

Purdon's Pennsylvania Statutes and Consolidated Statutes [Currentness](#)

Title 53 P.S. Municipal and Quasi-Municipal Corporations

Part I. General Municipal Law

Chapter 30. Planning and Development

Article I. General Provisions ([Refs & Amos](#))

**[§ 10101. Short title](#)**

This act shall be known and may be cited as the “Pennsylvania Municipalities Planning Code.”

**[§ 10102. Effective date](#)**

This act shall take effect January 1, 1969.

**[§ 10103. 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or to be instituted, to enforce any right, rule, regulation, or ordinance or to punish any offense against any such repealed laws or against any ordinance enacted under them. All ordinances, resolutions, regulations and rules made pursuant to any act of Assembly repealed by this act shall continue in effect as if such act had not been repealed, except as the provisions are inconsistent herewith.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a part of this act and this code shall be construed to give effect to all provisions of other acts not specifically repealed.

**[§ 10104. 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.

**[§ 10105. 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.

#### § 10106. 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.

#### § 10107. 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), [FN1] 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. [FN2]

**“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 plans 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 landowner, who makes or causes to be made a subdivision of land or a land development.

**“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.

“**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.

“**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 and public infrastructure services may or may not be provided, but future development at greater densities is planned to accompany the orderly extension and 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). [FN3]

**“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.

**“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. [FN4]

**“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; and

(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 in 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 facilities for the collection and treatment of sewage, water lines and facilities for the pumping and treating of water, parks and open space, streets and sidewalks, public transportation and other services that may be appropriate within a growth area, but shall exclude fire protection and emergency medical services and any other service required to protect the health and 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 is 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. [FN5]

**“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 applicable ordinances.

**“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 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, limited in size 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 in a rectilinear or grid pattern of interconnecting 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. [FN6]

**“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 [FN6] 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; or

(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. [FN7]

**“Land use ordinance,”** any ordinance or map adopted pursuant to the authority granted in Articles IV, V, VI and VII. [FN8]

**“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.

[FN1] [53 P.S. § 301 et seq.](#)

[FN2] [53 P.S. § 10601 et seq.](#)

[FN3] [53 P.S. § 10503\(1.1\).](#)

[FN4] [53 P.S. § 10401 et seq.](#)

[FN5] [53 P.S. §§ 10601 et seq.](#) and [10901 et seq.](#)

[FN6] [Sections 10901 et seq.](#) and [11101-A et seq.](#) (repealed).

[FN7] [53 P.S. § 10909.1.](#)

[FN8] [53 P.S. §§ 10401 et seq., 10501 et seq., 10601 et seq. and 10701 et seq.](#)

### **§ 10108. 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, [FN1] 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 action 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 an 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 a 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 the 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 procedural or substantive validity of a decision.

[FN1] [53 P.S. §§ 11002-A](#). 11002.1-A.

## Article II. Planning Agencies ([Refs & Annos](#))

### **[§ 10201. 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.

### **[§ 10202. 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.

### **[§ 10203. 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.

**§ 10204. Repealed. 1988, Dec. 21, P.L. 1329, No. 170, § 10, effective in 60 days**

**§ 10205. 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.

**§ 10206. 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.

**§ 10207. 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.

#### **§ 10208. 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.

#### **§ 10209. Repealed. 1972, June 1, P.L. 333, No. 93, § 2**

##### **§ 10209.1. 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 be 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.

#### **§ 10210. 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.

#### **§ 10211. 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.

#### **§ 10212. 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 ([Refs & Annos](#))

## § 10301. 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. [FN1]

(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”; [FN2]

(ii) act of May 31, 1945 (P.L. 1198, No. 418), known as the “Surface Mining Conservation and Reclamation Act”; [FN3]

(iii) act of April 27, 1966 (1st Sp.Sess., P.L. 31, No. 1), known as “The Bituminous Mine Subsidence and Land Conservation Act”; [FN4]

(iv) act of September 24, 1968 (P.L. 1040, No. 318), known as the “Coal Refuse Disposal Control Act”; [FN5]

(v) act of December 19, 1984 (P.L. 1140, No. 223), known as the “Oil and Gas Act”; [FN6]

(vi) act of December 19, 1984 (P.L. 1093, No. 219), known as the “Noncoal Surface Mining Conservation and Reclamation Act”; [FN7]

(vii) act of June 30, 1981 (P.L. 128, No. 43), known as the “Agricultural Area Security Law”; [FN8]

(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”; [FN9] and

(ix) act of May 20, 1993 (P.L. 12, No. 6), known as the “Nutrient Management Act,” [FN10] 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 may 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 may 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.

[FN1] [53 P.S. § 10606.](#)

[FN2] [35 P.S. § 691.1 et seq.](#)

[FN3] [52 P.S. § 1396.2 et seq.](#)

[FN4] [52 P.S. § 1406.1 et seq.](#)

[FN5] [52 P.S. § 30.52 et seq.](#)

[FN6] [58 P.S. § 601.101 et seq.](#)

[FN7] [52 P.S. § 3301 et seq.](#)

[FN8] [3 P.S. § 901 et seq.](#)

[FN9] [3 P.S. § 951 et seq.](#)

[FN10] [3 P.S. § 1701 et seq.](#)

### **§ 10301.1. 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.

### **§ 10301.2. 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.

### **§ 10301.3. 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](#) [FN1] 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.

[FN1] [53 P.S. § 10302](#).

### **§ 10301.4. 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.

### **§ 10301.5. 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.

### **§ 10302. 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.

**§ 10303. 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;

(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.

**§ 10304. 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](#), [FN1] 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.

[FN1] [53 P.S. § 10302](#).