department, adjusted for family size, less deductions under section 62 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. 62 et seq.).

“Affordable,” with respect to the housing unit to be occupied by low- to moderate-income persons, monthly rents or monthly mortgage payments, including property taxes and insurance, that do not exceed 30% of that amount which represents 100% of the adjusted gross annual income for households within the metropolitan statistical area (MSA) or, if not within the MSA, within the county in which the housing unit is located, divided by 12.

“Agency,” the Pennsylvania Housing Finance Agency as created pursuant to the act of December 3, 1959 (P.L.1688, No.621), known as the “Housing Finance Agency Law.”

* “Department,” the Department of Community and Economic Development of the Commonwealth.

“Existing deficiencies,” existing highways, roads or streets operating at a level of service below the preferred level of service designated by the municipality, as adopted in the transportation capital improvement plan.

“Highways, roads or streets,” any highways, roads or streets identified on the legally adopted municipal street or highway plan or the official map which carry vehicular traffic, together with all necessary appurtenances, including bridges, rights-of-way and traffic control improvements. The term shall not include the interstate highway system.

“Impact fee,” a charge or fee imposed by a municipality against new development in order to generate revenue for funding the costs of transportation capital improvements necessitated by and attributable to new development.

“Low- to moderate-income persons,” one or more natural persons or a family, the total annual adjusted gross household income of which is less than 100% of the median annual adjusted gross income for households in this Commonwealth or is less than 100% of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within the MSA, within the county in which the household is located, whichever is greater.

“New development,” any commercial, industrial or residential or other project which involves new construction, enlargement, reconstruction, redevelopment, relocation or structural alteration and which is expected to generate additional vehicular traffic within the transportation service area of the municipality.

“Offsite improvements,” those public capital improvements which are not onsite improvements and that serve the needs of more than one development.

“Onsite improvements,” all improvements constructed on the applicant’s property, or the improvements constructed on the property abutting the applicant’s property necessary for the ingress or egress to the applicant’s property, and required to be constructed by the applicant pursuant to any municipal ordinance, including, but not limited to, the municipal building code, subdivision and land development ordinance, PRD regulations and zoning ordinance.

“Pass-through trip,” a trip which has both an origin and a destination outside the service area.

“Road improvement,” the construction, enlargement, expansion or improvement of public highways, roads or streets. It shall not include bicycle lanes, bus lanes, busways, pedestrian ways, rail lines or tollways.

"Traffic or transportation engineer or planner," any person who is a registered professional engineer in this Commonwealth or is otherwise qualified by education and experience to perform traffic or transportation planning analyses of the type required in this act and who deals with the planning, geometric design and traffic operations of highways, roads and streets, their networks, terminals and abutting lands and relationships with other modes of transportation for the achievement of convenient, efficient and safe movement of goods and persons.

"Transportation capital improvements," those offsite road improvements that have a life expectancy of three or more years, not including costs for maintenance, operation or repair.

"Transportation service area," a geographically defined portion of the municipality not to exceed seven square miles of area which, pursuant to the comprehensive plan and applicable district zoning regulations, has an aggregation of sites with development potential creating the need for transportation improvements within such area to be funded by impact fees. No area may be included in more than one transportation service area.

Section 503-A. Grant of Power.

(a) The governing body of each municipality other than a county, in accordance with the conditions and procedures set forth in this act, may enact, amend and repeal impact fee ordinances and, thereafter, may establish, at the time of municipal approval of any new development or subdivision, the amount of an impact fee for any of the offsite public transportation capital improvements authorized by this act as a condition precedent to final plat approval under the municipality's subdivision and land development ordinance. Every ordinance adopted pursuant to this act shall include, but not be limited to, provisions for the following:

(1) The conditions and standards for the determination and imposition of impact fees consistent with the provisions of this act.

(2) The agency, body or office within the municipality which shall administer the collection, disbursement and accounting of impact fees.

(3) The time, method and procedure for the payment of impact fees.

(4) The procedure for issuance of any credit against or reimbursement of impact fees which an applicant may be entitled to receive consistent with the provisions of this act.

(5) Exemptions or credits which the municipality may choose to adopt. In this regard the municipality shall have the power to:

  (i) Provide a credit of up to 100% of the applicable impact fees for all new development and growth which constitutes affordable housing to low- and moderate-income persons.

  (ii) Provide a credit of up to 100% of the applicable impact fees for growth which are determined by the municipality to serve an overriding public interest.

  (iii) Exempt de minimus applications from impact fee requirements. If such a policy is adopted, the definition of de minimus shall be contained in the ordinance.

(b) No municipality shall have the power to require as a condition for approval of a land development or subdivision application the construction, dedication or payment of any offsite improvements or capital expenditures of any nature whatsoever or impose any contribution in lieu thereof, exaction fee, or any connection, tapping or similar fee except as may be specifically authorized under this act.

(c) No municipality may levy an impact fee prior to the enactment of a municipal impact fee ordinance adopted in accordance with the procedures set forth in this act, except as may be specifically authorized by the provisions of this act. A transportation impact fee shall be imposed by a municipality within a service area or areas only where such fees have been determined and imposed pursuant to the standards, provisions and procedures set forth herein.

(d) Impact fees may be used for those costs incurred for improvements designated in the transportation capital improvement program which are attributable to new development, including the acquisition of land and rights-of-way; engineering, legal and planning costs; and all other costs which are directly related to road improvements within the service area or areas, including debt service. Impact fees shall not be imposed or used for costs associated with any of the following:

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

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

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

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

(5) Preparing and developing the land use assumptions, roadway sufficiency analysis and transportation capital improvement plan, except that impact fees may be used for no more than a proportionate amount of the cost of professional consultants incurred in preparing a roadway sufficiency analysis of infrastructure within a specified transportation service area, such allowable proportion to be calculated by dividing the total costs of all road improvements in the adopted transportation capital improvement program within the transportation service area attributable to projected future development within the service area, as defined in section 504-A(e)(1)(iii), by the total costs of all road improvements in the adopted transportation capital improvement program within the specific transportation service area, as defined in section 504-A.

(e) Nothing in this act shall be deemed to alter or affect a municipality's existing power to require an applicant for municipal approval of any new development or subdivision from paying for the installation of onsite improvements as provided for in a municipality's subdivision and land development ordinance as authorized by this act.

(f) No municipality may delay or deny any application for building permit, certificate-of-occupancy, development or any other approval or permit required for construction, land development, subdivision or occupancy for the reason that any project of an approved capital improvement program has not been completed.

(g) A municipality which has enacted an impact fee ordinance on or before June 1, 1990, may for a period not to exceed one year from the effective date of this article, adopt an impact fee ordinance to conform with the standards and procedures set forth in this article. Where a fee previously imposed pursuant to an ordinance in effect on June 1, 1990, for transportation improvements authorized by this article is greater than the recalculated fee due under the newly adopted ordinance, the individual who paid the fee is entitled to a refund of the difference. If the recalculated fee is greater than the previously paid fee, there shall be no additional charge.

(h) The powers provided by this section may be exercised by two or more municipalities, other than counties, which have adopted a joint municipal comprehensive plan pursuant to Article XI through a joint authority, subject to the conditions and procedures set forth in this article.

Section 504-A. Transportation Capital Improvements Plan.

(a) A transportation capital improvements plan shall be prepared and adopted by the governing body of the municipality prior to the enactment of any impact fee ordinance. The municipality shall provide qualified

professionals to assist the transportation impact fee advisory committee or the planning commission in the preparation of the transportation capital improvements plan and calculation of the impact fees to be imposed to implement the plan in accordance with the procedures, provisions and standards set forth in this act.

(b)(1) An impact fee advisory committee shall be created by resolution of a municipality intending to adopt a transportation impact fee ordinance. The resolution shall describe the geographical area or areas of the municipality for which the advisory committee shall develop the land use assumptions and conduct the roadway sufficiency analysis studies.

(2) The advisory committee shall consist of no fewer than 7 nor more than 15 members, all of whom shall serve without compensation. The governing body of the municipality shall appoint as members of the advisory committee persons who are either residents of the municipality or conduct business within the municipality and are not employees or officials of the municipality. Not less than 40% of the members of the advisory committee shall be representatives of the real estate, commercial and residential development, and building industries. The municipality may also appoint traffic or transportation engineers or planners to serve on the advisory committee provided the appointment is made after consultation with the advisory committee members. The traffic or transportation engineers or planners appointed to the advisory committee may not be employed by the municipality for the development of or consultation on the roadways sufficiency analysis which may lead to the adoption of the transportation capital improvements plan.

(3) (The governing body of the municipality may elect to designate the municipal planning commission appointed pursuant to Article II as the impact fee advisory committee. If the existing planning commission does not include members representative of the real estate, commercial and residential development, and building industries at no less than 40% of the membership, the governing body of the municipality shall appoint the sufficient number of representatives of the aforementioned industries who reside in the municipality or conduct business within the municipality to serve as ad hoc voting members of the planning commission whenever such commission functions as the impact fee advisory committee.

(4) No impact fee ordinance may be invalidated as a result of any legal action challenging the composition of the advisory committee which is not brought within 90 days following the first public meeting of said advisory committee.

(5) The advisory committee shall serve in an advisory capacity and shall have the following duties:

(i) To make recommendations with respect to land use assumptions, the development of comprehensive road improvements and impact fees.

(ii) To make recommendations to approve, disapprove or modify a capital improvement program by preparing a written report containing these recommendations to the municipality.

(iii) To monitor and evaluate the implementation of a capital improvement program and the assessment of impact fees, and report annually to the municipality with respect to the same.

(iv) To advise the municipality of the need to revise or update the land use assumptions, capital improvement program or impact fees.

(c)(1) As a prerequisite to the development of the transportation capital improvements plan, the advisory committee shall develop land use assumptions for the determination of future growth and development within the designated area or areas as described by the municipal resolution and recommend its findings to the governing body. Prior to the issuance and presentation of a written report to the municipality on the recommendations for proposed land use assumptions upon which to base the development of the transportation capital improvements plan, the advisory committee shall conduct a public hearing, following the providing of proper notice in accordance with section 107, for the consideration of the land use assumption proposals.

Following receipt of the advisory committee report, which shall include the findings of the public hearing, the governing body of the municipality shall by resolution approve, disapprove or modify the land use assumptions recommended by the advisory committee.

(2) The land use assumptions report shall:

(i) Describe the existing land uses within the designated area or areas and the highways, roads or streets incorporated therein.

(ii) To the extent possible, reflect projected changes in land uses, densities of residential development, intensities of nonresidential development and population growth rates which may affect the level of traffic within the designated area or areas over a period of at least the next five years. These projections shall be based on an analysis of population growth rates during the prior five-year period, current zoning regulations, approved subdivision and land developments, and the future land use plan contained in the adopted municipal comprehensive plan. It may also refer to all professionally produced studies and reports pertaining to the municipality regarding such items as demographics, parks and recreation, economic development and any other study deemed appropriate by the municipality.

(3) If the municipality is located in a county which has created a county planning agency, the advisory committee shall forward a copy of their proposed land use assumptions to the county planning agency for its comments at least 30 days prior to the public hearing. At the same time, the advisory committee shall also forward copies of the proposed assumptions to all contiguous municipalities and to the local school district for their review and comments.

(d) (1) Upon adoption of the land use assumptions by the municipality, the advisory committee shall prepare, or cause to be prepared, a roadway sufficiency analysis which shall establish the existing level of infrastructure sufficiency and preferred levels of service within any designated area or areas of the municipality as described by the resolution adopted pursuant to the creation of the advisory committee. The roadway sufficiency analysis shall be prepared for any highway, road or street within the designated area or areas on which the need for road improvements attributable to projected future new development is anticipated. The municipality shall commission a traffic or transportation engineer or planner to assist the advisory committee in the preparation of the roadway sufficiency analysis. Municipalities may jointly commission such engineer or planner to assist in the preparation of multiple municipality roadway sufficiency analyses. In preparing the roadway sufficiency analysis report, the engineer may consider and refer to previously produced professional studies and reports relevant to the production of the roadway sufficiency analysis as required by the section. It shall be deemed that the roads, streets and highways not on the roadway sufficiency analysis report are not impacted by future development. The roadway sufficiency analysis shall include the following components:

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

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

(A) The level of service shall be one of the categories of road service as defined by the Transportation Research Board of the National Academy of Sciences or the Institute of Transportation Engineers. The municipality may choose to select a level of service on a transportation service area basis as the preferred level of service. The preferred levels of service shall be designated by the governing body of the municipality following determination of the existing level of service as established by the roadway sufficiency analysis. If the preferred level of service is designated as greater than the existing level of service, the municipality shall be required to identify road improvements needed to correct the existing deficiencies.

(c) The costs of providing necessary road improvements or portions thereof attributable to projected future development as specified in subparagraph (iii); provided that no more than 50% of the cost of the improvements to any highway, road or street which qualifies as a State Highway or portion of the rural State Highway System as provided in section 102 of the act of June 1, 1945 (P.L.1242, No. 428), known as the "State Highway Law" may be included.

(v) A projected timetable and proposed budget for constructing each road improvement contained in the plan.

(vi) The proposed source of funding for each capital improvement included in the road plan. This shall include anticipated revenue from the Federal Government, State government, municipality, impact fees and any other source. The estimated revenue for each capital improvement in the plan which is to be provided by impact fees shall be identified separately for each project.

(2) The source of funding required for projects to remedy existing deficiencies as set forth in paragraph (1)(I) and the road improvements attributable to forecasted pass-through traffic as set forth in paragraph (1)(ii) shall be exclusive of funds generated from the assessment of impact fees.

(3) Upon the completion of the transportation capital improvements plan and prior to its adoption by the governing body of the municipality and the enactment of a municipal impact fee ordinance, the advisory committee shall hold at least one public hearing for consideration of the plan. Notification of the public hearing shall comply with the requirement of section 107. The plan shall be available for public inspection at least ten working days prior to the date of the public hearing. After presentation of the recommendation by the advisory committee or its representatives at a public meeting of the governing body, the governing body may make such changes to the plan prior to its adoption as the governing body deems appropriate following review of the public comments made at the public hearing.

(4) The governing body may periodically, but no more frequently than annually, request the impact fee advisory committee to review the capital improvements plan and impact fee charges and make recommendations for revisions for subsequent consideration and adoption by the governing body based only on the following:

(i) New subsequent development which has occurred in the municipality.

(ii) Capital improvements contained in the capital improvements plan, the construction of which has been completed.

(iii) Unavoidable delays beyond the responsibility or control of the municipality in the construction of capital improvements contained in the plan.

(iv) Significant changes in the land use assumptions.

(v) Changes in the estimated costs of the proposed transportation capital improvements, which may be recalculated by applying the construction cost index as published in the American City/County Magazine or the Engineering News Record.

(vi) Significant changes in the projected revenue from all sources listed needed for the construction of the transportation capital improvements.

(f) Any improvements to Federal-aid or State highways to be funded in part by impact fees shall require the approval of the Department of Transportation and, if necessary, the United States Department of Transportation. Nothing in this act shall be deemed to alter or diminish the powers, duties or jurisdiction of the Department of Transportation with respect to State highways or the rural State highway system.

(g) Two or more municipalities may, upon agreement, appoint a joint impact fee advisory committee which may develop roadway sufficiency analyses and transportation capital improvements plans for the participating municipalities. The members of the advisory committee must be either residents of or conduct business within one of the participating municipalities.

Section 505-A. Establishment and Administration of Impact Fees.

(a) (1) The impact fee for transportation capital improvements shall be based upon the total costs of the road improvements included in the adopted capital improvement plan within a given transportation service area attributable to and necessitated by new development within the service area as calculated pursuant to section 504-A(e)(1)(iv)(c), divided by the number of anticipated peak hour trips generated by all new development consistent with the adopted land use assumptions and calculated in accordance with the Trip Generation Manual published by the Institute of Transportation Engineers, fourth or subsequent edition as adopted by the municipality by ordinance or resolution to equal a per trip cost for transportation improvements within the service area.

(2) The specific impact fee for a specific new development or subdivision within the service area for road improvements shall be determined as of the date of preliminary land development or subdivision approval by multiplying the per trip cost established for the service area as determined in section 503-A(a) by the estimated number of peak-hour trips to be generated by the new development or subdivision using generally accepted traffic engineering standards.

(3) A municipality may authorize or require the preparation of a special transportation study in order to determine traffic generation or circulation for a new nonresidential development to assist in the determination of the amount of the transportation fee for such development or subdivision. The municipality shall set forth by ordinance the circumstances in which such a study should be authorized or required, provided however, that no special transportation study shall be required when there is no deviation from the land use assumptions resulting in increased density, intensity or trip generation by a particular development. A developer or municipality may, however, at any time, voluntarily prepare and submit a traffic study for a proposed development or may have such a study prepared at its expense after the development is completed to include actual trips generated by the development for use in any appeal as provided for under this act. The special transportation study shall be prepared by a qualified traffic or transportation engineer using procedures and methods established by the municipality based on generally accepted transportation planning and engineering standards. The study, where required by the municipality, shall be submitted prior to the imposition of an impact fee and shall be taken into consideration by the municipality in increasing or reducing the amount of the impact fee for the new development for the amount shown on the impact fee schedule adopted by the municipality.

(b) The governing body shall enact an impact ordinance setting forth a description of the boundaries and a fee schedule for each transportation service area. At least ten working days prior to the adoption of the ordinance at a public meeting, the ordinance shall be available for public inspection. The impact fee ordinance shall include, but not be limited to, those provisions set forth in section 503-A(a) and conform with the standards, provisions and procedures set forth in this act.

(c) (1) A municipality may give notice of its intention to adopt an impact fee ordinance by publishing a statement of such intention twice in one newspaper of general circulation in the municipality. The first publication shall not occur before the adoption of the resolution by which the municipality establishes its impact fee advisory committee. The second publication shall occur not less than one nor more than three weeks thereafter.

(2) A municipal impact fee ordinance adopted under and pursuant to this act may provide that the provisions of the ordinance may have retroactive application, for a period not to exceed 18 months after the adoption of the resolution creating an impact fee advisory committee pursuant to section 504-A (b)(1), to preliminary or tentative applications for land development, subdivision or PRD. with the municipality on or after the first publication of the municipality's intention to adopt an impact fee ordinance; provided, however, that the impact fee imposed on building permits for construction of new development approved pursuant to such applications filed during the period of pendancy shall not

exceed $1,000 per anticipated peak hour trip as calculated in accordance with the generally accepted traffic engineering standards as set forth under the provisions of subsection (a)(1) or the subsequently adopted fee established by the ordinance, whichever is less.

(3) No action upon an application for land development, subdivision or PRD. shall be postponed, delayed or extended by the municipality because adoption of a municipal impact fee ordinance is being considered. Furthermore, the adoption of an impact fee ordinance more than 18 months after adoption of a resolution creating the impact fee advisory committee shall not be retroactive or applicable to plats submitted for preliminary or tentative approval prior to the legal publication of the proposed impact fee ordinance and any fees collected pursuant to this subsection shall be refunded to the payor of such fees; provided the adoption of the impact fee ordinance was not delayed due to the initiation of any litigation challenging the adoption of such ordinance.

(d) Any impact fees collected by a municipality pursuant to a municipal ordinance shall be deposited by the municipality into an interest-bearing fund account designated solely for impact fees, clearly identifying the transportation service area from which the fee was received. Funds collected in one transportation service area must be accounted for and expended within that transportation service area, and such funds shall only be expended for that portion of the transportation capital improvements identified as being funded by impact fees under the transportation capital improvements plan. Notwithstanding any other provisions of this act, municipalities may expend impact fees paid by an applicant on projects not contained in the adopted transportation capital improvement plan, or may provide credit against impact fees for the value of any construction projects not contained in the transportation capital improvement plan which are performed at the applicant's expense, if all of the following criteria are met:

(1) The applicant has provided written consent to use of its collected impact fees, or the provision of such credit against the applicant's impact fees, for specific transportation projects which are not included in the transportation capital improvement plan.

(2) The alternative transportation projects, whether highway or multimodal, have as their purpose the reduction of traffic congestion or the removal of vehicle trips from the roadway network.

(3) The municipality amends its transportation capital improvement plan components required by section 504-A(e)(1)(vi) to provide replacement of the collected impact fees transferred to transportation projects outside the approved transportation capital improvement plan from sources other than impact fees or developer contributions within three years of completion of the alternative projects to which the transferred fees were applied or for which credit was provided. All interest earned on such funds shall become funds of that account. The municipality shall provide that an accounting be made annually for any fund account containing impact fee proceeds and earned interest. Such accounting shall include, but not be limited to, the total funds collected, the source of the funds collected, the total amount of interest accruing on such funds and the amount of funds expended on specific transportation improvements. Notice of the availability of the results of the accounting shall be included and published as part of the annual audit required of municipalities. A copy of the report shall also be provided to the advisory committee.

(e) All transportation impact fees imposed under the terms of this act shall be payable at the time of the issuance of building permits for the applicable new development or subdivision. The municipality may not require the applicant to provide a guarantee of financial security for the payment of any transportation impact fees, except the municipality may provide for the deposit with the municipality of financial security in an amount sufficient to cover the cost of the construction of any road improvement contained in the transportation capital improvement plan which is performed by the applicant.

(f) An applicant shall be entitled to a credit against the impact fee in the amount of the fair market value of any land dedicated by the applicant to the municipality for future right-of-way, realignment or widening of any existing roadways or for the value of any construction of road improvements contained in the transportation capital improvement program which is performed at the applicant's expense. The amount of such credit for any capital improvement constructed shall be the amount allocated in the capital improvement program, including contingency factors, for such work. The fair market value of any and dedicated by the applicant shall be determined as of the date of the submission of the land development or subdivision application to the municipality.

(g) Impact fees previously collected by a municipality shall be refunded, together with earned accrued interest thereon, to the payor of such fees from the date of payment under any of the following circumstances:

(1) In the event that a municipality terminates or completes an adopted capital improvements plan for a transportation service area and there remains at the time of termination or completion undispersed funds in the accounts established for that purpose, the municipality shall provide written notice by certified mail to those persons who previously paid the fees which remain undispersed of the availability of said funds for refund of the person's proportionate share of the fund balance. The allocation of the refund shall be determined by generally accepted accounting practices. In the event that any of the funds remain unclaimed following one year after the notice, which notice shall be provided to the last known address provided by the payor of the fees to the municipality, the municipality shall be authorized to transfer any funds so remaining to any other fund in the municipality without any further obligation to refund said funds.

(2) If the municipality fails to commence construction of any transportation service area road improvements within three years of the scheduled construction date set forth in the transportation capital improvements plan, any person who paid any impact fees pursuant to that transportation capital improvements plan shall, upon written request to the municipality, receive a refund of that portion of the fee attributable to the contribution for the uncommenced road improvement, plus the interest accumulated thereon from the date of payment.

(3) If, upon completion of any road improvements project, the actual expenditures of the capital project are less than 95% of the costs properly allocable to the fee paid within the transportation service area in which the completed road improvement was adopted, the municipality shall refund the pro rata difference between the budgeted costs and the actual expenditures, including interest accumulated thereon from the date of payment, to the person or persons who paid the impact fees for such improvements.

(4) If the new development for which transportation impact fees were paid is not commenced prior to the expiration of building permits issued for the new development within the time limits established by applicable building codes within the municipality or if the building permit as issued for the new development is altered and the alteration results in a decrease in the amount of the impact fee due in accordance with the calculations set forth in subsection (a)(1).

(h) Where an impact fee ordinance has been adopted pursuant to the other provisions of this act, the ordinance may impose an additional impact fee upon new developments which generate 1,000 or more new peak-hour trips, net of pass-by trips as defined by the current edition of the institute of transportation engineers trip generation manual, during the peak-hour period designated in the ordinance. In such case, the impact fee ordinance adopted under this act may require the applicant for such a development to perform a traffic analysis of development traffic impact on highways, roads or streets outside the transportation service area in which the development site is located but within the boundaries of the municipality or municipalities adopting a joint municipal impact fee ordinance or municipalities which are participating in a joint municipal authority authorized to impose impact fees by this article. Any such highways, roads or streets or parts thereof outside the transportation service area which will accommodate 10% or more of development traffic and 100 or more new peak-hour trips may be required to be studied, and the ordinance may require the applicant to mitigate the traffic impacts of the development on such highways, roads and streets to maintain the predevelopment conditions after completion of the development.

Section 506-A. Appeals.

(a) Any person required to pay an impact fee shall have the right to contest the land use assumptions, the development and implementation of the transportation capital improvement program, the imposition of impact fees, the periodic updating of the transportation capital improvement program, the refund of impact fees and all other matters relating to impact fees, including the constitutionality or validity of the impact fee ordinance by filing an appeal with the court of common pleas.

(b) A master may be appointed by the court to hear testimony on the issues and return the record and a transcript of the testimony, together with a report and recommendations, or the court may appoint a master to hold a nonrecord hearing and to make recommendations and return the same to the court, in which case either party may demand a hearing de novo before the court.

(c) Any cost incurred by parties in such an appeal shall be the separate responsibility of the parties.

Section 507-A. Prerequisites for Assessing Sewer and Water Tap-in Fees.

(a) No municipality may charge any tap-in connection or other similar fee as a condition of connection to a municipally owned sewer or water system unless such fee is calculated as provided in the applicable provisions of the act of May 2, 1945, (P.L.382, No.164), known as the "Municipality Authorities Act of 1945."

(b) Where a municipally owned water or sewer system is to be extended at the expense of the owner or owners of properties or where the municipality otherwise would construct the connection end or customer facilities services (other than water meter installation), the property owner or owners shall have the right to construct such extension or make such connection and install such customer facilities himself or themselves or through a subcontractor in accordance with the "Municipality Authorities Act of 1945."

(c) Where a property owner or owners construct or cause to be constructed any addition, expansion or extension to or of a sewer or water system of a municipality whereby such addition, expansion or extension provides future excess capacity to accommodate future development upon the lands of others, the municipality shall provide for the reimbursement to the property owner or owners in accordance with the provisions of the "Municipality Authorities Act of 1945."

Section 508-A. Joint Municipal Impact Fee Ordinance.

(a) For the purpose of permitting municipalities which cooperatively plan for their future to also provide for transportation capital improvements in a cooperative manner, the governing bodies of each municipality which has adopted a joint municipal comprehensive plan pursuant to Article XI, in accordance with the conditions and procedures set forth in this article, may cooperate with one or more municipalities to enact, amend and repeal joint transportation impact fee ordinances to accomplish the purposes of this act in accordance with this article.

(b) The procedures set forth in this article shall be applicable to the enactment of a joint municipal impact fee ordinance.

(c) Each municipality party to a joint municipal impact fee ordinance shall approve the advisory committee and shall adopt the land use assumptions, roadway sufficiency analysis, capital improvement plan, and ordinances and amendments thereto in accordance with the procedures in this article, and no such ordinance shall become effective until it has been properly adopted by all the participating municipalities.

Article VI - Zoning

Section 601. General Powers. The governing body of each municipality, in accordance with the conditions and procedures set forth in this act, may enact, amend and repeal zoning ordinances to implement comprehensive plans and to accomplish any of the purposes of this act.

Section 602. County Powers. The powers of the governing bodies of counties to enact, amend and repeal zoning ordinances shall be limited to land in those municipalities, wholly or partly within the county, which have no zoning ordinance in effect at the time a zoning ordinance is introduced before the governing body of the county and until the municipality's zoning ordinance is in effect. The enactment of a zoning ordinance by any municipality, other than the county, whose land is subject to county zoning shall act as a repeal protanto of the county zoning ordinance within the municipality adopting such ordinance.

Section 602.1. County Review; Dispute Resolution. The county planning commission shall offer a mediation option to any municipality which believes that its citizens will experience harm as the result of the adoption of a zoning ordinance or an amendment to an existing zoning ordinance in contiguous municipalities, if the contiguous municipalities agree. In exercising such an option, the municipalities shall comply with the procedures set forth in Article IX. The cost of the mediation shall be shared equally by the parties, unless otherwise agreed.

Section 603. Ordinance Provisions.

(a) Zoning ordinances should reflect the policy goals of the statement of community development objectives required in section 606, and give consideration to the character of the municipality, the needs of the citizens and the suitabilities and special nature of particular parts of the municipality.

(b) Zoning ordinances, except to the extent that those regulations of mineral extraction by local ordinances and enactments have heretofore been superseded and preempted by the act of May 31, 1945 (P.L.1198, No.418), known as the "Surface Mining Conservation and Reclamation Act," the act of December 19, 1984 (P.L.1093, No.219), known as the "Noncoal Surface Mining Conservation and Reclamation Act," and the act of December 19, 1984 (P.L.1140, No.223), known as the "Oil and Gas Act," and to the extent that the subsidence impacts of coal extraction are regulated by the act of April 27, 1966 (1ST Sp.Sess,. P.L.31, No.1), known as "The Bituminous Mine Subsidence and Land Conservation Act," and that regulation of activities related to commercial agricultural production would exceed the requirements imposed under the act of May 20, 1993 (P.L.12, No.6), known as the "Nutrient Management Act," regardless of whether any agricultural operation within the area to be affected by the ordinance would be a concentrated animal operation as defined by the "Nutrient Management Act," the act of June 30, 1981 (P.L.128, No.43), known as the "Agricultural Area Security Law," or the act of June 10, 1982 (P.L.454, No.133), entitled "An Act Protecting Agricultural Operations from Nuisance Suits and Ordinances Under Certain Circumstances," or that regulation of other activities are preempted by other federal or state laws may permit, prohibit, regulate, restrict and determine:

(1) Uses of land, watercourses and other bodies of water.

(2) Size, height, bulk, location, erection, construction, repair, maintenance, alteration, razing, removal and use of structures.

(3) Areas and dimensions of land and bodies of water to be occupied by uses and structures, as well as areas, courts, yards, and other open spaces and distances to be left unoccupied by uses and structures.

(4) Density of population and intensity of use.

(5) Protection and preservation of natural and historic resources and prime agricultural land and activities.

(c) Zoning ordinances may contain:

(1) provisions for special exceptions and variances administered by the zoning hearing board, which provisions shall be in accordance with this act;

(2) provisions for conditional uses to be allowed or denied by the governing body after recommendations by the planning agency and hearing, pursuant to express standards and criteria set forth in the zoning ordinance. Notice of hearings on conditional uses shall be provided in accordance with section 908(1), and notice of the decision shall be provided in accordance with section 908(10). In allowing a conditional use, the governing body may attach such reasonable conditions and safeguards, other than those related to off-site transportation or road improvements, in addition to those expressed in the ordinance, as it may deem necessary to implement the purposes of this act and the zoning ordinance;

(2.1) ((2.1) deleted by amendment June 22, 2000, P.L.495, No. 68)

(2.2) provisions for regulating transferable development rights, on a voluntary basis, including provisions for the protection of persons acquiring the same, in accordance with express standards and criteria set forth in the ordinance and section 619.1;

(3) provisions for the administration and enforcement of such ordinances;

(4) such other provisions as may be necessary to implement the purposes of this act;

(5) provisions to encourage innovation and to promote flexibility, economy and ingenuity in development, including subdivisions and land developments as defined in this act;

(6) provisions 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; and

(7) provisions to promote and preserve prime agricultural land, environmentally sensitive areas and areas of historic significance.

(c) amended July 4, 2008, P.L.319, No.39)

(d) Zoning ordinances may include provisions regulating the siting, density and design of residential, commercial, industrial and other developments in order to assure the availability of reliable, safe and adequate water supplies to support the intended land uses within the capacity of available water resources.

(e) Zoning ordinances may not unduly restrict the display of religious symbols on property being used for religious purposes.

(f) Zoning ordinances may not unreasonably restrict forestry activities. To encourage maintenance and management of forested or wooded open space and promote the conduct of forestry as a sound and economically viable use of forested land throughout this commonwealth, forestry activities, including, but not limited to, timber harvesting, shall be a permitted use by right in all zoning districts in every municipality.

(g) (1) zoning ordinances shall protect prime agricultural land and may promote the establishment of agricultural security areas.

(2) zoning ordinances shall provide for protection of natural and historic features and resources.

(h) Zoning ordinances shall encourage the continuity, development and viability of agricultural operations. Zoning ordinances may not restrict agricultural operations or changes to or expansions of agricultural operations in geographic areas where agriculture has traditionally been present, unless the agricultural operation will have a direct adverse effect on the public health and safety. Nothing in this subsection shall

require a municipality to adopt a zoning ordinance that violates or exceeds the provisions of the act of May 20, 1993 (P.L.12, No.6), known as the "Nutrient Management Act," the act of June 30, 1981 (P.L.128, No.43), known as the "Agricultural Area Security Law," or the act of June 10, 1982 (P.L.454, No.133), entitled "An Act Protecting Agricultural Operations from Nuisance Suits and Ordinances Under Certain Circumstances."

(i) Zoning ordinances shall provide for the reasonable development of minerals in each municipality.

(j) Zoning ordinances adopted by municipalities shall be generally consistent with the municipal or multimunicipal comprehensive plan or, where none exists, with the municipal statement of community development objectives and the county comprehensive plan. If a municipality amends its zoning ordinance in a manner not generally consistent with its comprehensive plan, it shall concurrently amend its comprehensive plan in accordance with Article III.

(k) A municipality may amend its comprehensive plan at any time, provided that the comprehensive plan remains generally consistent with the county comprehensive plan and compatible with the comprehensive plans of abutting municipalities.

(l) Zoning ordinances shall permit no-impact home-based businesses in all residential zones of the municipality as a use permitted by right, except that such permission shall not supersede any deed restriction, covenant or agreement restricting the use of land, nor any master deed, bylaw or other document applicable to a common interest ownership community.

Section 603.1. Interpretation of Ordinance Provisions. In interpreting the language of zoning ordinances to determine the extent of the restriction upon the use of the property, the language shall be interpreted, where doubt exists as to the intended meaning of the language written and enacted by the governing body, in favor of the property owner and against any implied extension of the restriction.

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

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

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

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

(4) To provide for the use of land within the municipality for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multifamily dwellings in various arrangements, mobile homes and mobile home parks, provided, however, that no zoning ordinance shall be deemed invalid for the failure to provide for any other specific dwelling type.

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

Section 605. Classifications. In any municipality, other than a county, which enacts a zoning ordinance, no part of such municipality shall be left unzoned. The provisions of all zoning ordinances may be classified so that different provisions may be applied to different classes of situations, uses and structures and to such various districts of the municipality as shall be described by a map made part of the zoning ordinance. 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 606. Statement of Community Development Objectives. Zoning ordinances enacted after the effective date of this act should reflect the policy goals of the municipality as listed in a statement of community development objectives, recognizing that circumstances can necessitate the adoption and timely pursuit of new goals and the enactment of new zoning ordinances which may neither require nor allow for the completion of a new comprehensive plan and approval of new community development objectives. This statement may be supplied by reference to the community comprehensive plan or such portions of the community comprehensive plan as may exist and be applicable or may be the statement of community development objectives provided in a statement of legislative findings of the governing body of the municipality with respect to land use; density of population; the need for housing, commerce and industry; the location and function of streets and other community facilities and utilities; the need for preserving agricultural land and protecting natural resources; and any other factors that the municipality believes relevant in describing the purposes and intent of the zoning ordinance.

Section 607. Preparation of Proposed Zoning Ordinance.

(a) The text and map of the proposed zoning ordinance, as well as all necessary studies and surveys preliminary thereto, shall be prepared by the planning agency of each municipality upon request by the governing body.

(b) In preparing a proposed zoning ordinance, the planning agency shall hold at least one public meeting pursuant to public notice and may hold additional public meetings upon such notice as it shall determine to be advisable.

(c) Upon the completion of its work, the planning agency shall present to the governing body the proposed zoning ordinance, together with recommendations and explanatory materials.

(d) The procedure set forth in this section shall be a condition precedent to the validity of a zoning ordinance adopted pursuant to this act.

(e) If a county planning agency shall have been created for the county in which the municipality adopting the ordinance is located, then at least 45 days prior to the public hearing by the local governing body as provided in section 608, the municipality shall submit the proposed ordinance to said county planning agency for recommendations.

Section 608. Enactment of Zoning Ordinance. Before voting on the enactment of a zoning ordinance, the governing body shall hold a public hearing thereon, pursuant to public notice, and pursuant to mailed notice and electronic notice to any owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality who has made a timely request in accordance with section 109. The vote on the enactment by the governing body shall be within 90 days after the last public hearing. Within 30 days after enactment, a copy of the zoning ordinance shall be forwarded to the county planning agency or, in counties where no planning agency exists, to the governing body of the county in which the municipality is located.

Section 608.1. Municipal Authorities and Water Companies.

(a) A municipal authority, water company or any other municipality that plans to expand water, sanitary sewer or storm sewer service via a new main extension to a proposed development that has not received any municipal approvals within the municipality shall notify the municipality by certified mail, return receipt requested, of its intention and shall provide the municipality an opportunity to provide written comment on whether the proposed expansion of service within the municipality is generally consistent with the zoning ordinance.

(b) The purpose of the requirement of this section is to provide the municipal authority, water company or any other municipality with information regarding how its decision to expand service may potentially enhance and support or conflict with or negatively impact on the land use planning of municipalities.

(c) Nothing in this section shall be construed as limiting the right of a municipal authority, water company or any other municipality to expand service as otherwise permitted by law.

(d) Except as provided in section 619.2, nothing in this act shall be construed as limiting the authority of the Pennsylvania Public Utility Commission over the implementation, location, construction and maintenance of public utility facilities. The requirement of this section shall not apply to an expansion of service by a municipal authority, water company or other municipality which is ordered by a court or a federal or state agency.

(e) As used in this section:

(1) A "decision to expand service within the municipality" shall mean a decision to expand the number of its individual service connections for distribution or collection within a municipality as a result of a main extension; but, if the number of individual service connections are not being increased, locating or acquiring transmission lines or interceptors, or wells, reservoirs, aquifers, pump stations, water storage tanks or other facilities by a municipal authority or water company in a new area of a municipality shall not be deemed an expansion of service.

(2) A "water company" shall include any person or corporation, including a municipal corporation operating beyond its corporate limits, which furnishes water to or for the public for compensation.

(f) Nothing in this section shall be construed to authorize a municipality to regulate the allocation or withdrawal of water resources by any person, municipal authority or water company that is otherwise regulated by the Pennsylvania Public Utility Commission or other Federal or state agencies or statutes.

Section 609. Enactment of Zoning Ordinance Amendments.

(a) For the preparation of amendments to zoning ordinances, the procedure set forth in section 607 for the preparation of a proposed zoning ordinance shall be optional.

(b)(1) Before voting on the enactment of an amendment, the governing body shall hold a public hearing thereon, pursuant to public notice, and pursuant to mailed notice and electronic notice to an owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality who has made a timely request in accordance with section 109. In addition, if the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the municipality at points deemed sufficient by the municipality along the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing.

(2)(i) In addition to the requirement that notice be posted under clause (1), where the proposed amendment involves a zoning map change, notice of the public hearing shall be mailed by the municipality at least thirty days prior to the date of the hearing by first class mail to the addresses to which real estate tax bills are sent for all real property located within the area being rezoned, as evidenced by tax records within the possession of the municipality. The notice shall include the location, date and time of the public hearing. A good faith effort and substantial compliance shall satisfy the requirements of this subsection.

(ii) This clause shall not apply when the rezoning constitutes a comprehensive rezoning.

(c) In the case of an amendment other than that prepared by the planning agency, the governing body shall submit each such amendment to the planning agency at least 30 days prior to the hearing on such proposed amendment to provide the planning agency an opportunity to submit recommendations.

(d) If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the governing body shall hold another public hearing, pursuant to public notice, mailed notice and electronic notice, before proceeding to vote on the amendment.

(e) If a county planning agency shall have been created for the county in which the municipality proposing the amendment is located, then at least 30 days prior to the public hearing on the amendment by the local governing body, the municipality shall submit the proposed amendment to the county planning agency for recommendations.

(f) The municipality may offer a mediation option as an aid in completing proceedings authorized by this section. In exercising such an option, the municipality and mediating parties shall meet the stipulations and follow the procedures set forth in Article IX.

(g) Within 30 days after enactment, a copy of the amendment to the zoning ordinance shall be forwarded to the county planning agency or, in counties where no planning agency exists, to the governing body of the county in which the municipality is located.

Section 609.1. Procedure for Landowner Curative Amendments.

(a) A landowner who desires to challenge on substantive grounds the validity of a zoning ordinance or map or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest

may submit a curative amendment to the governing body with a written request that his challenge and proposed amendment be heard and decided as provided in section 916.1. The governing body shall commence a hearing thereon within 60 days of the request as provided in section 916.1. The curative amendment and challenge shall be referred to the planning agency or agencies as provided in section 609 and notice of the hearing thereon shall be given as provided in section 610 and in section 916.1.

(b) The hearing shall be conducted in accordance with section 908 and all references therein to the zoning hearing board shall, for purposes of this section be references to the governing body: provided, however, that the provisions of section 908 (1.2) and (9) shall not apply and the provisions of section 916.1 shall control. If a municipality does not accept a landowner's curative amendment brought in accordance with this subsection and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for the entire zoning ordinance and map, but only for those provisions which specifically relate to the landowner's curative amendment and challenge.

(c) The governing body of a municipality which has determined that a validity challenge has merit may accept a landowner's curative amendment, with or without revision, or may adopt an alternative amendment which will cure the challenged defects. The governing body shall consider the curative amendments, plans and explanatory material submitted by the landowner and shall also consider:

(1) the impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;

(2) if the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the ordinance or map;

(3) the suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features;

(4) the impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and

(5) the impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

Section 609.2. Procedure for Municipal Curative Amendments. If a municipality determines that its zoning ordinance or any portion thereof is substantially invalid, it shall take the following actions:

(1) A municipality shall declare by formal action, its zoning ordinance or portions thereof substantively invalid and propose to prepare a curative amendment to overcome such invalidity. Within 30 days following such declaration and proposal the governing body of the municipality shall:

(i) By resolution make specific findings setting forth the declared invalidity of the zoning ordinance which may include:

(A) references to specific uses which are either not permitted or not permitted in sufficient quantity;

(B) reference to a class of use or uses which require revision; or

(C) reference to the entire ordinance which requires revisions.

(ii) Begin to prepare and consider a curative amendment to the zoning ordinance to correct the declared invalidity.

(2) Within 180 days from the date of the declaration and proposal, the municipality shall enact a curative amendment to validate, or reaffirm the validity of, its zoning ordinance pursuant to the provisions required by section 609 in order to cure the declared invalidity of the zoning ordinance.

(3) Upon the initiation of the procedures, as set forth in clause (1), the governing body shall not be required to entertain or consider any landowner's curative amendment filed under section 609.1 nor shall the zoning hearing board be required to give a report requested under section 909.1 or 916.1 subsequent to the declaration and proposal based upon the grounds identical to or substantially similar to those specified in the resolution required by clause (1)(a). Upon completion of the procedures as set forth in clauses (1) and (2), no rights to a cure pursuant to the provisions of sections 609.1 and 916.1 shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of the unamended zoning ordinance for which there has been a curative amendment pursuant to this section.

(4) A municipality having utilized the procedures as set forth in clauses (1) and (2) may not again utilize said procedure for a 36-month period following the date of the enactment of a curative amendment, or reaffirmation of the validity of its zoning ordinance, pursuant to clause (2); provided, however, if after the date of declaration and proposal there is a substantially new duty or obligation imposed upon the municipality by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, the municipality may utilize the provisions of this section to prepare a curative amendment to its ordinance to fulfill said duty or obligation.

Section 610. Publication, Advertisement and Availability of Ordinances.

(a) Proposed zoning ordinances and amendments shall not be enacted unless notice of proposed enactment is given in the manner set forth in this section, and shall include the time and place of the meeting at which passage will be considered, a reference to a place within the municipality where copies of the proposed ordinance or amendment may be examined without charge or obtained for a charge not greater than the cost thereof. The governing body shall publish the proposed ordinance or amendment once in one newspaper of general circulation in the municipality not more than 60 days nor less than 7 days prior to passage. Publication of the proposed ordinance or amendment shall include either the full text thereof or the title and a brief summary, prepared by the municipal solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:

(1) A copy thereof shall be supplied to a newspaper of general circulation in the municipality at the time the public notice is published.

(2) An attested copy of the proposed ordinance shall be filed in the county law library or other county office designated by the county commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing said ordinances.

(b) In the event substantial amendments are made in the proposed ordinance or amendment, before voting upon enactment, the governing body shall, at least ten days prior to enactment, readvertise, in one newspaper of general circulation in the municipality, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.

(c) Zoning ordinances and amendments may be incorporated into official ordinance books by reference with the same force and effect as if duly recorded therein.

Section 611. Publication After Enactment. (611 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 613. Registration of Nonconforming Uses, Structures and Lots. Zoning ordinances may contain provisions requiring the zoning officer to identify and register nonconforming uses, structures and lots, together with the reasons why the zoning officer identified them as nonconformities.

Section 614. Appointment and Powers of Zoning Officer. For the administration of a zoning ordinance, a zoning officer, who shall not hold any elective office in the municipality, shall be appointed. The zoning officer shall meet qualifications established by the municipality and shall be able to demonstrate to the satisfaction of the municipality a working knowledge of municipal zoning. The zoning officer shall administer the zoning ordinance in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to the zoning ordinance. Zoning officers may be authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of their employment.

Section 615. Zoning Appeals. All appeals from decisions of the zoning officer shall be taken in the manner set forth in this act.

Section 616. Enforcement Penalties. (616 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 616.1. Enforcement Notice.

(a) If it appears to the municipality that a violation of any zoning ordinance enacted under this act or prior enabling laws has occurred, the municipality shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.

(b) The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.

(c) An enforcement notice shall state at least the following:

(1) The name of the owner of record and any other person against whom the municipality intends to take action.

(2) The location of the property in violation.

(3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance.

(4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.

(5) That the recipient of the notice has the right to appeal to the zoning hearing board within a prescribed period of time in accordance with procedures set forth in the ordinance.

(6) That failure to comply with the notice within the time specified, unless extended by appeal to the zoning hearing board, constitutes a violation, with possible sanctions clearly described.

(d) In any appeal of an enforcement notice to the zoning hearing board the municipality shall have the responsibility of presenting its evidence first.

(e) Any filing fees paid by a party to appeal an enforcement notice to the zoning hearing board shall be returned to the appealing party by the municipality if the zoning hearing board, or any court in a subsequent appeal, rules in the appealing party's favor.

Section 617. Causes of Action. 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, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute 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. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the municipality at least 30 days prior to the time the action is begun by serving a copy of the complaint on the governing body of the municipality. No such action may be maintained until such notice has been given.

Section 617.1. Jurisdiction. District justices shall have initial jurisdiction over proceedings brought under section 617.2.

Section 617.2. Enforcement Remedies.

(a) Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of any zoning ordinance enacted under this act or prior enabling laws shall, upon being found liable therefor in a civil enforcement proceeding commenced by a municipality, pay a judgment of not more than $500 plus all court costs, including reasonable attorney fees incurred by a municipality as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the municipality may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of zoning ordinances shall be paid over to the municipality whose ordinance has been violated.

(b) The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.

(c) Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the municipality the right to commence any action for enforcement pursuant to this section.

Section 617.3. Finances and Expenditures.

(a) The governing body may appropriate funds to finance the preparation of zoning ordinances and shall appropriate funds for administration, for enforcement and for actions to support or oppose, upon appeal to the courts, decisions of the zoning hearing board.

(b) The governing body shall make provision in its budget and appropriate funds for the operation of the zoning hearing board.

(c) The zoning hearing board may employ or contract for and fix the compensation of legal counsel, as the need arises. The legal counsel shall be an attorney other than the municipal solicitor. The board may also employ or contract for and fix the compensation of experts and other staff and may contract for services as it shall deem necessary. The compensation of legal counsel, experts and staff and the sums expended for services shall not exceed the amount appropriated by the governing body for this use.

(d) For the same purposes, the governing body may accept gifts and grants of money and services from private sources and from the county, State and Federal Governments.

(e) The governing body may prescribe reasonable fees with respect to the administration of a zoning ordinance and with respect to hearings before the zoning hearing board. Fees for these hearings may include compensation for the secretary and members of the zoning hearing board, notice and advertising costs and

necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the zoning hearing board, expenses for engineering, architectural or other technical consultants or expert witness costs.

Section 618. Finances. (618 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 619. Exemptions. This article shall not apply to any existing or proposed building, or extension thereof, used or to be used by a public utility corporation, if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public. It shall be the responsibility of the Pennsylvania Public Utility Commission to ensure that both the corporation and the municipality in which the building or proposed building is located have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties and otherwise exercise the rights of a party to the proceedings.

Section 619.1. Transferable Development Rights.

(a) To and only to the extent a local ordinance enacted in accordance with this article and Article VII so provides, there is hereby created, as a separate estate in land, the development rights therein, and the same are declared to be severable and separately conveyable from the estate in fee simple to which they are applicable.

(b) The development rights shall be conveyed by a deed duly recorded in the office of the recorder of deeds in and for the county in which the municipality whose ordinance authorizes such conveyance is located.

(c) The recorder of deeds shall not accept for recording any such instrument of conveyance unless there is endorsed thereon the approval of the municipal governing body having zoning or planned residential development jurisdiction over the land within which the development rights are to be conveyed, dated not more than 60 days prior to the recording.

(d) No development rights shall be transferable beyond the boundaries of the municipality wherein the lands from which the development rights arise are situated except that, in the case of a joint municipal zoning ordinance, or a written agreement among two or more municipalities, development rights shall be transferable within the boundaries of the municipalities comprising the joint municipal zoning ordinance or where there is a written agreement, the boundaries of the municipalities who are parties to the agreement.

Section 619.2. Effect of Comprehensive Plans and Zoning Ordinances.

(a) When a county adopts a comprehensive plan in accordance with sections 301 and 302 and any municipalities therein have adopted comprehensive plans and zoning ordinances accordance with sections 301, 303(d) and 603(j), Commonwealth agencies shall consider and may rely upon comprehensive plans and zoning ordinances when reviewing applications for the funding or permitting of infrastructure or facilities.

(b) The Center for Local Government Services shall work with municipalities to coordinate Commonwealth agency program resources with municipal planning and zoning activities. Upon request, the center for local government services shall assist municipalities in identifying and assessing the impact of Commonwealth agency decisions and their effect on municipal and multimunicipal planning and zoning. Upon the authorization of the governor, the center for local government services shall have access to information, services, functions and other resources in the possession of executive agencies under the governor's jurisdiction to fulfill its obligations under this section.

(c) When municipalities adopt a joint municipal zoning ordinance:

(1) Commonwealth agencies shall consider, and may rely upon the joint municipal zoning ordinance for the funding or permitting of infrastructure or facilities.

(2) The municipalities may, by agreement, share tax revenues and fees remitted to municipalities located within the joint municipal zone.

Section 621. Prohibiting the Location of Methadone Treatment Facilities in Certain Locations.

(a) (1) Notwithstanding any other provision of law to the contrary and except as provided in subsection (b), a methadone treatment facility shall not be established or operated within 500 feet of an existing school, public playground, public park, residential housing area, child-care facility, church, meetinghouse or other actual place of regularly stated religious worship established prior to the proposed methadone treatment facility.

(2) The provisions of this subsection shall apply whether or not an occupancy permit or certificate of use has been issued to the owner or operator of a methadone treatment facility for a location that is within 500 feet of an existing school, public playground, public park, residential housing area, child-care facility, church, meetinghouse or other actual place of regularly stated religious worship established prior to the proposed methadone treatment facility.

(b) Notwithstanding subsection (a), a methadone treatment facility may be established and operated closer than 500 feet of an existing school, public playground, public park, residential housing area, child-care facility, church, meetinghouse or other actual place of regularly stated religious worship established prior to the proposed methadone treatment facility if, by majority vote, the governing body for the municipality in which the proposed methadone treatment facility is to be located votes in favor of the issuance of an occupancy permit or certificate of use for said facility at such a location. At least 14 days prior to the governing body of a municipality voting on whether to approve the issuance of an occupancy permit or certificate of use for a methadone treatment facility at a location that is closer than 500 feet of an existing school, public playground, public park, residential housing area, child-care facility, church, meetinghouse or other actual place of regularly stated religious worship established prior to the proposed methadone treatment facility, one or more public hearings regarding the proposed methadone treatment facility location shall be held within the municipality following public notice. All owners of real property located within 500 feet of the proposed location shall be provided written notice of said public hearings at least 30 days prior to said public hearings occurring.

(c) This section shall not apply to a methadone treatment facility that is licensed by the Department of Health prior to May 15, 1999.

(d) As used in this section, the term “methadone treatment facility” shall mean a facility licensed by the Department of Health to use the drug methadone in the treatment, maintenance or detoxification of persons.

Article VII - Planned Residential Development

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, intensity and open space within each zoning district, shall not be applied to the improvement of land by other than lot by lot development in a manner that would distort the objectives of that Article VI; to encourage innovations in residential and nonresidential development and renewal so that the growing demand for housing and other development may be met by greater variety in type, design and layout of dwellings and other buildings and structures and by the conservation and more efficient use of open space ancillary to said dwellings and uses; so that greater opportunities for better housing and recreation may extend to all citizens and residents of this Commonwealth; and in order to encourage a more efficient use of land and of public services and to reflect changes in the technology of land development so that economies secured may enure to the benefit of those who need homes and for other uses; and, in aid of these purposes, to provide a procedure which can relate the type, design and layout of residential and nonresidential development to the particular site and the particular demand for housing existing at the time of development in a manner consistent with the preservation of the property values within existing residential and nonresidential areas, and to insure that the increased flexibility of regulations over land development authorized herein is carried out under such administrative standards and procedures as shall encourage the disposition of proposals for land development without undue delay, the following powers are granted to all municipalities.

Section 702. Grant of Power. The governing body of each municipality may enact, amend and repeal provisions within a zoning ordinance fixing standards and conditions for planned residential development. The enactment of such provisions shall be in accordance with the procedures required for the enactment of an amendment of a zoning ordinance as provided in Article VI of this act. Pursuant to such provisions the governing body may approve, modify or disapprove any development plan within the municipality adopting such provisions or designate the planning agency as its official agency for such purposes. Such provisions shall:

(1) Specify whether the governing body, or the planning agency shall administer planned residential development provisions pursuant to the provisions of this article;

(2) Set forth the standards, conditions and regulations for a planned residential development consistent with the provisions of this article; and

(3) Set forth the procedures pertaining to the application for, hearing on and tentative and final approval of a planned residential development, which shall be consistent with the provisions of this article for such applications and hearings.

Section 702.1. Transferable Development Rights. Municipalities electing to enact planned residential development provisions may also incorporate therein provisions for transferable development rights, on a voluntary basis, in accordance with express standards and criteria set forth in the ordinance and with the requirements of Article VI.

Section 703. Applicability of Comprehensive Plan and Statement of Community Development Objectives. All provisions and all amendments thereto adopted pursuant to this article shall be based on and interpreted in relation to the statement of community development objectives of the zoning ordinance and may be related to either the comprehensive plan for the development of the municipality prepared under the provisions of this act or a statement of legislative findings in accordance with section 606. Every application for approval of a planned residential development either shall be based on and interpreted in relation to the statement of community development objectives, and may be related to the comprehensive plan, or shall be based on and interpreted in relation to the statement of legislative findings.

Section 704. Jurisdiction of County Planning Agencies.

(a) When any county has adopted planned residential development provisions in accordance with the terms of this article, a certified copy of such provisions shall be sent to every municipality within the county. All amendments shall also be sent to the aforementioned municipalities.

(b) The powers of governing bodies of counties to enact, amend and repeal planned residential development provisions shall not supersede any local planned residential development, zoning or subdivision and land development ordinance which is already in effect or subsequently becomes effective in any municipality within such county, provided that a certified copy of such provision is filed with the county planning agency, if one exists. However, all applications for tentative approval of planned residential development of land located within a municipality having adopted planned residential development provisions as set forth in this article shall nevertheless be referred to the county planning agency, if one exists, for study and recommendation and such county planning agency shall be required to report to such municipality within 30 days or forfeit the right to review.

Section 705. Standards and Conditions for Planned Residential Development.

(a) All provisions adopted pursuant to this article shall set forth all the standards, conditions and regulations by which a proposed planned residential development shall be evaluated, and said standards, conditions and regulations shall be consistent with the following subsections.

(b) The provisions adopted pursuant to this article shall set forth the uses permitted in a planned residential development, which uses may include but shall not be limited to:

(1) Dwelling units of any dwelling type or configuration, or any combination thereof.

(2) Those nonresidential uses deemed to be appropriate for incorporation in the design of the planned residential development.

(c) The provisions may establish regulations setting forth the timing of development among the various types of dwellings and may specify whether some or all nonresidential uses are to be built before, after or at the same time as the residential uses.

(d) The provisions adopted pursuant to this article shall establish standards governing the density, or intensity of land use, in a planned residential development. The standards may vary the density or intensity of land use, otherwise applicable to the land under the provisions of a zoning ordinance of the municipality within the planned residential development in consideration of all of the following:

(1) The amount, location and proposed use of common open space.

(2) The location and physical characteristics of the site of the proposed planned residential development.

(3) The location, design, type and use of structures proposed.

(e) In the case of a planned residential development proposed to be developed over a period of years, standards established in provisions adopted pursuant to this article may, to encourage the flexibility of housing density, design and type intended by this article:

(1) (Permit a variation in each section to be developed from the density, or intensity of use, established for the entire planned residential development.

(2) Allow for a greater concentration of density or intensity of land use, within some section or sections of development, whether it be earlier or later in the development than upon others.

(3) Require that the approval of such greater concentration of density or intensity of land use for any section to be developed be offset by a smaller concentration in any completed prior stage or by an appropriate reservation of common open space on the remaining land by a grant of easement or by covenant in favor of the municipality, provided that such reservation shall, as far as practicable, defer the precise location of such common open space until an application for final approval is filed, so that flexibility of development which is a prime objective of this article, can be maintained.

(f) The standards for a planned residential development established by provisions adopted pursuant to this article may require that the common open space resulting from the application of standards for density, or intensity of land use, shall be set aside for the use and benefit of the residents in such development and may include provisions which shall determine the amount and location of said common open space and secure its improvement and maintenance for common open space use, subject, however, to the following:

(1) The municipality may, at any time and from time to time, accept the dedication of land or any interest therein for public use and maintenance, but the municipality need not require, as a condition of the approval of a planned residential development, that land proposed to be set aside for common open space be dedicated or made available to public use. The provisions may require that the landowner provide for and establish an organization for the ownership and maintenance of the common open space, and that such organization shall not be dissolved nor shall it dispose of the common open space, by sale or otherwise (except to an organization conceived and established to own and maintain the common open space), without first offering to dedicate the same to the public.

(2) In the event that the organization established to own and maintain common open space, or any successor organization, shall at any time after establishment of the planned residential development fail to maintain the common open space in reasonable order and condition in accordance with the development plan, the municipality may serve written notice upon such organization or upon the residents of the planned residential development setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be corrected within 30 days thereof, and shall state the date and place of a hearing thereon which shall be held within 14 days of the notice. At such hearing the municipality may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be corrected.

(3) If the deficiencies set forth in the original notice or in the modifications thereof shall not be corrected within said 30 days or any extension thereof, the municipality, in order to preserve the taxable values of the properties within the planned residential development and to prevent the common open space from becoming a public nuisance, may enter upon said common open space and maintain the same for a period of one year. Said maintenance by the municipality shall not constitute a taking of said common open space, nor vest in the public any rights to use the same.

(4) Before the expiration of said year, the municipality shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common open space, call a public hearing upon notice to such organization, or to the residents of the planned residential development, to be held by the governing body or its designated agency, at which hearing such organization or the residents of the planned residential development shall show cause why such maintenance by the municipality shall not, at the option of the municipality, continue for a succeeding year. If the governing body, or its designated agency, shall determine that such organization is ready and able to maintain said common open space in reasonable condition, the municipality shall cease to maintain said common open space at the end of said year. If the governing body or its designated agency shall determine that such organization is not ready and able to maintain said common open space in a reasonable condition, the municipality may, in its discretion, continue to maintain said common open space during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter.

(5) The decision of the governing body or its designated agency shall be subject to appeal to court in the same manner, and within the same time limitation, as is provided for zoning appeals by this act.

(6) The cost of such maintenance by the municipality shall be assessed ratably against the properties within the planned residential development that have a right of enjoyment of the common open space, and shall become a lien on said properties. The municipality at the time of entering upon said common open space for the purpose of maintenance shall file a notice of lien in the office of the prothonotary of the county, upon the properties affected by the lien within the planned residential development.

(g) Provisions adopted pursuant to this article may require that a planned residential development contain a minimum number of dwelling units.

(h) The authority granted a municipality by Article V to establish standards for the location, width, course and surfacing of streets, walkways, curbs, gutters, street lights, shade trees, water, sewage and drainage facilities, easements or rights-of-way for drainage and utilities, reservations of public grounds, other improvements, regulations for the height and setback as they relate to renewable energy systems and energy- conserving building design, regulations for the height and location of vegetation with respect to boundary lines, as they relate to renewable energy systems and energy-conserving building design, regulations for the type and location of renewable energy systems or their components and regulations for the design and construction of structures to encourage the use of renewable energy systems, shall be vested in the governing body or the planning agency for the purposes of this article. The standards applicable to a particular planned residential development may be different than or modifications of, the standards and requirements otherwise required of subdivisions authorized under an ordinance adopted pursuant to Article V, provided, however, that provisions adopted pursuant to this article shall set forth the limits and extent of any modifications or changes in such standards and requirements in order that a landowner shall know the limits and extent of permissible modifications from the standards otherwise applicable to subdivisions.

(i) The provisions adopted pursuant to this article shall set forth the standards and criteria by which the design, bulk and location of buildings shall be evaluated, and all such standards and criteria for any feature of a planned residential development shall be set forth in such provisions with sufficient certainty to provide reasonable criteria by which specific proposals for a planned residential development can be evaluated. All standards in such provisions shall not unreasonably restrict the ability of the landowner to relate his development plan to the particular site and to the particular demand for housing existing at the time of development.

(j) Provisions adopted pursuant to this article shall include a requirement that, if water is to be provided by means other than by private wells owned and maintained by the individual owners of lots within the planned residential development, applicants shall present evidence to the governing body or planning agency, as the case may be, that the planned residential development is to be supplied by a certificated public utility, a bona fide cooperative association of lot owners, or by a municipal corporation, authority or utility. A copy of a Certificate of Public Convenience from the Pennsylvania Public Utility Commission or an application for such certificate, a cooperative agreement, or a commitment or agreement to serve the area in question, whichever is appropriate, shall be acceptable evidence.

Section 706. Enforcement and Modification of Provisions of the Plan. To further the mutual interest of the residents of the planned residential development and of the public in the preservation of the integrity of the development plan, as finally approved, and to insure that modifications, if any, in the development plan shall not impair the reasonable reliance of the said residents upon the provisions of the development plan, nor result in changes that would adversely affect the public interest, the enforcement and modification of the provisions of the development plan as finally approved, whether those are recorded by plat, covenant, easement or otherwise shall be subject to the following provisions:

(1) The provisions of the development plan relating to:

(i) the use, bulk and location of buildings and structures;

(ii) the quantity and location of common open space, except as otherwise provided in this article; and

(iii) the intensity of use or the density of residential units; shall run in favor of the municipality and shall be enforceable in law or in equity by the municipality, without limitation on any powers of regulation otherwise granted the municipality by law.

(2) All provisions of the development plan shall run in favor of the residents of the planned residential development but only to the extent expressly provided in the development plan and in accordance with the terms of the development plan, and to that extent said provisions, whether recorded by plat, covenant, easement or otherwise, may be enforced at law or equity by said residents acting individually, jointly, or through an organization designated in the development plan to act on their behalf; provided, however, that no provisions of the development plan shall be implied to exist in favor of residents of the planned residential development except as to those portions of the development plan which have been finally approved and have been recorded.

(3) All those provisions of the development plan authorized to be enforced by the municipality under this section may be modified, removed, or released by the municipality, except grants or easements relating to the service or equipment of a public utility, subject to the following conditions:

(i) No such modification, removal or release of the provisions of the development plan by the municipality shall affect the rights of the residents of the planned residential development to maintain and enforce those provisions, at law or equity, as provided in this section.

(ii) No modification, removal or release of the provisions of the development plan by the municipality shall be permitted except upon a finding by the governing body or the planning agency, following a public hearing thereon pursuant to public notice called and held in accordance with the provisions of this article, that the same is consistent with the efficient development and preservation of the entire planned residential development, does not adversely affect either the enjoyment of land abutting upon or across the street from the planned residential development or the public interest, and is not granted solely to confer a special benefit upon any person.

(4) Residents of the planned residential development may, to the extent and in the manner expressly authorized by the provisions of the development plan, modify, remove or release their rights to enforce the provisions of the development plan but no such action shall affect the right of the municipality to enforce the provisions of the development plan in accordance with the provisions of this section.

Section 707. Application for Tentative Approval of Planned Residential Development. In order to provide an expeditious method for processing a development plan for a planned residential development under the provisions adopted pursuant to the powers granted herein, and to avoid the delay and uncertainty which would arise if it were necessary to secure approval, by a multiplicity of local procedures, of a plat of subdivision as well as approval of a change in the zoning regulations otherwise applicable to the property, it is hereby declared to be in the public interest that all procedures with respect to the approval or disapproval of a development plan for a planned residential development and the continuing administration thereof shall be consistent with the following provisions:

(1) An application for tentative approval of the development plan for a planned residential development shall be filed by or on behalf of the landowner.

(2) The application for tentative approval shall be filed by the landowner in such form, upon the payment of such a reasonable fee and with such officials of the municipality as shall be designated in the provisions adopted pursuant to this article.

(3) All planning, zoning and subdivision matters relating to the platting, use and development of the planned residential development and subsequent modifications of the regulations relating thereto, to the extent such modification is vested in the municipality, shall be determined and established by the governing body or the planning agency.

(4) The provisions shall require only such information in the application as is reasonably necessary to disclose to the governing body or the planning agency:

(i) the location, size and topography of the site and the nature of the landowner's interest in the land proposed to be developed;

(ii) the density of land use to be allocated to parts of the site to be developed;

(iii) the location and size of the common open space and the form of organization proposed to own and maintain the common open space;

(iv) the use and the approximate height, bulk and location of buildings and other structures;

(v) the feasibility of proposals for water supply and the disposition of sanitary waste and storm water;

(vi) the substance of covenants, grants of easements or other restrictions proposed to be imposed upon the use of the land, buildings and structures including proposed easements or grants for public utilities;

(vii) the provisions for parking of vehicles and the location and width of proposed streets and public ways;

(viii) the required modifications in the municipal land use regulations otherwise applicable to the subject property;

(viii.1) the feasibility of proposals for energy conservation and the effective utilization of renewable energy sources; and

(ix) in the case of development plans which call for development over a period of years, a schedule showing the proposed times within which applications for final approval of all sections of the planned residential development are intended to be filed and this schedule must be updated annually, on the anniversary of its approval, until the development is completed and accepted.

(5) The application for tentative approval of a planned residential development shall include a written statement by the landowner setting forth the reasons why, in his opinion, a planned residential development would be in the public interest and would be consistent with the comprehensive plan for the development of the municipality.

(6) The application for and tentative and final approval of a development plan for a planned residential development prescribed in this article shall be in lieu of all other procedures or approvals, otherwise required pursuant to Articles V and VI of this act.

Section 708. Public Hearings.

(a) Within 60 days after the filing of an application for tentative approval of a planned residential development pursuant to this article, a public hearing pursuant to public notice on said application shall be held by the governing body or the planning agency, if designated, in the manner prescribed in Article IX.

(b) The governing body or the planning agency may continue the hearing from time to time, and where applicable, may refer the matter back to the planning agency for a report, provided, however, that in any event, the public hearing or hearings shall be concluded within 60 days after the date of the first public hearing.

(c) The municipality may offer a mediation option as an aid in completing proceedings authorized by this section and by subsequent sections in this article prior to final approval by the governing body. In exercising such an option, the municipality and mediating parties shall meet the stipulations and follow the procedures set forth in Article IX.

Section 709. The Findings.

(a) The governing body, or the planning agency, within 60 days following the conclusion of the public hearing provided for in this article or within 180 days after the date of filing of the application, whichever occurs first, shall, by official written communication, to the landowner, either:

(1) grant tentative approval of the development plan as submitted;

(2) grant tentative approval subject to specified conditions not included in the development plan as submitted; or

(3) deny tentative approval to the development plan.

Failure to so act within said period shall be deemed to be a grant of tentative approval of the development plan as submitted. In the event, however, that tentative approval is granted subject to conditions, the landowner may, within 30 days after receiving a copy of the official written communication of the governing body notify such governing body of his refusal to accept all said conditions, in which case, the governing body shall be deemed to have denied tentative approval of the development plan. In the event the landowner does not, within said period, notify the governing body of his refusal to accept all said conditions, tentative approval of the development plan, with all said conditions, shall stand as granted.

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

(1) in those respects in which the development plan is or is not consistent with the comprehensive plan for the development of the municipality;

(2) the extent to which the development plan departs from zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to density, bulk and use, and the reasons why such departures are or are not deemed to be in the public interest;

(3) the purpose, location and amount of the common open space in the planned residential development, the reliability of the proposals for maintenance and conservation of the common open space, and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of residential development;

(4) the physical design of the development plan and the manner in which said design does or does not make adequate provision for public services, provide adequate control over vehicular traffic, and further the amenities of light and air, recreation and visual enjoyment;

(5) the relationship, beneficial or adverse, of the proposed planned residential development to the neighborhood in which it is proposed to be established; and

(6) in the case of a development plan which proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interests of the public and of the residents of the planned residential development in the integrity of the development plan.

(c) In the event a development plan is granted tentative approval, with or without conditions, the governing body may set forth in the official written communication the time within which an application for final approval of the development plan shall be filed or, in the case of a development plan which provides for development over a period of years, the periods of time within which applications for final approval of each part thereof shall be filed. Except upon the consent of the landowner, the time so established between grant of

tentative approval and an application for final approval shall not be less than three months and, in the case of developments over a period of years, the time between applications for final approval of each part of a plan shall be not less than 12 months.

Section 710. Status of Plan After Tentative Approval.

(a) The official written communication provided for in this article shall be certified by the municipal secretary or clerk of the governing body and shall be filed in his office, and a certified copy shall be mailed to the landowner. Where tentative approval has been granted, it shall be deemed an amendment to the zoning map, effective upon final approval, and shall be noted on the zoning map.

(b) Tentative approval of a development plan shall not qualify a plat of the planned residential development for recording nor authorize development or the issuance of any building permits. A development plan which has been given tentative approval as submitted, or which has been given tentative approval with conditions which have been accepted by the landowner (and provided that the landowner has not defaulted nor violated any of the conditions of the tentative approval), shall not be modified or revoked nor otherwise impaired by action of the municipality pending an application or applications for final approval, without the consent of the landowner, provided an application or applications for final approval is filed or, in the case of development over a period of years, provided applications are filed, within the periods of time specified in the official written communication granting tentative approval.

(c) In the event that a development plan is given tentative approval and thereafter, but prior to final approval, the landowner shall elect to abandon said development plan and shall so notify the governing body in writing, or in the event the landowner shall fail to file application or applications for final approval within the required period of time or times, as the case may be, the tentative approval shall be deemed to be revoked and all that portion of the area included in the development plan for which final approval has not been given shall be subject to those local ordinances otherwise applicable thereto as they may be amended from time to time, and the same shall be noted on the zoning map and in the records of the municipal secretary or clerk of the municipality.

Section 711. Application for Final Approval.

(a) An application for final approval may be for all the land included in a development plan or, to the extent set forth in the tentative approval, for a section thereof. Said application shall be made to the official of the municipality designated by the ordinance and within the time or times specified by the official written communication granting tentative approval. The application shall include any drawings, specifications, covenants, easements, performance bond and such other requirements as may be specified by ordinance, as well as any conditions set forth in the official written communication at the time of tentative approval. A public hearing on an application for final approval of the development plan, or part thereof, shall not be required provided the development plan, or the part thereof, submitted for final approval, is in compliance with the development plan theretofore given tentative approval and with any specified conditions attached thereto.

(b) In the event the application for final approval has been filed, together with all drawings, specifications and other documents in support thereof, and as required by the ordinance and the official written communication of tentative approval, the municipality shall, within 45 days from the date of the regular meeting of the governing body or the planning agency, whichever first reviews the application, next following the date the application is filed, grant such development plan final approval. Provided, however, that should the next regular meeting occur more than 30 days following the filing of the application, the 45-day period shall be measured from the 30th day following the day the application has been filed.

(c) In the event the development plan as submitted contains variations from the development plan given tentative approval, the approving body may refuse to grant final approval and shall, within 45 days from the

date of the regular meeting of the governing body or the planning agency, whichever first reviews the application, next following the date the application is filed, so advise the landowner in writing of said refusal, setting forth in said notice the reasons why one or more of said variations are not in the public interest. Provided, however, that should the next regular meeting occur more than 30 days following the filing of the application, the 45-day period shall be measured from the 30th day following the day the application has been filed. In the event of such refusal, the landowner may either:

(1) refile his application for final approval without the variations objected; or

(2) file a written request with the approving body that it hold a public hearing on his application for final approval.

If the landowner wishes to take either such alternate action he may do so at any time within which he shall be entitled to apply for final approval, or within 30 additional days if the time for applying for final approval shall have already passed at the time when the landowner was advised that the development plan was not in substantial compliance. In the event the landowner shall fail to take either of these alternate actions within said time, he shall be deemed to have abandoned the development plan. Any such public hearing shall be held pursuant to public notice within 30 days after request for the hearing is made by the landowner, and the hearing shall be conducted in the manner described in this article for public hearings on applications for tentative approval. Within 30 days after the conclusion of the hearing, the approving body shall by official written communication either grant final approval to the development plan or deny final approval. The grant or denial of final approval of the development plan shall, in cases arising under this section, be in the form and contain the findings required for an application for tentative approval set forth in this article. Failure of the governing body or agency to render a decision on an application for final approval and communicate it to the applicant within the time and in the manner required by this section shall be deemed an approval of the application for final approval, as presented, unless the applicant has agreed in writing to an extension of time or change in the prescribed manner of presentation of communication of the decision, in which case, failure to meet the extended time or change in manner or presentation of communication shall have like effect.

(d) A development plan, or any part thereof, which has been given final approval shall be so certified without delay by the approving body and shall be filed of record forthwith in the office of the recorder of deeds before any development shall take place in accordance therewith. Upon the filing of record of the development plan the zoning and subdivision regulations otherwise applicable to the land included in such plan shall cease to apply thereto. Pending completion, in accordance with the time provisions stated in section 508, of said planned residential development or of that part thereof, as the case may be, that has been finally approved, no modification of the provisions of said development plan, or part thereof, as finally approved, shall be made except with the consent of the landowner. Upon approval of a final plat, the developer shall record the plat in accordance with the provisions of section 513(a) and post financial security in accordance with section 509.

(e) In the event that a development plan, or a section thereof, is given final approval and thereafter the landowner shall abandon such plan or the section thereof that has been finally approved, and shall so notify the approving body in writing; or, in the event the landowner shall fail to commence and carry out the planned residential development in accordance with the time provisions stated in section 508 after final approval has been granted, no development or further development shall take place on the property included in the development plan until after the said property is reclassified by enactment of an amendment to the municipal zoning ordinance in the manner prescribed for such amendments in Article VI.

(f) Each month a municipality shall notify in writing the superintendent of a school district in which development plans for a planned residential development were finally approved by the municipality during the preceding month. The notice shall include, but not be limited to, the location of the development, the number and types of units to be included in the development and the expected construction schedule of the development.

Section 712.1. Jurisdiction. District justices shall have initial jurisdiction over proceedings brought under section 712.2.

Section 712.2. Enforcement Remedies.

(a) Any person, partnership or corporation, who or which has violated the planned residential development provisions of any ordinance enacted under this act or prior enabling laws shall, upon being found liable therefor in a civil enforcement proceeding commenced by a municipality, pay a judgment of not more than $500 plus all court costs, including reasonable attorney fees incurred by a municipality as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the municipality may enforce the judgment pursuant to the appropriate rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice, and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of planned residential development provisions shall be paid over to the municipality whose ordinance has been violated.

(b) The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment.

(c) Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the municipality the right to commence any action for enforcement pursuant to this section.

Section 713. Compliance by Municipalities. Municipalities with planned residential development ordinances shall have five years from the effective date of this amendatory act to comply with the provisions of this article.

Article VII-A - Traditional Neighborhood Development

Section 701-A. Purposes and Objectives.

(a) This article grants powers to municipalities for the following purposes:

(1) to insure that the provisions of Article VI which are concerned in part with the uniform treatment of dwelling type, bulk, density, intensity and open space within each zoning district, shall not be applied to the improvement of land by other than lot by lot development in a manner that would distort the objectives of Article VI;

(2) to encourage innovations in residential and nonresidential development and renewal which makes use of a mixed use form of development so that the growing demand for housing and other development may be met by greater variety in type, design and layout of dwellings and other buildings and structures and by the conservation and more efficient use of open space ancillary to said dwellings and uses;

(3) to extend greater opportunities for better housing, recreation and access to goods, services and employment opportunities to all citizens and residents of this Commonwealth;

(4) to encourage a more efficient use of land and of public services to reflect changes in the technology of land development so that economies secured may benefit those who need homes and for other uses;

(5) to allow for the development of fully integrated, mixed-use pedestrian-oriented neighborhoods;

(6) to minimize traffic congestion, infrastructure costs and environmental degradation;

(7) to promote the implementation of the objectives of the municipal or multimunicipal comprehensive plan for guiding the location for growth;

(8) to provide a procedure, in aid of these purposes, which can relate the type, design and layout of residential and nonresidential development to the particular site and the particular demand for housing existing at the time of development in a manner consistent with the preservation of the property values within existing residential and nonresidential areas; and

(9) to insure that the increased flexibility of regulations over land development authorized herein is carried out under such administrative standards and procedure as shall encourage the disposition of proposals for land development without undue delay.

(b) The objectives of a traditional neighborhood development are:

(1) to establish a community which is pedestrian-oriented with a number of parks, a centrally located public commons, square, plaza, park or prominent intersection of two or more major streets, commercial enterprises and civic and other public buildings and facilities for social activity, recreation and community functions;

(2) to minimize traffic congestion and reduce the need for extensive road construction by reducing the number and length of automobile trips required to access everyday needs;

(3) to make public transit a viable alternative to the automobile by organizing appropriate building densities;

(4) to provide the elderly and the young with independence of movement by locating most daily activities within walking distance;

(5) to foster the ability of citizens to come to know each other and to watch over their mutual security by providing public spaces such as streets, parks and squares and mixed use which maximizes the proximity to neighbors at almost all times of the day;

(6) to foster a sense of place and community by providing a setting that encourages the natural intermingling of everyday uses and activities within a recognizable neighborhood;

(7) to integrate age and income groups and foster the bonds of an authentic community by providing a range of housing types, shops and workplaces; and

(8) to encourage community oriented initiatives and to support the balanced development of society by providing suitable civic and public buildings and facilities.

Section 702-A. Grant of Power The governing body of each municipality may enact, amend and repeal provisions of a zoning ordinance in order to fix standards and conditions for traditional neighborhood development. The provisions for standards and conditions for traditional neighborhood development shall be, except as otherwise provided in this article, consistent with Article VI and shall be included within the zoning ordinance and the enactment of the traditional neighborhood development provisions shall be in accordance with the procedures required for the enactment of an amendment of a zoning ordinance as provided in Article VI. The provisions shall:

(1) Set forth the standards, conditions and regulations for a traditional neighborhood development consistent with this article. A zoning ordinance or amendment may authorize and provide standards, conditions and regulations for traditional neighborhood development that:

(i) designate a part or parts of the municipality as a district or districts which are reserved exclusively for traditional neighborhood development; or

(ii) permit the creation of a traditional neighborhood development in any part of the municipality or in one or more specified zoning districts.

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

Section 703-A. Transfer Development Rights. Municipalities electing to enact traditional neighborhood development provisions may also incorporate provisions for transferable development rights, on a voluntary basis, in accordance with express standards and criteria set forth in the ordinance and with the requirements of Article VI.

Section 704-A. Applicability of Comprehensive Plan and Statement of Community Development Objectives. All provisions and all amendments to the provisions adopted pursuant to this article shall be based on and interpreted in relation to the statement of community development objectives of the zoning ordinance and shall be consistent with either the comprehensive plan of the municipality or the statement of community development objectives in accordance with section 606. Every application for the approval of a traditional neighborhood development shall be based on and interpreted in relation to the statement of community development objectives, and shall be consistent with the comprehensive plan.

Section 705-A. Forms of Traditional Neighborhood Development. A traditional neighborhood development may be developed and applied in any of the following forms.

(1) As a new development.

(2) As an outgrowth or extension of existing development.

(3) As a form of urban infill where existing uses and structures may be incorporated into the development.

(4) In any combination or variation of the above.

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

(a) All provisions adopted pursuant to this article shall set forth all the standards, conditions and regulations by which a proposed traditional neighborhood development shall be evaluated, and those standards, conditions and regulations shall be consistent with the following subsections.

(b) The provisions adopted pursuant to this article shall set forth the uses permitted in traditional neighborhood development, which uses may include, but shall not be limited to:

(1) Dwelling units of any dwelling type or configuration, or any combination thereof.

(2) Those nonresidential uses deemed to be appropriate for incorporation in the design of the traditional neighborhood development.

(c) The provisions may establish regulations setting forth the timing of development among the various types of dwellings and may specify whether some or all nonresidential uses are to be built before, after or at the same time as the residential uses.

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

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

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

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

(4) The location, design, type and use of structures proposed, with most structures being placed close to the street at generally the equivalent of one-quarter the width of the lot or less. The distance between the sidewalk and residential dwellings should, as a general rule, be occupied by a semi-public attachment, such as a porch or, at a minimum, a covered entryway.

(5) The location, design, type and use of streets, alleys, sidewalks and other public rights-of-way with a hierarchy of streets laid out with an interconnected network of streets and blocks that provide multiple routes from origins to destinations and are appropriately designed to serve the needs of pedestrians and vehicles equally. As such, most streets, except alleys, should have sidewalks.

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

(7) The minimum and maximum areas and dimensions of the properties and common open space within the proposed traditional neighborhood development and the approximate distance from the center to the edge of the traditional neighborhood development. It is recommended that the distance from the center to the edge of the traditional neighborhood development be approximately one-quarter mile or less and not more than one-half mile. Traditional neighborhood developments in excess of one-half mile distance from center to edge should be divided into two or more developments.

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

(9) The greatest density of housing and the preponderance of office and commercial uses should be located to anchor the traditional neighborhood development. If the neighborhood is adjacent to existing development or a major roadway then office, commercial and denser residential uses may be located at

either the edge or the center, or both. Commercial uses located at the edge of the traditional neighborhood development may be located adjacent to similar commercial uses in order to form a greater commercial corridor.

(e) In the case of a traditional neighborhood development proposed to be developed over a period of years, standards established in provisions adopted pursuant to this article may, to encourage the flexibility of housing density, design and type intended by this article:

(1) Permit a variation in each section to be developed from the density, or intensity of use, established for the entire traditional neighborhood development.

(2) Allow for a greater concentration of density or intensity of land use, within some section or sections of development, whether it be earlier or later in the development than upon others.

(3) Require that the approval of such greater concentration of density or intensity of land use for any section to be developed be offset by a smaller concentration in any completed prior stage or by an appropriate reservation of common open space on the remaining land by a grant of easement or by covenant in favor of the municipality, provided that the reservation shall, as far as practicable, defer the precise location of such common open space until an application for final approval is filed so that flexibility of development which is a prime objective of this article can be maintained.

(f) Provisions adopted pursuant to this article may require that a traditional neighborhood development contain a minimum number of dwelling units and a minimum number of nonresidential units.

(g) (1) The authority granted a municipality by Article V to establish standards for the location, width, course and surfacing of streets, walkways, curbs, gutters, street lights, shade trees, water, sewage and drainage facilities, easements or rights-of-way for drainage and utilities, reservations of public grounds, other improvements, regulations for the height and setback as they relate to renewable energy systems and energy-conserving building design, regulations for the height and location of vegetation with respect to boundary lines, as they relate to renewable energy systems and energy-conserving building design, regulations for the type and location of renewable energy systems or their components and regulations for the design and construction of structures to encourage the use of renewable energy systems, shall be vested in the governing body or the planning agency for the purposes of this article.

(2) The standards applicable to a particular traditional neighborhood development may be different than or modifications of the standards and requirements otherwise required of subdivisions or land development authorized under an ordinance adopted pursuant to Article V, provided, however, that provisions adopted pursuant to this article shall set forth the limits and extent of any modifications or changes in such standards and requirements in order that a landowner shall know the limits and extent of permissible modifications from the standards otherwise applicable to subdivisions or land development.

Section 707-A. Sketch Plan Presentation. The municipality may informally meet with a landowner to informally discuss the conceptual aspects of the landowner's development plan prior to the filing of the application for preliminary approval for the development plan. The landowner may present a sketch plan to the municipality for discussion purposes only, and during the discussion the municipality may make suggestions and recommendations on the design of the developmental plan which shall not be binding on the municipality.

Section 708-A. Manual of Written and Graphic Design Guidelines. Where it has adopted provisions for traditional neighborhood development, the governing body of a municipality may also provide, upon review and recommendation of the planning commission, where one exists, a manual of written and graphic design guidelines. The manual may be included in or amended into the subdivision and land development, the zoning ordinance or both.

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

Section 709-A. Applicability of Article to Agriculture. Zoning ordinances shall encourage the continuity, development and viability of agricultural operations. Zoning ordinances may not restrict agricultural operations or changes to or expansions of agricultural operations in geographic areas where agriculture has traditionally been present, unless the agricultural operation will have a direct adverse effect on the public health and safety. Nothing in this section shall require a municipality to adopt a zoning ordinance that violates or exceeds the provisions of the act of June 30, 1981 (P.L.128, No.43), known as the "Agricultural Area Security Law," the act of June 10, 1982 (P.L.454, No.133), entitled "An Act Protecting Agricultural Operations from Nuisance Suits and Ordinances Under Certain Circumstances," and the act of May 20, 1993 (P.L.12, No.6), known as the "Nutrient Management Act."

Article VIII - Zoning Challenges; General Provisions

(Art. repealed June 1, 1972, P.L.333, No.93)

Article VIII-A - Joint Municipal Zoning

Section 801-A. General Powers.

(a) For the purpose of permitting municipalities which cooperatively plan for their future to also regulate future growth and change in a cooperative manner, the governing body of each municipality, in accordance with the conditions and procedures set forth in this act, may cooperate with one or more municipalities to enact, amend and repeal joint municipal zoning ordinances in order to implement joint municipal comprehensive plans and to accomplish any of the purposes of this act.

(b) A joint municipal zoning ordinance shall be based upon an adopted joint municipal comprehensive plan and shall be prepared by a joint municipal planning commission established under the provisions of this act.

Section 802-A. Relation to County and Municipal Zoning. The enactment by any municipality of a joint municipal zoning ordinance whose land is subject to county or municipal zoning shall constitute an immediate repeal of the county or municipal zoning ordinance within the municipality adopting such ordinance as of the effective date of the joint municipal zoning ordinance.

Section 803-A. Ordinance Provisions. Joint municipal zoning ordinances may permit, prohibit, regulate, restrict and determine and may contain the same elements as authorized for municipal zoning ordinances by section 603.

Section 804-A. Zoning Purposes. The provisions of joint municipal zoning ordinances shall be designed to serve the same purposes for the area of its jurisdiction as is required by section 604 for municipal zoning ordinances.

Section 805-A. Classifications. The authorizations and requirements of section 605 shall be applicable to joint municipal zoning ordinances. No area of a municipality party to a joint municipal zoning ordinance shall be left unzoned.

Section 806-A. Statement of Community Development Objectives.

(a) Every joint municipal zoning ordinance shall contain a statement of community development objectives as defined by section 606.

(b) The statement of community development objectives shall be based upon the joint municipal comprehensive plan and may be supplemented by a statement of legislative findings of the governing bodies party to the joint municipal zoning ordinance as defined by section 606.

(c) The community development objectives for a joint municipal zoning ordinance shall relate to the area within the jurisdiction of the ordinance, shall identify the community development objectives of each municipality party to the joint municipal zoning ordinance and the relationship of these objectives to those of the area and shall, in addition, include the basis for the geographic delineation of the area which the ordinance regulates.

Section 807-A. Preparation of Proposed Zoning Ordinance. The requirements of section 607 as applicable to municipal zoning ordinances shall equally apply to the preparation of a joint municipal zoning ordinance except that:

(1) The joint municipal planning commission shall assume the preparation responsibilities of the planning agency and shall be directed by the governing bodies of the participating municipalities.

(2) At least one public meeting shall be held by the joint municipal planning commission within the area of jurisdiction of the proposed joint municipal zoning ordinance.

Section 808-A. Enactment of Zoning Ordinance.

(a) The procedural requirements of section 608 shall be applicable to the enactment of a joint municipal zoning ordinance.

(b) Each municipality party to a joint municipal zoning ordinance shall enact the ordinance and it shall not become effective until it has been properly enacted by all the participating municipalities.

(c) No municipality may withdraw from or repeal a joint municipal zoning ordinance during the first three years following the date of its enactment. If, at any time after the end of the second year following the enactment of a joint municipal zoning ordinance, a municipality wishes to repeal and withdraw from a joint municipal zoning ordinance, it shall enact an ordinance, which shall be effective no sooner than one year after its enactment, repealing the joint municipal zoning ordinance and shall provide immediately and concurrently one year's advanced written notice of its repeal and withdrawal to the governing bodies of all municipalities party to the joint municipal zoning ordinance. The repeal and withdrawal may become effective within less than one year with the unanimous approval, by ordinance, of the governing bodies of all municipalities party to the joint municipal zoning ordinance.

Section 809-A. Enactment of Zoning Ordinance Amendments.

(a) The procedural requirements for amendments to a joint municipal zoning ordinance shall be as required by section 609, except that all proposed amendments shall also be submitted to the joint municipal planning commission for review at least 30 days prior to the hearing on such proposed amendments.

(b) The governing bodies of the other participating municipalities shall submit their comments, including a specific recommendation to adopt or not to adopt the proposed amendment, to the governing body of the municipality within which the amendment is proposed no later than the date of the public hearing. Failure to provide comments shall be construed as a recommendation to adopt the proposed amendments.

(c) No amendments to the joint municipal zoning ordinance shall be effective unless all of the participating municipalities approve the amendment.

Section 810-A. Procedure for Curative Amendments. Curative amendments shall be filed in accordance with the requirements of section 609.1 with the municipality within which the landowner's property is located: Provided, however, That the governing body before which the curative amendment is brought shall not have the power to adopt any amendment to the joint municipal zoning ordinance without the approval of the other municipalities participating in the joint municipal zoning ordinance. The challenge shall be directed to the validity of the joint municipal zoning ordinance as it applies to the entire area of its jurisdiction.

Section 811-A. Area of Jurisdiction for Challenges. In any challenge to the validity of the joint municipal zoning ordinance, the court shall consider the validity of the ordinance as it applies to the entire area of its jurisdiction as enacted and shall not limit consideration to any single constituent municipality.

Section 812-A. Procedure for Joint Municipal Curative Amendments.

(a) The governing bodies of all the participating municipalities may declare the joint municipal zoning ordinance or portions thereof substantially invalid and prepare a municipal curative amendment pursuant to section 609.2.

(b) The provisions of section 609.2(4) shall apply to all municipalities participating in the joint municipal zoning ordinance.

(c) (1) In the case of a joint municipal curative amendment involving two or three municipalities, the municipalities shall have nine months from the date of declaration of partial or total invalidity to enact a curative amendment.

(2) Subject to the limitation contained in clause (3), where there are more than three municipal parties, the nine-month period shall be extended on additional month for each municipality in excess of three that is a party to the joint municipal zoning ordinance.

(3) Notwithstanding the additional periods provided for in clause (2), a curative amendment shall be enacted by the parties to a joint municipal zoning ordinance not later than one year from the date of declaration of partial or total invalidity.

Section 813-A. Publication, Advertisement and Availability of Ordinances. The content of public notices and the procedures for the advertisement and enactment of joint municipal zoning ordinances and amendments shall be regulated by section 610.

Section 814-A. Registration of Nonconforming Uses. The registration of nonconforming uses shall be as specified by section 613.

Section 815-A. Administration.

(a) The governing bodies of the municipalities adopting the joint municipal zoning ordinance may establish a joint zoning hearing board pursuant to the authority of section 904, except that:

(1) The joint municipal zoning ordinance shall either create a joint zoning hearing board to administer the entire joint municipal zoning ordinance or provide for the retention or creation of individual zoning hearing boards in each of the individual participating municipalities to administer the new joint municipal zoning ordinance as to properties located within each of the individual participating municipalities.

(2) These same procedures shall be followed by a joint zoning hearing board as set forth in Article IX for individual municipal zoning hearing boards.

(b) The joint municipal zoning ordinance shall specify the number of zoning officers to be appointed to administer the ordinance pursuant to section 614. One zoning officer may be appointed by each municipality to administer the ordinance within the municipal boundaries or a single zoning officer may be appointed to administer the ordinance throughout the jurisdiction of the ordinance.

Section 816-A. Zoning Appeals. All rights and procedures provided in Articles IX and X-A shall pertain to joint municipal zoning.

Section 817-A. Enforcement Penalties. Penalties for violation of a joint municipal zoning ordinance shall be as specified in section 617.1.

Section 818-A. Enforcement Remedies.

(a) Enforcement remedies shall be as specified in section 617.

(b) In addition, the provisions of a joint municipal zoning ordinance shall be binding upon the municipalities and may be enforced by appropriate remedy by any one or more of the municipalities against any other municipality party thereto.

Section 819-A. Finances.

(a) The governing body of a municipality may appropriate and receive funds for a joint municipal zoning ordinance in the same manner as authorized for a municipal zoning ordinance by section 617.2.

(b) A joint municipal zoning ordinance shall specify the manner and extent of financing the costs for administration and enforcement, including the financial responsibilities for defending legal challenges to the ordinance.

Section 820-A. Exemptions. The exemptions for a joint municipal zoning ordinance shall be those identified by section 619.

Section 821-A. Existing Bodies. Municipalities which, on or before the effective date of this amendatory act, established joint bodies under former Article XI-A of this act, shall have five years from the effective date of this amendatory act to comply with the provisions of this article.

Article IX - Zoning Hearing Board and other Administrative Proceedings

Section 901. General Provisions. Every municipality which has enacted or enacts a zoning ordinance pursuant to this act or prior enabling laws, shall create a zoning hearing board. As used in this article, unless the context clearly indicates otherwise, the term "board" shall refer to such zoning hearing board.

Section 902. Existing Boards of Adjustment. (902 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 903. Membership of Board.

(a) The membership of the board shall, upon the determination of the governing body, consist of either three or five residents of the municipality appointed by resolution by the governing body. The terms of office of a three member board shall be three years and shall be so fixed that the term of office of one member shall expire each year. The terms of office of a five member board shall be five years and shall be so fixed that the term of office of one member of a five member board shall expire each year. If a three member board is changed to a five member board, the members of the existing three member board shall continue in office until their term of office would expire under prior law. The governing body shall appoint two additional members to the board with terms scheduled to expire in accordance with the provisions of this section. The board shall promptly notify the governing body of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the board shall hold no other elected or appointed office in the municipality nor shall any member be an employee of the municipality.

(b) The governing body may appoint by resolution at least one but no more than three residents of the municipality to serve as alternate members of the board. The term of office of an alternate member shall be three years. When seated pursuant to the provisions of section 906, an alternate shall be entitled to participate in all proceedings and discussions of the board to the same and full extent as provided by law for board members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this act and as otherwise provided by law. Alternates shall hold no other elected or appointed office in the municipality, including service as a member of the planning commission or as a zoning officer, nor shall any alternate be an employee of the municipality. Any alternate may participate in any proceeding or discussion of the board but shall not be entitled to vote as a member of the board nor be compensated pursuant to section 907 unless designated as a voting alternate member pursuant to section 906.

Section 904. Joint Zoning Hearing Boards.

(a) Two or more municipalities may, by ordinances enacted in each, create a joint zoning hearing board in lieu of a separate board for each municipality. A joint board shall consist of two members appointed from among the residents of each municipality by its governing body.

(b) The term of office of members of joint boards shall be five years, except that of the two members first appointed from each municipality, the term of office of one member shall be three years. When any vacancies occur, the joint board shall promptly notify the governing body which appointed the member whose office has become vacant, and such governing body shall appoint a member for the unexpired portion of the term. Members of the joint board shall hold no other office in the participating municipality.

(c) Where legal counsel is desired, an attorney, other than the solicitors of the participating municipalities, may be appointed to serve as counsel to the joint zoning hearing board.

(d) In all other respects, including the appointment and seating of alternate members, joint zoning hearing boards shall be governed by provisions of this act not inconsistent with the provisions of this section.

Section 905. Removal of Members. Any board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the governing body which appointed the member, taken after the member has received 15 days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

Section 906. Organization of Board.

(a) The board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the board, but the board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the board as provided in section 908.

(b) The chairman of the board may designate alternate members of the board to replace any absent or disqualified member and if, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the board shall designate as many alternate members of the board to sit on the board as may be needed to reach a quorum. Any alternate member of the board shall continue to serve on the board in all proceedings involving the matter or case for which the alternate was initially appointed until the board has made a final decision on the matter or case. Designation of an alternate pursuant to this section shall be made on a case by case basis in rotation according to declining seniority among all alternates.

(c) The board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the municipality and laws of the Commonwealth. The board shall keep full public records of its business, which records shall be the property of the municipality, and shall submit a report of its activities to the governing body as requested by the governing body.

Section 907. Expenditures for Services. Within the limits of funds appropriated by the governing body, the board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the board may receive compensation for the performance of their duties, as may be fixed by the governing body, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the governing body. Alternate members of the board may receive compensation, as may be fixed by the governing body, for the performance of their duties when designated as alternate members pursuant to section 906, but in no case shall such compensation exceed the rate of compensation authorized to be paid to the members of the governing body.

Section 908. Hearings. The board shall conduct hearings and make decisions in accordance with the following requirements:

(1) Public notice shall be given and written notice shall be given to the applicant, the zoning officer, such other persons as the governing body shall designate by ordinance and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by ordinance or, in the absence of ordinance provision, by rules of the board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.

(1.1) The governing body may prescribe reasonable fees with respect to hearings before the zoning hearing board. Fees for said hearings may include compensation for the secretary and members of the zoning hearing board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the zoning hearing board, expenses for engineering, architectural or other technical consultants or expert witness costs.

(1.2) The first hearing before the board or hearing officer shall be commenced within 60 days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the board or hearing officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the board or hearing officer shall assure that the applicant receives at least seven hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief. And applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.

(2) The hearings shall be conducted by the board or the board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the board; however, the appellant or the applicant, as the case may be, in addition to the municipality, may, prior to the decision of the hearing, waive decision or findings by the board and accept the decision or findings of the hearing officer as final.

(3) The parties to the hearing shall be the municipality, any person affected by the application who has made timely appearance of record before the board, and any other person including civic or community organizations permitted to appear by the board. The board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the board for that purpose.

(4) The chairman or acting chairman of the board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

(5) The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.

(6) Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

(7) The board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the board. The cost of the original transcript shall be paid by the board if the transcript is ordered by the board or hearing officer or shall be paid by the person appealing from the decision of the board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

(8) The board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

(9) The board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the board or hearing officer. Where the application is contested or denied, each decision shall be

accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer and there has been no stipulation that his decision or findings are final, the board shall make his report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the board prior to final decision or entry of findings, and the board's decision shall be entered no later than 30 days after the report of the hearing officer. Except for challenges filed under section 916.1 where the board fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as provided in subsection (1.2), the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the board to meet or render a decision as hereinabove provided, the board shall give public notice of said decision within ten days from the last day it could have met to render a decision in the same manner as provided in subsection (1) of this section. If the board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

(10) A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the board not later than the last day of the hearing, the board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

Section 908.1. Mediation Option.

(a) Parties to proceedings authorized in this article and Article X-A may utilize mediation as an aid in completing such proceedings. In proceedings before the zoning hearing board, in no case shall the zoning hearing board initiate mediation or participate as a mediating party. Mediation shall supplement, not replace, those procedures in this article and Article X-A once they have been formally initiated. Nothing in this section shall be interpreted as expanding or limiting municipal police powers or as modifying any principles of substantive law.

(b) Participation in mediation shall be wholly voluntary. The appropriateness of mediation shall be determined by the particulars of each case and the willingness of the parties to negotiate. Any municipality offering the mediation option shall assure that, in each case, the mediating parties, assisted by the mediator as appropriate, develop terms and conditions for:

(1) Funding mediation.

(2) Selecting a mediator who, at a minimum, shall have a working knowledge of municipal zoning and subdivision procedures and demonstrated skills in mediation.

(3) Completing mediation, including time limits for such completion.

(4) Suspending time limits otherwise authorized in this act, provided there is written consent by the mediating parties, and by an applicant or municipal decision making body if either is not a party to the mediation.

(5) Identifying all parties and affording them the opportunity to participate.

(6) Subject to legal restraints, determining whether some or all of the mediation sessions shall be open or closed to the public.

(7) Assuring that mediated solutions are in writing and signed by the parties, and become subject to review and approval by the appropriate decision making body pursuant to the authorized procedures set forth in the other sections of this act.

(c) No offers or statements made in the mediation sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

Section 909. Board's Functions: Appeals from the Zoning Officer. (909 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 909.1. Jurisdiction.

(a) The zoning hearing board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

(1) Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to sections 609.1 and 916.1(a)(2).

(2) Appeals from the determination of the zoning officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.

(3) Appeals from a determination by a municipal engineer or the zoning officer with reference to the administration of any flood plain or flood hazard ordinance or such provisions within a land use ordinance.

(4) Applications for variances from the terms of the zoning ordinance and flood hazard ordinance or such provisions within a land use ordinance, pursuant to section 910.2.

(5) Applications for special exceptions under the zoning ordinance or flood plain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to section 912.1.

(6) Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of the zoning ordinance.

(7) Appeals from the zoning officer's determination under section 916.2.

(8) Appeals from the determination of the zoning officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving Article V or VII applications.

(b) The governing body or, except as to clauses (3), (4) and (5), the planning agency, if designated, shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

(1) All applications for approvals of planned residential developments under Article VII pursuant to the provisions of section 702.

(2) All applications pursuant to section 508 for approval of subdivisions or land developments under Article V. Any provision in a subdivision and land development ordinance requiring that final action concerning subdivision and land development applications be taken by a planning agency rather than the governing body shall vest exclusive jurisdiction in the planning agency in lieu of the governing body for purposes of the provisions of this paragraph.

(3) Applications for conditional use under the express provisions of the zoning ordinance pursuant to section 603©)(2).

(4) Applications for curative amendment to a zoning ordinance pursuant to sections 609.1 and 916.1(a)(2).

(5) All petitions for amendments to land use ordinances, pursuant to the procedures set forth in section 609. Any action on such petitions shall be deemed legislative acts, provided that nothing contained in this clause shall be deemed to enlarge or diminish existing law with reference to appeals to court.

(6) Appeals from the determination of the zoning officer or the municipal engineer in the administration of any land use ordinance or provisions thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to application for land development under Articles V and VII. Where such determination relates only to development not involving an Article V or VII application, the appeal from such determination of the zoning officer or the municipal engineer shall be to the zoning hearing board pursuant to subsection (a)(9). Where the applicable land use ordinance vests jurisdiction for final administration of subdivision and land development applications in the planning agency, all appeals from determinations under this paragraph shall be to the planning agency and all appeals from the decision of the planning agency shall be to court.

(7) Applications for a special encroachment permit pursuant to section 405 and applications for a permit pursuant to section 406.

Section 910. Board Functions: Challenge to the Validity of any Ordinance or Map. (910 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 910.1. Applicability of Judicial Remedies. Nothing contained in this article shall be construed to deny the appellant the right to proceed directly to court where appropriate, pursuant to the Pennsylvania Rules of Civil Procedure No. 1091 (relating to action in mandamus).

Section 910.2. Zoning Hearing Board's Functions; Variances.

(a) The board shall hear requests for variances where it is alleged that the provisions of the zoning ordinance inflict unnecessary hardship upon the applicant. The board may by rule prescribe the form of application and may require preliminary application to the zoning officer. The board may grant a variance, provided that all of the following findings are made where relevant in a given case:

(1) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located.

(2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

(3) That such unnecessary hardship has not been created by the appellant.

(4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

(5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

(b) In granting any variance, the board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this act and the zoning ordinance.

Section 912. Board's Functions: Variances. (912 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 912.1. Zoning Hearing Board's Functions; Special Exception. Where the governing body, in the zoning ordinance, has stated special exceptions to be granted or denied by the board pursuant to express standards and criteria, the board shall hear and decide requests for such special exceptions in accordance with

such standards and criteria. In granting a special exception, the board may attach such reasonable conditions and safeguards, in addition to those expressed in the ordinance, as it may deem necessary to implement the purposes of this act and the zoning ordinance.

Section 913. Board's Functions: Special Exceptions. (913 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 913.1. Unified Appeals. (913.1 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 913.2. Governing Body's Functions; Conditional Uses.

(a) Where the governing body, in the zoning ordinances, has stated conditional uses to be granted or denied by the governing body pursuant to express standards and criteria, the governing body shall hold hearings on and decide requests for such conditional uses in accordance with such standards and criteria. The hearing shall be conducted by the board or the board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the board. However, the appellant or the applicant, as the case may be, in addition to the municipality, may, prior to the decision of the hearing, waive decision or findings by the board and accept the decision or findings of the hearing officer as final. In granting a conditional use, the governing body may attach such reasonable conditions and safeguards, in addition to those expressed in the ordinance, as it may deem necessary to implement the purposes of this act in the zoning ordinance.

(b) (1) The governing body shall render a written decision or, when no decision is called for, make written findings on the conditional use application within 45 days after the last hearing before the governing body. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefor. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.

(2) Where the governing body fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as provided in section 908 (1.2), the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the governing body to meet or render a decision as hereinabove provided, the governing body shall give public notice of the decision within ten days from the last day it could have met to render a decision in the same manner as required by the public notice requirements of this act. If the governing body shall fail to provide such notice, the applicant may do so.

(3) Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him no later than the day following its date.

Section 913.3. Parties Appellant Before the Board. Appeals under section 909.1(a)(1), (2), (3), (4), (7), (8) and (9) may be filed with the board in writing by the landowner affected, any officer or agency of the municipality, or any person aggrieved. Requests for a variance under section 910.2 and for special exception under section 912.1 may be filed with the board by any landowner or any tenant with the permission of such landowner.

Section 914. Parties Appellant Before Board. (914 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 914.1. Time Limitations.

(a) No person shall be allowed to file any proceeding with the board later than 30 days after an application for development, preliminary or final, has been approved by an appropriate municipal officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan pursuant to section 709 or from an adverse decision by a zoning officer on a challenge to the validity of an ordinance or map pursuant to section 916.2 shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

(b) All appeals from determinations adverse to the landowners shall be filed by the landowner within 30 days after notice of the determination is issued.

Section 915. Time Limitations; Persons Aggrieved. (915 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 915.1. Stay of Proceedings.

(a) Upon filing of any proceeding referred to in section 913.3 and during its pendency before the board, all land development pursuant to any challenged ordinance, order or approval of the zoning officer or of any agency or body, and all official action thereunder, shall be stayed unless the zoning officer or any other appropriate agency or body certifies to the board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the board or by the court having jurisdiction of zoning appeals, on petition, after notice to the zoning officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the board.

(b) After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.

(c) The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.

(d) If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the order of the court below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by the petitioner.

Section 916. Stay of Proceedings. (916 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 916.1. Validity of Ordinance; Substantive Questions.

(a) A landowner who, on substantive grounds, desires to challenge the validity of an ordinance or map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest shall submit the challenge either:

(1) to the zoning hearing board under section 909.1(a); or

(2) to the governing body under section 909.1(b)(4), together with a request for a curative amendment under section 609.1.

(b) Persons aggrieved by a use or development permitted on the land of another by an ordinance or map, or any provision thereof, who desires to challenge its validity on substantive grounds shall first submit their challenge to the zoning hearing board for a decision thereon under section 909.1(a)(1).

(c) The submissions referred to in subsections (a) and (b) shall be governed by the following:

(1) In challenges before the zoning hearing board, the challenging party shall make a written request to the board that it hold a hearing on its challenge. The request shall contain the reasons for the challenge. Where the landowner desires to challenge the validity of such ordinance and elects to proceed by curative amendment under section 609.1, his application to the governing body shall contain, in addition to the requirements of the written request hereof, the plans and explanatory materials describing the use or development proposed by the landowner in lieu of the use or development permitted by the challenged ordinance or map. Such plans or other materials shall not be required to meet the standards prescribed for preliminary, tentative or final approval or for the issuance of a permit, so long as they provide reasonable notice of the proposed use or development and a sufficient basis for evaluating the challenged ordinance or map in light thereof. Nothing herein contained shall preclude the landowner from first seeking a final approval before submitting his challenge.

(2) If the submission is made by the landowner to the governing body under subsection (a)(2), the request also shall be accompanied by an amendment or amendments to the ordinance proposed by the landowner to cure the alleged defects therein.

(3) If the submission is made to the governing body, the municipal solicitor shall represent and advise it at the hearing or hearings referred to in section 909.1(b)(4).

(4) The governing body may retain an independent attorney to present the defense of the challenged ordinance or map on its behalf and to present their witnesses on its behalf.

(5) Based upon the testimony presented at the hearing or hearings, the governing body or the zoning board, as the case may be, shall determine whether the challenged ordinance or map is defective, as alleged by the landowner. If a challenge heard by a governing body is found to have merit, the governing body shall proceed as provide in section 609.1. If a challenge heard by a zoning hearing board is found to have merit, the decision of the zoning hearing board shall include recommended amendments to the challenged ordinance which will cure the defects found. In reaching its decision, the zoning hearing board shall consider the amendments, plans and explanatory material submitted by the landowner and shall also consider:

(i) the impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;

(ii) if the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the ordinance or map;

(iii) the suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features;

(iv) the impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and

(v) the impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

(6) The governing body or the zoning hearing board, as the case may be, shall render its decision within 45 days after the conclusion of the last hearing.

(7) If the governing body or the zoning board, as the case may be, fails to act on the landowner's request within the time limits referred to in paragraph (6), a denial of the request is deemed to have occurred on the 46th day after the close of the last hearing.

(d) The zoning hearing board or governing body, as the case may be, shall commence its hearings within 60 days after the request is filed unless the landowner requests or consents to an extension of time.

(e) Public notice of the hearing shall include notice that the validity of the ordinance or map is in question and shall give the place where and the times when a copy of the request, including any plans, explanatory material or proposed amendments may be examined by the public.

(f) The challenge shall be deemed denied when:

(1) the zoning hearing board or governing body, as the case may be, fails to commence the hearing within the time limits set forth in subsection (d);

(2) the governing body notifies the landowner that it will not adopt the curative amendment;

(3) the governing body adopts another curative amendment which is unacceptable to the landowner; or

(4) the zoning hearing board or governing body, as the case may be, fails to act on the request 45 days after the close of the last hearing on the request, unless the time is extended by mutual consent by the landowner and municipality.

(g) Where, after the effective date of this act, a curative amendment proposal is approved by the grant of a curative amendment application by the governing body pursuant to section 909.1(b)(4) or a validity challenge is sustained by the zoning hearing board pursuant to section 909.1(a)(1) or the court acts finally on appeal from denial of a curative amendment proposal or a validity challenge, and the proposal or challenge so approved requires a further application for subdivision or land development, the developer shall have two years from the date of such approval to file an application for preliminary or tentative approval pursuant to Article V or VII. Within the two-year period, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. Upon the filing of the preliminary or tentative plan, the provisions of section 508(4) shall apply. Where the proposal appended to the curative amendment application or the validity challenge is approved but does not require further application under any subdivision or land development ordinance, the developer shall have one year within which to file for a building permit. Within the one-year period, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. During these protected periods, the court shall retain or assume jurisdiction for the purpose of awarding such supplemental relief as may be necessary.

(h) Where municipalities have adopted a multimunicipal comprehensive plan pursuant to Article XI but have not adopted a joint municipal ordinance pursuant to Article VIII-A and all municipalities participating in the multimunicipal comprehensive plan have adopted and are administering zoning ordinances generally consistent with the provisions of the multimunicipal comprehensive plan, and a challenge is brought to the validity of a zoning ordinance of a participating municipality involving a proposed use, then the zoning hearing board or governing body, as the case may be, shall consider the availability of uses under zoning ordinances within the municipalities participating in the multimunicipal comprehensive plan within a reasonable geographic area and shall not limit its consideration to the application of the zoning ordinance on the municipality whose zoning ordinance is being challenged.

(i) A landowner who has challenged on substantive grounds the validity of a zoning ordinance or map either by submission of a curative amendment to the governing body under subsection (a) (2) or to the zoning hearing board under section 909.1 (a) (1) shall not submit any additional substantive challenges involving the same parcel, group of parcels or part thereof until such time as the status of the landowner's original challenge has been finally determined or withdrawn: Provided, however, that if after the date of the landowner's original challenge the municipality adopts a substantially new or different zoning ordinance or zoning map, the landowner may file a second substantive challenge to the new or different zoning ordinance or zoning map under subsection (a).

Section 916.2. Procedure to Obtain Preliminary Opinion. In order not to unreasonably delay the time when a landowner may secure assurance that the ordinance or map under which he proposed to build is free from challenge, and recognizing that the procedure for preliminary approval of his development may be too cumbersome or may be unavailable, the landowner may advance the date from which time for any challenge to the ordinance or map will run under section 914.1 by the following procedure:

(1) The landowner may submit plans and other materials describing his proposed use or development to the zoning officer for a preliminary opinion as to their compliance with the applicable ordinances and maps. Such plans and other materials shall not be required to meet the standards prescribed for preliminary, tentative or final approval or for the issuance of a building permit so long as they provide reasonable notice of the proposed use or development and a sufficient basis for a preliminary opinion as to its compliance.

(2) If the zoning officer's preliminary opinion is that the use or development complies with the ordinance or map, notice thereof shall be published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall include a general description of the proposed use or development and its location, by some readily identifiable directive, and the place and times where the plans and other materials may be examined by the public. The favorable preliminary approval under section 914.1 and the time therein specified for commencing a proceeding with the board shall run from the time when the second notice thereof has been published.

Section 917. Applicability of Ordinance Amendments. When an application for either a special exception or a conditional use has been filed with either the zoning hearing board or governing body, as relevant, and the subject matter of such application would ultimately constitute either a land development as defined in section 107 or a subdivision as defined in section 107, no change or amendment of the zoning, subdivision or other governing ordinance or plans shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed. Provided, further, should such an application be approved by either the zoning hearing board or governing body, as relevant, applicant shall be entitled to proceed with the submission of either land development or subdivision plans within a period of six months or longer as may be approved by either the zoning hearing board or the governing body following the date of such approval in accordance with the provisions of the governing ordinances or plans as they stood at the time the

application was duly filed before either the zoning hearing board or governing body, as relevant. If either a land development or subdivision plan is so filed within said period, such plan shall be subject to the provisions of section 508(1) through (4), and specifically to the time limitations of section 508(4) which shall commence as of the date of filing such land development or subdivision plan.

Section 918. Special Applicability Provisions. A municipal zoning ordinance enacted on or before August 21, 2000 shall not be invalidated, superseded or affected by any amendatory provision of the act of June 22, 2000 (P.L. 483 No.67), entitled "An act amending the act of July 31, 1968 (P.L.805, No.247), entitled, as amended, 'An act to empower cities of the second class a, and third class, boroughs, incorporated towns, townships of the first and second classes including those within a county of the second class and counties of the second through eighth classes, individually or jointly, to plan their development and to govern the same by zoning, subdivision and land development ordinances, planned residential development and other ordinances, by official maps, by the reservation of certain land for future public purpose and by the acquisition of such land; to promote the conservation of energy through the use of planning practices and to promote the effective utilization of renewable energy sources; providing for the establishment of planning commissions, planning departments, planning committees and zoning hearing boards, authorizing them to charge fees, make inspections and hold public hearings; providing for mediation; providing for transferable development rights; providing for appropriations, appeals to courts and penalties for violations; and repealing acts and parts of acts,' adding definitions; providing for intergovernmental cooperative planning and implementation agreements; further providing for repeals; and making an editorial change," or the act of June 22, 2000 (P.L.495, No.68), entitled "An act amending the act of July 31, 1968 (P.L.805, No.247), entitled, as amended, 'An act to empower cities of the second class a, and third class, boroughs, incorporated towns, townships of the first and second classes including those within a county of the second class and counties of the second through eighth classes, individually or jointly, to plan their development and to govern the same by zoning, subdivision and land development ordinances, planned residential development and other ordinances, by official maps, by the reservation of certain land for future public purpose and by the acquisition of such land; to promote the conservation of energy through the use of planning practices and to promote the effective utilization of renewable energy sources; providing for the establishment of planning commissions, planning departments, planning committees and zoning hearing boards, authorizing them to charge fees, make inspections and hold public hearings; providing for mediation; providing for transferable development rights; providing for appropriations, appeals to courts and penalties for violations; and repealing acts and parts of acts,' further providing for the purpose of the act; adding certain definitions; further providing for various matters relating to the comprehensive plan and for compliance by counties; providing for funding for municipal planning and for neighboring municipalities; further providing for certain ordinances; adding provisions relating to projects of regional impact; providing for traditional neighborhood development; further providing for grant of power, for contents of subdivision and land development ordinance, for approval of plats and for recording of plats and deeds; and providing for municipal authorities and water companies and for transferable development rights," and such ordinance provisions shall continue in full force and effect until February 21, 2001; provided, however, any such ordinance shall be subject to such amendatory provisions on and after February 22, 2001.

Article X - Appeals

(Art. repealed Dec. 21, 1988, P.L.1329, No.170)

Article X-A - Appeals to Court

Section 1001-A. Land Use Appeals. The procedures set forth in this article shall constitute the exclusive mode for securing review of any decision rendered pursuant to Article IX or deemed to have been made under this act.

Section 1002-A. Jurisdiction and Venue on Appeal; Time for Appeal.--(a) All appeals from all land use decisions rendered pursuant to Article IX shall be taken to the court of common pleas of the judicial district wherein the land is located and shall be filed within 30 days after entry of the decision as provided in 42 Pa.C.S. § 5572 (relating to time of entry of order) or, in the case of a deemed decision, within 30 days after the date upon which notice of said deemed decision is given as set forth in section 908(9) of this act. It is the express intent of the General Assembly that, except in cases in which an unconstitutional deprivation of due process would result from its application, the 30-day limitation in this section should be applied in all appeals from decisions.

(b) Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption shall be raised by appeal taken directly to the court of common pleas of the judicial district in which the municipality adopting the ordinance is located in accordance with 42 Pa.C.S. § 5571.1 (relating to appeals from ordinances, resolutions, maps, etc.)

(1002-A amended July 4, 2008, P.L.319, No.39)

Section 1002.1-A. Time for Appeal; Procedural Defects of Decisions.--(a) This section shall apply to all appeals challenging the validity of a land use decision on the basis of a defect in procedures prescribed by statute or ordinance.

(b) Except as otherwise provided in section 108, all appeals challenging the validity of a decision solely on the basis of a defect in procedure shall be filed within the time period provided in section 1002-A(a) unless a party establishes each of the following:

(1) that the person filing the appeal had insufficient actual or constructive notice of the decision to permit filing an appeal within the time period provided in section 1002-A(a). Notice of a hearing prior to the entry of a decision in accordance with section 908(1), notice of a decision in accordance with section 908(10) or notice of a deemed decision provided in accordance with this act shall establish constructive notice as a matter of law in any appeal under this section.

(2) That because of the insufficient actual or constructive notice of the decision, the application of the time limitation in section 1002-A(a) would result in an impermissible deprivation of constitutional rights.

(c) Appeals under this section shall only be permitted by an aggrieved person who can establish that reliance on the validity of the challenged decision resulted or could result in a use of property that directly affects such person's substantive property rights.

(d) No decision challenged in an appeal pursuant to this section shall be deemed void from inception except as follows:

(1) In the case of an appeal brought within the time period provided in section 1002-A(a), the party alleging the defect must meet the burden of proving that there was a failure to strictly comply with procedure.

(2) In the case of an appeal exempt from the time period provided in section 1002-A(a) or brought pursuant to section 108, the party alleging the defect must meet the burden of proving that because of the alleged defect in procedure alone:

(i) the public was denied notice sufficient to permit participation in the proceedings prior to the entry of the decision to the extent such participation was authorized by statute or ordinance; or

(ii) those whose substantive property rights were or could be directly affected by the entry of the decision were denied an opportunity to participate in proceedings prior to the entry of the decision.

(e) Substantial compliance with notice of a hearing required prior to the entry of a decision in accordance with section 908(1) shall establish notice adequate to permit public participation as a matter of law in any appeal under this section.

(f) An adjudication that a decision is void from inception shall not affect any previously acquired rights of property owners who have exercised good faith reliance on the validity of the decision prior to the determination.

(1002.1-A added July 4, 2008, P.L.319, No.39)

Compiler's Note: Section 6 of Act 39 of 2008, which added section 1002.1-A. provided that section 1002.1-A shall apply beginning on the effective date of an amendment to 42 Pa.C.S. that provided for appeals from ordinances, resolutions, maps and similar actions of a political subdivision. Section 5571.1 of Title 42 (relating to appeals from ordinances, resolutions, maps, etc.) was added July 4, 2008, P.L.325, No.40, effective immediately.

Section 1003-A. Appeals to Court; Commencement; Stay of Proceedings.

(a) Land use appeals shall be entered as of course by the prothonotary or clerk upon the filing of a land use appeal notice which concisely sets forth the grounds on which the appellant relies. The appeal notice need not be verified. The land use appeal notice shall be accompanied by a true copy thereof.

(b) Upon filing of a land use appeal, the prothonotary or clerk shall forthwith, as of course, send to the governing body, board or agency whose decision or action has been appealed, by registered or certified mail, the copy of the land use appeal notice, together with a writ of certiorari commanding said governing body, board or agency, within 20 days after receipt thereof, to certify to the court its entire record in the matter in which the land use appeal has been taken, or a true and complete copy thereof, including any transcript of testimony in existence and available to the governing body, board or agency at the time it received the writ of certiorari.

(c) If the appellant is a person other than the landowner of the land directly involved in the decision or action appealed from, the appellant, within seven days after the land use appeal is filed, shall serve a true copy of the land use appeal notice by mailing said notice to the landowner or his attorney at his last known address. For identification of such landowner, the appellant may rely upon the record of the municipality and, in the event of good faith mistakes as to such identity, may make such service nunc pro tunc by leave of court.

(d) The filing of an appeal in court under this section shall not stay the action appealed from, but the appellants may petition the court having jurisdiction of land use appeals for a stay. If the appellants are persons who are seeking to prevent a use or development of the land of another, whether or not a stay is sought by them, the landowner whose use or development is in question may petition the court to order the appellants to post bond as a condition to proceeding with the appeal. After the petition for posting a bond is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the landowners to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for posting a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court. The question of the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the respondent to the petition for posting a bond to post a bond shall be interlocutory. If an appeal is taken by a respondent to the petition for posting a bond from an order of the court dismissing a land use appeal for refusal to post a bond, such responding party, upon

motion of petitioner and, after hearing in the court having jurisdiction of land use appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by petitioner.

Section 1004-A. Intervention. Within the 30 days first following the filing of a land use appeal, if the appeal is from a board or agency of a municipality, the municipality and any owner or tenant of property directly involved in the action appealed from may intervene as of course by filing a notice of intervention, accompanied by proof of service of the same, upon each appellant or each appellant's counsel of record. All other intervention shall be governed by the Pennsylvania Rules of Civil Procedure.

Section 1005-A. Hearing and Argument of Land Use Appeal. If, upon motion, it is shown that proper consideration of the land use appeal requires the presentation of additional evidence, a judge of the court may hold a hearing to receive additional evidence, may remand the case to the body, agency or officer whose decision or order has been brought up for review, or may refer the case to a referee to receive additional evidence, provided that appeals brought before the court pursuant to section 916.1 shall not be remanded for further hearings before any body, agency or officer of the municipality. If the record below includes findings of fact made by the governing body, board or agency whose decision or action is brought up for review and the court does not take additional evidence or appoint a referee to take additional evidence, the findings of the governing body, board or agency shall not be disturbed by the court if supported by substantial evidence. If the record does not include findings of fact or if additional evidence is taken by the court or by a referee, the court shall make its own findings of fact based on the record below as supplemented by the additional evidence, if any.

Section 1006-A. Judicial Relief.

(a) In a land use appeal, the court shall have power to declare any ordinance or map invalid and set aside or modify any action, decision or order of the governing body, agency or officer of the municipality brought up on appeal.

(b) Where municipalities have adopted a joint municipal comprehensive plan and enacted a zoning ordinance or ordinances consistent with the joint municipal comprehensive plan within a region pursuant to Articles VIII-A and XI, the court, when determining the validity of a challenge to such a municipality's zoning ordinance, shall consider the zoning ordinance or ordinances as they apply to the entire region and shall not limit its consideration to the application of the zoning ordinance within the boundaries of the respective municipalities.

(b.1) Where municipalities have adopted a multimunicipal comprehensive plan pursuant to Article XI but have not adopted a joint municipal ordinance pursuant to Article VIII-A and all municipalities participating in the multimunicipal comprehensive plan have adopted and are administrating zoning ordinances generally consistent with the provisions of the multimunicipal comprehensive plan, and a challenge is brought to the validity of a zoning ordinance of a participating municipality involving a proposed use, then the court shall consider the availability of uses under zoning ordinances within the municipalities participating in the multimunicipal comprehensive plan within a reasonable geographic area and shall not limit its consideration to the application of the zoning ordinance on the municipality whose zoning ordinance is being challenged.

(b.2) Notwithstanding any provisions of this section to the contrary, each municipality shall provide for reasonable coal mining activities in its zoning ordinance.

(c) If the court finds that an ordinance or map, or a decision or order thereunder, which has been brought up for review unlawfully prevents or restricts a development or use which has been described by the landowner through plans and other materials submitted to the governing body, agency or officer of the municipality whose action or failure to act is in question on the appeal, it may order the described development or use approved as to all elements or it may order it approved as to some elements and refer other elements to the governing body,

agency or officer having jurisdiction thereof for further proceedings, including the adoption of alternative restrictions, in accordance with the court's opinion and order.

(d) Upon motion by any of the parties or upon motion by the court, the judge of the court may hold a hearing or hearings to receive additional evidence or employ experts to aid the court to frame an appropriate order. If the court employs an expert, the report or evidence of such expert shall be available to any party and he shall be subject to examination or cross-examination by any party. He shall be paid reasonable compensation for his services which may be assessed against any or all of the parties as determined by the court. The court shall retain jurisdiction of the appeal during the pendency of any such further proceedings and may, upon motion of the landowner, issue such supplementary orders as it deems necessary to protect the rights of the landowner as declared in its opinion and order.

(e) The fact that the plans and other materials are not in a form or are not accompanied by other submissions which are required for final approval of the development or use in question or for the issuance of permits shall not prevent the court from granting the definitive relief authorized. The court may act upon preliminary or sketch plans by framing its decree to take into account the need for further submissions before final approval is granted.

Article XI - Intergovernmental Cooperative Planning and Implementation Agreements

Section 1101. Purposes It is the purpose of this article:

(1) To provide for development that is compatible with surrounding land uses and that will complement existing land development with a balance of commercial, industrial and residential uses.

(2) To protect and maintain the separate identity of Pennsylvania's communities and to prevent the unnecessary conversion of valuable and limited agricultural land.

(3) To encourage cooperation and coordinated planning among adjoining municipalities so that each municipality accommodates its share of the multimunicipal growth burden and does not induce unnecessary or premature development of rural lands.

(4) To minimize disruption of the economy and environment of existing communities.

(5) To complement the economic and transportation needs of the region and this Commonwealth.

(6) To provide for the continuation of historic community patterns.

(7) To provide for coordinated highways, public services and development.

(8) To ensure that new public water and wastewater treatment systems are constructed in areas that will result in the efficient utilization of existing systems, prior to the development and construction of new systems.

(9) To ensure that new or major extension of existing public water and wastewater treatment systems are constructed only in those areas within which anticipated growth and development can adequately be sustained within the financial and environmental resources of the area.

(10) To identify those areas where growth and development will occur so that a full range of public infrastructure services including sewer, water, highways, police and fire protection, public schools, parks, open space and other services can be adequately planned and provided as needed to accommodate the growth that occurs.

(11) To encourage innovations in residential, commercial and industrial development to meet growing population demands by an increased variety in type, design and layout of structures and by the conservation and more efficient use of open space ancillary to such structures.

(12) To facilitate the development of affordable and other types of housing in numbers consistent with the need for such housing as shown by existing and projected population and employment data for the region.

Section 1102. Intergovernmental Cooperation Planning and Implementation Agreements. For the purpose of developing, adopting and implementing a comprehensive plan for the entire county or for any area within the county, the governing bodies of municipalities located within the county or counties may enter into intergovernmental cooperative agreements, as provided by 53 Pa C.S. Ch. 23 Such. A (relating to intergovernmental cooperation), except for any provisions permitting initiative and referendum. Such agreements may also be entered into between and among counties and municipalities for areas that include municipalities in more than one county, and between and among counties, municipalities, authorities and special districts providing water and sewer facilities, transportation planning or other services within the area of a plan and with the opportunity for the active participation of State agencies and school districts. Implementation of the comprehensive plan and subdivision and zoning ordinances shall be accomplished in accordance with articles of this act.

Section 1103. Finances, Staff and Program. County or Multimunicipal Comprehensive Plans.

(a) The comprehensive plan that is the subject of an agreement may be developed by the municipalities or at the request of the municipalities, by the county planning agency, or agencies in the case of a plan covering municipalities in more than one county, in cooperation with municipalities within the area and shall include all the elements required or authorized in section 301 for the region of the plan, including a plan to meet the housing needs of present residents and those individuals and families anticipated to reside in the area of the plan, which may include conservation of presently sound housing, rehabilitation of housing in declining neighborhoods and the accommodations of expected new housing in different dwelling types and of appropriate densities for households of all income levels. The plan may:

(1) Designate growth areas where:

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

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

  (iii) Services to serve such development are provided or planned for.

(2) Designate potential future growth areas where future development is planned for densities to accompany the orderly extension and provision of services.

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

  (i) Rural resource uses are planned for.

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

  (iii) Infrastructure extensions or improvements are not intended to be publicly financed by municipalities except in villages, unless the participating or affected municipalities agree that such service should be provided to an area for health or safety reasons or to accomplish one or more of the purposes set forth in section 1101.

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

(5) Plan for developments of area wide significance and impact, particularly those identified in section 301(3) and (4).

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

(b) The county may facilitate a multimunicipal process and may enter into cooperative planning agreements with participating municipalities governing particular planning subjects and responsibilities. The planning process shall include a public participation process to assure that all governing bodies, municipal authorities, school districts and agencies, whether public or private, having jurisdiction or operating within the area of the plan and landowners and citizens affected by the plan have an opportunity to be heard prior to the public hearings required for the adoption of the plan under section 302(a).

(c) Adoption of the plan and plan amendments shall conform to the requirements of section 302, and may be reflected on the official map of each participating municipality pursuant to section 401. Where a county and municipality have developed and adopted a comprehensive county or multimunicipal plan that conforms to the requirements of this article within five years prior to the date of adoption of this article, the plan may be implemented by agreements as provided for in this article.

Section 1104. Implementation Agreements.

(a) In order to implement multimunicipal comprehensive plans, under section 1103 counties and municipalities shall have authority to enter into intergovernmental cooperative agreements.

(b) Cooperative implementation agreements shall:

(1) Establish the process that the participating municipalities will use to achieve general consistency between the county or multimunicipal comprehensive plan and zoning ordinances, subdivision and land development and capital improvement plans within participating municipalities, including adoption of conforming ordinances by participating municipalities within two years and a mechanism for resolving disputes over the interpretation of the multimunicipal comprehensive plan and the consistency of implementing plans and ordinances.

(2) Establish a process for review and approval of developments of regional significance and impact that are proposed within any participating municipality. Subdivision and land development approval powers under this act shall only be exercised by the municipality in which the property where the approval is sought. Under no circumstances shall a subdivision or land development applicant be required to undergo more than one approval process.

(3) Establish the role and responsibilities of participating municipalities with respect to implementation of the plan, including the provision of public infrastructure services within participating municipalities as described in subsection (d), the provision of affordable housing, and purchase of real property, including rights-of-way and easements.

(4) Require a yearly report by participating municipalities to the county planning agency and by the county planning agency to the participating municipalities concerning activities carried out pursuant to the agreement during the previous year. Such reports shall include summaries of public infrastructure needs in growth areas and progress toward meeting those needs through capital improvement plans and implementing actions, and reports on development applications and dispositions for residential, commercial, and industrial development in each participating municipality for the purpose of evaluating the extent of provision for all categories of use and housing for all income levels within the region of the plan.

(5) Describe any other duties and responsibilities as may be agreed upon by the parties.

(c) Cooperative implementation agreements may designate growth areas, future growth areas and rural resource areas within the plan. The agreement shall also provide a process for amending the multimunicipal comprehensive plan and redefining the designated growth area, future growth area and rural resource area within the plan.

(d) The county may facilitate convening representatives of municipalities, municipal authorities, special districts, public utilities, whether public or private, or other agencies that provide or declare an interest in providing a public infrastructure service in a public infrastructure service area or a portion of a public infrastructure service area within a growth area, as established in a county or multimunicipal comprehensive plan, for the purpose of negotiating agreements for the provision of such services. The county may provide or contract with others to provide technical assistance, mediation or dispute resolution services in order to assist the parties in negotiating such agreements.

Section 1105. Legal Effect.

(a) Where municipalities have adopted a county plan or a multimunicipal plan is adopted under this article and the participating municipalities have conformed their local plans and ordinances to the county or multimunicipal plan by implementing cooperative agreements and adopting appropriate resolutions and ordinances, the following shall apply:

(1) Sections 916.1 and 1006-A.

(2) State agencies shall consider and may rely upon comprehensive plans and zoning ordinances when reviewing applications for the funding or permitting of infrastructure or facilities.

(3) State agencies shall consider and may give priority consideration to applications for financial or technical assistance for projects consistent with the county or multimunicipal plan.

(b) Participating municipalities that have entered into implementation agreements to carry out a county or multimunicipal plan as described in this article shall have the following additional powers:

(1) To provide by cooperative agreement for the sharing of tax revenues and fees by municipalities within the region of the plan.

(2) To adopt a transfer of development rights program by adoption of an ordinance applicable to the region of the plan so as to enable development rights to be transferred from rural resource areas in any municipality within the plan to designated growth areas in any municipality within the plan.

(c) Nothing in this article shall be construed to authorize a municipality to regulate the allocation or withdrawal of water resources by a municipal authority or water company that is otherwise regulated by the Pennsylvania Public Utility Commission or other Federal or State agencies or statutes.

(d) Except as provided in section 619.2, nothing in this article shall be construed as limiting the authority of the Pennsylvania Public Utility Commission over the implementation, location, construction and maintenance of public utility facilities and the rendering of public utility services to the public.

Section 1106. Specific Plans.

(a) Participating municipalities shall have authority to adopt a specific plan for the systematic implementation of a county or multimunicipal comprehensive plan for any nonresidential part of the area covered by the plan. Such specific plan shall include a text and a diagram or diagrams and implementing ordinances which specify all of the following in detail:

(1) The distribution, location, extent of area and standards for land uses and facilities, including design of sewage, water, drainage and other essential facilities needed to support the land uses.

(2) The location, classification and design of all transportation facilities, including, but not limited to, streets and roads needed to serve the land uses described in the specific plan.

(3) Standards for population density, land coverage, building intensity and supporting services, including utilities.

(4) Standards for the preservation, conservation, development and use of natural resources, including the protection of significant open spaces, resource lands and agricultural lands within or adjacent to the area covered by the specific plan.

(5) A program of implementation including regulations, financing of the capital improvements and provisions for repealing or amending the specific plan. Regulations may include zoning, storm water, subdivision and land development, highway access and any other provisions for which municipalities are authorized by law to enact. The regulations may be amended into the county or municipal ordinances or adopted as separate ordinances. If enacted as separate ordinances for the area covered by the specific plan, the ordinances shall repeal and replace any county or municipal ordinances in effect within the area covered by the specific plan and ordinances shall conform to the provisions of the specific plan.

(b) (1) No specific plan may be adopted or amended unless the proposed plan or amendment is consistent with an adopted county or multi-municipal comprehensive plan.

(2) No capital project by any municipal authority or municipality shall be approved or undertaken, and no final plan, development plan or plat for any subdivision or development of land shall be approved unless such projects, plans or plats are consistent with the adopted specific plan.

(c) In adopting or amending a specific plan, a county and participating municipalities shall use the same procedures as provided in this article for adopting comprehensive plans and ordinances.

(d) Whenever a specific plan has been adopted, applicants for subdivision or land development approval shall be required to submit only a final plan as provided in Article V, provided that such final plan is consistent with and implements the adopted specific plan.

(e) A county or counties and participating municipalities are prohibited from assessing subdivision and land development applicants for the cost of the specific plan.

Section 1107. Saving Clause.

(a) The passage of this act and the repeal by it of any prior enabling laws relating to regional planning shall not invalidate any regional planning commission created under such other laws. This act, in such respect, shall be deemed a continuation and codification of such prior enabling laws.

(b) The amendment of this article shall not invalidate any joint municipal planning commission established under the former provisions of this article. A joint municipal planning commission shall continue to function under the amended provisions of this article.

Article XI-A - Wastewater Processing Cooperative Planning

Section 1101-A. Definitions. The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Department." The Department of Environmental Protection of the Commonwealth.

"Wastewater system official." Either:

(1) the manager of a wastewater system; or

(2) if a manager is not employed to oversee a wastewater system, the system municipal officials of the municipality in which the wastewater system exists.

Section 1102-A. Notification requirement.

(a) Notice to wastewater systems official.

(1) Except as provided in paragraph (2), notwithstanding any other provision of law, this section applies to a person who files an application for:

(i) development, plat approval, planned residential development or waiver of land development under this act; or

(ii) a construction permit under section 502 of the act of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania Construction Code Act.

(2) This article does not apply to:

(i) an application that involves new construction or alteration or renovation of a one-family or two-family dwelling;

(ii) an application that has an approved sewer module; or

(iii) an application for which the department has issued a determination that sewage planning is not required or has granted an exemption from sewage planning.

(3) A person subject to this subsection shall provide written notification of filing the application to the wastewater system official serving the property identified in the application. A copy of the written notification shall be provided by the person to the municipality.

(b) Failure to notify. No application subject to subsection (a) may be deemed by the municipality to be administratively complete until the municipality receives a copy of the written notification required by subsection (a).

Section 1103-A. Review by wastewater system officials.

(a) Wastewater systems review.

(1) Upon receipt of the notification required under section 1102-A(a), the wastewater system official shall review the notification to determine the impact of the application on the wastewater system. The wastewater system official may request additional information, including a copy of the application, from the applicant.

(2) (i) Except as provided under subparagraph (ii), review by the wastewater system official shall be completed within 30 days of receipt of the notification required under section 1102-A. For good

cause shown, the wastewater system official may request and the municipality shall grant an extension of up to 15 days for completion of the review.

(ii) If another statute establishes an application review period of 30 days or less, the review period and extension provided under subparagraph (I) shall not apply and the wastewater system official shall complete the review within the review period provided by that statute.

(3) If a municipality does not receive any notice from the wastewater system official within the time period provided under paragraph (2), the municipality shall proceed with the application as if the application is in compliance with the requirements of the wastewater system.

(b) Notification of results of review.

(1) Upon completion of the review required under subsection (a), the wastewater system official shall notify the applicant and the municipality in writing of its findings, which shall include a statement regarding the expected impact of the application on the current wastewater system.

(2) If the application will cause the wastewater system to exceed its permitted capacity or will result in necessary upgrades to the wastewater system's infrastructure, the written notice of the wastewater system official shall include the specific reasons that are causing the wastewater system to exceed its permitted capacity or the necessity for upgrades to the wastewater system's infrastructure.

(c) Approval of applications. Except for applications which are exempt from the provisions of this article as provided under section 1102-A(a)(2), a municipality may not:

(1) grant final approval of an application for development, plat approval or planned residential development under this act unless final approval is conditioned upon receipt of a waiver of or an approved exemption from sewage planning or written approval of the application is received from the wastewater system official; or

(2) approve an application for a construction permit under section 502 of the act of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania Construction Code Act, unless the application has been reviewed under this section.

(d) Right of appeal. Any person aggrieved by a decision of a wastewater system official shall be entitled to seek the remedies provided under the act of January 24, 1966 (1965 P.L.1535, No.537), known as the Pennsylvania Sewage Facilities Act.

Section 1104-A. Applicability. This article shall apply as follows:

(1) This article shall apply to applications for development, plat approval, planned residential development, waiver of land development or construction permits if the development or construction utilizes wastewater treatment service provided by a county wastewater treatment authority incorporated in a county of the second class A.

(2) This article shall apply to all municipalities served by the authority under paragraph (1).

Section 1105-A. Adoption of Regional Zoning Ordinances. (1105-A repealed Dec. 21, 1988, P.L.1329, No.170)

Section 1106-A. Amendments to Regional Zoning Ordinance. (1106-A repealed Dec. 21, 1988, P.L.1329, No.170)

Section 1107-A. Regional Hearing Board. (1107-A repealed Dec. 21, 1988, P.L.1329, No.170)

Section 1108-A. Intention to Withdraw. (1108-A repealed Dec. 21, 1988, P.L.1329, No.170)

Article XII - Repeals

Section 1201. Specific Repeals. The following acts and parts of acts and amendments thereof are repealed to the extent hereinafter specified:

(1) Section 12, act of May 16, 1891 (P.L.75, No.59), entitled "An act in relation to the laying out, opening, widening, straightening, extending or vacating streets and alleys, and the construction of bridges in the several municipalities of this Commonwealth, the grading, paving, macadamizing or otherwise improving streets and alleys, providing for ascertaining the damages to private property resulting therefrom, the assessment of the damages, costs and expenses thereof upon the property benefited, and the construction of sewers and payment of the damages, costs and expenses thereof, including damages to private property resulting therefrom," as to cities of the second class A, incorporated towns and townships of the first and second class.

(2) Sections 1151, 1152, 1153, 1154, 1155, 1156, 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1711, 1721, 1722, 2706, 2707, 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3208, 3209 and 3210, act of February 1, 1966 (P.L.1656, No.581), known as "The Borough Code," absolutely.

(3) Sections 2001, 3015, 3016, 3061, 3062, 3063, 3064, 3065, 3066, 3067, 3068, 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3107.1, 3107.2, 3108, 3109, 3110, 3111, 3201, 3202 and 3203, act of June 24, 1931 (P.L.1206, No.331), known as "The First Class Township Code," reenacted and amended May 27, 1949 (P.L.1955, No.569), absolutely.

(4) Sections 2901, 2902, 2903, 2904, 2905, 2906, 3701, 3702, 4001, 4002, 4003, 4004, 4005, 4006, 4101, 4102, 4103, 4104, 4105, 4106, 4107, 4110, 4111, 4112, 4113, 4114, 4120, 4121, 4122, 4123, 4124, 4125, 4126, 4127, 4128 and 4129, act of June 23, 1931 (P.L.932, No.317), known as "The Third Class City Code," reenacted and amended June 28, 1951 (P.L.662, No.164), absolutely.

(5) Sections 1201-A, 1202-A, 1203-A, 1204-A, 1205-A, 1206-A, 1207-A, 1208-A, 1907.1, 1907.2, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2051, 2052, 2053, 2054, 2055, 2056 and 2057, act of May 1, 1933 (P.L.103, No.69), known as "The Second Class Township Code," reenacted and amended July 10, 1947 (P.L.1481, No.567), absolutely.

(6) The act of April 18, 1945 (P.L.258, No.117), entitled "An act requiring cities, boroughs, towns and townships to notify adjacent political subdivisions of proposed streets, roads and highways leading into them," as to cities of the second class A and third class, boroughs, incorporated towns and townships of the first and second class.

(7) Sections 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038 and 2039, act of August 9, 1955 (P.L.323, No.130), known as "The County Code," absolutely.

(8) Sections 2201 through 2211 and 2220 through 2239, act of July 28, 1953 (P.L.723, No.230), known as the "Second Class County Code," in so far as they relate to counties of the second class A.

Section 1202. General Repeal. All other acts and parts of acts are repealed in so far as they are inconsistent herewith, but this act shall not repeal or modify any of the provisions of 66 Pa.C.S. Pt. I (relating to public utility code) 68 Pa.C.S. Pt. II Subpt. B (relating to condominiums), or any laws administered by the Department of Transportation of the Commonwealth of Pennsylvania.

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