

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 535

Session of
1987

INTRODUCED BY CORMAN, RHOADES, STOUT AND AFFLERBACH, MARCH 10,
1987

REFERRED TO LOCAL GOVERNMENT, MARCH 10, 1987

AN ACT

1 Reenacting and amending the act of July 31, 1968 (P.L.805,
2 No.247), entitled, as amended, "An act to empower cities of
3 the second class A, and third class, boroughs, incorporated
4 towns, townships of the first and second classes including
5 those within a county of the second class and counties of the
6 second class A through eighth classes, individually or
7 jointly, to plan their development and to govern the same by
8 zoning, subdivision and land development ordinances, planned
9 residential development and other ordinances, by official
10 maps, by the reservation of certain land for future public
11 purpose and by the acquisition of such land; to promote the
12 conservation of energy through the use of planning practices
13 and to promote the effective utilization of renewable energy
14 sources; providing for the establishment of planning
15 commissions, planning departments, planning committees and
16 zoning hearing boards, authorizing them to charge fees, make
17 inspections and hold public hearings; providing for
18 appropriations, appeals to courts and penalties for
19 violations; and repealing acts and parts of acts," revising,
20 amending, adding and changing provisions; and making
21 editorial changes.

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

24 Section 1. The title of the act of July 31, 1968 (P.L.805,
25 No.247), known as the Pennsylvania Municipalities Planning Code,
26 amended June 23, 1982 (P.L.613, No.173), is amended to read:

27 AN ACT

1 To empower cities of the second class A, and third class,
2 boroughs, incorporated towns, townships of the first and
3 second classes including those within a county of the second
4 class and counties of the second class A through eighth
5 classes, individually or jointly, to plan their development
6 and to govern the same by zoning, subdivision and land
7 development ordinances, planned residential development and
8 other ordinances, by official maps, by the reservation of
9 certain land for future public purpose and by the acquisition
10 of such land; to promote the conservation of energy through
11 the use of planning practices and to promote the effective
12 utilization of renewable energy sources; providing for the
13 establishment of planning commissions, planning departments,
14 planning committees and zoning hearing boards, authorizing
15 them to charge fees, make inspections and hold public
16 hearings; providing for mediation; providing for transferable
17 development rights; providing for appropriations, appeals to
18 courts and penalties for violations; and repealing acts and
19 parts of acts.

20 Section 2. The heading of Article I and sections 101 and 102
21 of the act are reenacted to read:

22 ARTICLE I

23 General Provisions

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

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

28 Section 3. Section 103 of the act, amended June 1, 1972
29 (P.L.333, No.93), is amended to read:

30 Section 103. Construction of Act.--The provisions of this

1 act shall not affect any act done, contract executed or
2 liability incurred prior to its effective date, or affect any
3 suit or prosecution pending or to be instituted, to enforce any
4 right, rule, regulation, or ordinance or to punish any offense
5 against any such repealed laws or against any ordinance enacted
6 under them. All ordinances, resolutions, regulations and rules
7 made pursuant to any act of Assembly repealed by this act shall
8 continue in effect as if such act had not been repealed, except
9 as the provisions are inconsistent herewith. The provisions of
10 other acts relating to municipalities [and townships] other than
11 cities of the first and second class and counties of the second
12 class are made a part of this act and this code shall be
13 construed to give effect to all provisions of other acts not
14 specifically repealed.

15 Section 4. Section 104 of the act is reenacted to read:

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

23 Section 5. Section 105 of the act, amended June 23, 1982
24 (P.L.613, No.173), is amended to read:

25 Section 105. Purpose of Act.--It is the intent, purpose and
26 scope of this act to protect and promote safety, health and
27 morals; to accomplish [a] coordinated development [of
28 municipalities, other than cities of the first and second
29 class]; to provide for the general welfare by guiding and
30 protecting amenity, convenience, future governmental, economic,

1 practical, and social and cultural facilities, development and
2 growth, as well as the improvement of governmental processes and
3 functions; to guide uses of land and structures, type and
4 location of streets, public grounds and other facilities; to
5 promote the conservation of energy through the use of planning
6 practices and to promote the effective utilization of renewable
7 energy sources; and to permit municipalities[, other than cities
8 of the first and second class,] to minimize such problems as may
9 presently exist or which may be foreseen. [It is the further
10 intent of this act that any recommendations made by any planning
11 agency to any governing body shall be advisory only.]

12 Section 6. Section 106 of the act is reenacted to read:

13 Section 106. Appropriations, Grants and Gifts.--The
14 governing body of every municipality is hereby authorized and
15 empowered to make such appropriations as it may see fit, to
16 accept gifts, grants or bequests from public and private sources
17 for the purpose of carrying out the powers and duties conferred
18 by this act, and to enter into agreements regarding the
19 acceptance or utilization of such grants, gifts or bequests.

20 Section 7. Section 107 of the act, added or amended June 1,
21 1972 (P.L.333, No.93), June 9, 1982 (P.L.441, No.130), June 23,
22 1982 (P.L.613, No.173) and June 24, 1982 (P.L.628, No.177), is
23 amended to read:

24 Section 107. Definitions.--[As used in this act, except
25 where the context clearly indicates otherwise, the following
26 words or phrases have the meanings indicated below:] (a) The
27 following words and phrases when used in this act shall have the
28 meanings given to them in this subsection unless the context
29 clearly indicates otherwise:

30 [(1)] "Applicant," a landowner or developer, as hereinafter

1 defined, who has filed an application for development including
2 his heirs, successors and assigns.

3 [(2)] "Application for development," every application,
4 whether preliminary, tentative or final, required to be filed
5 and approved prior to start of construction or development
6 including but not limited to an application for a building
7 permit, for the approval of a subdivision plat or plan or for
8 the approval of a development plan.

9 [(3)] "Appointing authority," the mayor in cities; [the
10 chairman of] the board of commissioners in counties; the council
11 in incorporated towns and boroughs; the board of commissioners
12 in townships of the first class; and the board of supervisors in
13 townships of the second class; or as may be designated in the
14 law providing for the form of government.

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

17 [(4)] "Common open space," a parcel or parcels of land or an
18 area of water, or a combination of land and water within a
19 development site and designed and intended for the use or
20 enjoyment of residents of [the planned residential] a
21 development, not including streets, off-street parking areas,
22 and areas set aside for public facilities.

23 [(5) "City" or "cities," cities of the second class A and
24 third class.]

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

27 [(6)] "County," any county of the second class A through
28 eighth classes.

29 "Developer," any landowner, agent of such landowner, or
30 tenant with the permission of such landowner, who makes or

1 causes to be made a subdivision of land or a land development.

2 [(7)] "Development plan," the provisions for development
3 [of] including a planned residential development, [including] a
4 plat of subdivision, all covenants relating to use, location and
5 bulk of buildings and other structures, intensity of use or
6 density of development, streets, ways and parking facilities,
7 common open space and public facilities. The phrase "provisions
8 of the development plan" when used in this act shall mean the
9 written and graphic materials referred to in this definition.

10 [(8)] "Developer," any landowner, agent of such landowner or
11 tenant with the permission of such landowner, who makes or
12 causes to be made a subdivision of land or a land development.

13 (9) "Engineer," a professional engineer licensed as such in
14 the Commonwealth of Pennsylvania, duly appointed as the engineer
15 for a municipality, planning agency, or joint planning
16 commission.

17 (10)] "Governing body," the council in cities, boroughs and
18 incorporated towns; the board of commissioners in townships of
19 the first class; the board of supervisors in townships of the
20 second class; the board of commissioners in counties of the
21 second class A through eighth classes or as may be designated in
22 the law providing for the form of government.

23 [(11)] "Land development," any of the following activities:

24 [(i) the] (1) The improvement of one lot or two or more
25 contiguous lots, tracts or parcels of land for any purpose
26 involving:

27 [(a)] (i) a group of two or more residential or
28 nonresidential buildings, whether proposed initially or
29 cumulatively, or a single nonresidential building on a
30 lot or lots regardless of the number of occupants or

1 tenure; or

2 [(b)] (ii) the division or allocation of land or
3 space, whether initially or cumulatively, between or
4 among two or more existing or prospective occupants by
5 means of, or for the purpose of streets, common areas,
6 leaseholds, condominiums, building groups or other
7 features[;].

8 [(ii) a] (2) A subdivision of land.

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

10 [(12)] "Landowner," the legal or beneficial owner or owners
11 of land including the holder of an option or contract to
12 purchase (whether or not such option or contract is subject to
13 any condition), a lessee if he is authorized under the lease to
14 exercise the rights of the landowner, or other person having a
15 proprietary interest in land, shall be deemed to be a landowner
16 for the purposes of this act.

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

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

25 [(12.1)] "Mobilehome," means a transportable, single family
26 dwelling intended for permanent occupancy, [office or place of
27 assembly] contained in one unit, or in two units designed to be
28 joined into one integral unit capable of again being separated
29 for repeated towing, which arrives at a site complete and ready
30 for occupancy except for minor and incidental unpacking and

1 assembly operations, and constructed so that it may be used
2 without a permanent foundation.

3 [(12.2)] "Mobilehome lot," a parcel of land in a mobilehome
4 park, improved with the necessary utility connections and other
5 appurtenances necessary for the erections thereon of a single
6 mobilehome[, which is leased by the park owner to the occupants
7 of the mobilehome erected on the lot].

8 [(12.3)] "Mobilehome park," a parcel or contiguous parcels
9 of land [under single ownership] which has been [planned and
10 improved for the placement of mobilehomes for nontransient use,
11 consisting of] so designated and improved that it contains two
12 or more mobilehome lots for the placement thereon of
13 mobilehomes.

14 "Municipal engineer," a professional engineer licensed as
15 such in the Commonwealth of Pennsylvania, duly appointed as the
16 engineer for a municipality, planning agency or joint planning
17 commission.

18 [(13)] "Municipality," any city of the second class A or
19 third class, borough, incorporated town, township of the first
20 or second class, county of the second class A through eighth
21 class, home rule municipality, or any similar general purpose
22 unit of government which shall hereafter be created by the
23 General Assembly.

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

29 [(13.1)] "Nonconforming use," means a use, whether of land or
30 of structure, which does not comply with the applicable use

1 provisions in a zoning ordinance or amendment heretofore or
2 hereafter enacted, where such use was lawfully in existence
3 prior to the enactment of such ordinance or amendment, or prior
4 to the application of such ordinance or amendment to its
5 location by reason of annexation.

6 (13.2)] "Nonconforming structure," means a structure or part
7 of a structure manifestly not designed to comply with the
8 applicable use or extent of use provisions in a zoning ordinance
9 or amendment heretofore or hereafter enacted, where such
10 structure lawfully existed prior to the enactment of such
11 ordinance or amendment or prior to the application of such
12 ordinance or amendment to its location by reason of annexation.
13 Such nonconforming structures include, but are not limited to,
14 nonconforming signs.

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

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

24 [(14)] "Planned residential development," an area of land,
25 controlled by a landowner, to be developed as a single entity
26 for a number of dwelling units, or combination of residential
27 and nonresidential uses, the development plan for which does not
28 correspond in lot size, bulk [or], type of dwelling, or use,
29 density, or intensity, lot coverage and required open space to
30 the regulations established in any one [residential] district

1 created, from time to time, under the provisions of a municipal
2 zoning ordinance.

3 [(15)] "Planning agency," a planning commission, planning
4 department, or a planning committee of the governing body.

5 [(16)] "Plat," the map or plan of a subdivision or land
6 development, whether preliminary or final.

7 [(17)] "Public grounds," includes:

8 [(i)] (1) parks, playgrounds, trails, paths and other
9 recreational areas and other public areas; [and

10 (ii)] (2) sites for schools, sewage treatment, refuse
11 disposal and other publicly owned or operated facilities; and

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

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

18 "Public meeting," a forum held pursuant to notice under the
19 act of July 19, 1974 (P.L.486, No.175), referred to as the
20 "Public Agency Open Meeting Law."

21 [(18)] "Public notice," notice published once each week for
22 two successive weeks in a newspaper of general circulation in
23 the municipality. Such notice shall state the time and place of
24 the hearing and the particular nature of the matter to be
25 considered at the hearing. The first publication shall [be not]
26 not be more than [thirty] 30 days [or] and the second
27 publication shall not be less than [fourteen] seven days from
28 the date of the hearing.

29 [(18.1)] "Renewable energy source," means any method,
30 process or substance whose supply is rejuvenated through natural

1 processes and, subject to those natural processes, remains
2 relatively constant, including, but not limited to, biomass
3 conversion, geothermal energy, solar and wind energy and
4 hydroelectric energy and excluding those sources of energy used
5 in the fission and fusion processes.

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

8 [(19)] "Street," includes street, avenue, boulevard, road,
9 highway, freeway, parkway, lane alley viaduct and any other ways
10 used or intended to be used by vehicular traffic or pedestrians
11 whether public or private.

12 [(20)] "Structure," any man-made object having an
13 ascertainable stationary location on or in land or water,
14 whether or not affixed to the land.

15 [(21)] "Subdivision," the division or redivision of a lot,
16 tract or parcel of land by any means into two or more lots,
17 tracts, parcels or other divisions of land including changes in
18 existing lot lines for the purpose, whether immediate or future,
19 of lease, partition by the court for distribution to heirs or
20 devisees, transfer of ownership or building or lot development:
21 Provided, however, That the subdivision by lease of land for
22 agricultural purposes into parcels of more than ten acres, not
23 involving any new street or easement of access or any
24 residential [dwellings] dwelling, shall be exempted.

25 [(22)] "Substantially completed," where, in the judgment of
26 the municipal engineer, at least [ninety percent] 90% (based on
27 the cost of the required improvements for which financial
28 security was posted pursuant to section 509) of those
29 improvements required as a condition for final approval have
30 been completed in accordance with the approved plan, so that the

1 project will be able to be used, occupied or operated for its
2 intended use.

3 "Transferable development rights," the attaching of
4 development rights to specified lands which are desired by a
5 municipality to be kept undeveloped, but permitting those rights
6 to be transferred from those lands so that the development
7 potential which they represent may occur on other lands within
8 the municipality where more intensive development is deemed by
9 the municipality to be appropriate.

10 "Variance," relief granted pursuant to the provisions of
11 Articles VI and IX.

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

15 "Board," any body granted jurisdiction under a land use
16 ordinance or under this act to render final adjudications.

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

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

26 (1) the governing body;

27 (2) the zoning hearing board; or

28 (3) the planning agency, only if and to the extent the
29 planning agency is charged with final decision on preliminary
30 or final plans under the subdivision and land development

1 ordinance or planned residential development provisions.
2 Determinations shall be appealable only to the boards designated
3 as having jurisdiction for such appeal.

4 "Hearing," an administrative proceeding conducted by a board
5 pursuant to section 909.1.

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

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

21 Section 8. The heading of Article II is reenacted to read:

22 ARTICLE II

23 Planning Agencies

24 Section 9. Sections 201, 202 and 203 of the act are amended
25 to read:

26 Section 201. Creation of Planning Agencies.--The governing
27 body of any municipality shall have the power to create or
28 abolish, by ordinance, a planning commission or planning
29 department, or both. An ordinance which creates both a planning
30 commission and a planning department shall specify which of the

1 powers and duties conferred on planning agencies by this act;
2 each shall exercise and may confer upon each additional powers,
3 duties and advisory functions not inconsistent with this act. In
4 lieu of a planning commission or planning department, the
5 governing body may elect to assign the powers and duties
6 conferred by this act upon a planning committee comprised of
7 members appointed from the governing body. The engineer for the
8 municipality, or an engineer appointed by the governing body,
9 shall serve the planning agency as engineering advisor. The
10 solicitor for the municipality, or an attorney appointed by the
11 governing body, shall serve the planning agency as legal
12 advisor.

13 Section 202. Planning Commission.--If the governing body of
14 any municipality shall elect to create a planning commission,
15 such commission shall have not less than three nor more than
16 nine members. All members of the commission shall serve without
17 compensation, but may be reimbursed for necessary and reasonable
18 expenses. However, elected or appointed officers or [employees]
19 employees of the municipality shall not, by reason of membership
20 thereon, forfeit the right to exercise the powers, perform the
21 duties or receive the compensations of the municipal offices
22 held by them during such membership.

23 Section 203. Appointment, Term and Vacancy.--(a) All
24 members of the commission shall be appointed by the appointing
25 authority of the municipality. All such appointments shall be
26 approved by the governing body, except where the governing body
27 is the appointing authority.

28 (b) The term of each of the members of the commission shall
29 be for four years, or until his successor is appointed and
30 qualified, except that the terms of the members first appointed

1 pursuant to this act shall be so fixed that on commissions of
2 eight members or less no more than two shall be reappointed or
3 replaced during any future calendar year, and on commissions of
4 nine members no more than three shall be so reappointed or
5 replaced.

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

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

21 Section 10. Section 204 of the act is repealed.

22 Section 11. Sections 205 and 206 of the act are amended to
23 read:

24 Section 205. Membership.--All of the members of the planning
25 commission shall be residents of the municipality. On all
26 planning commissions appointed pursuant to this act, a certain
27 number of the members, designated as citizen members shall not
28 be officers or [employes] employees of the municipality. On a
29 commission of three members at least two shall be citizen
30 members. On a commission of four or five members at least three

1 shall be citizen members. On a commission of either six or seven
2 members at least five shall be citizen members, and on
3 commissions of either eight or nine members at least six shall
4 be citizen members.

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

14 Section 12. Sections 207 and 208 of the act are reenacted to
15 read:

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

27 Section 208. Planning Department Director.--For the
28 administration of each planning department, the appointing
29 authority may appoint a director of planning who shall be, in
30 the opinion of the appointing authority, qualified for the

1 duties of his position. Each such appointment shall be with the
2 approval of the governing body, except where the governing body
3 is the appointing authority. The director of planning shall be
4 in charge of the administration of the department, and shall
5 exercise the powers and be subject to the duties that are
6 granted or imposed on a planning agency by this act, except that
7 where a municipality creates both a planning commission and a
8 planning department, the director of planning shall exercise
9 only those powers and be subject to only those duties which are
10 specifically conferred upon him by ordinance enacted pursuant to
11 this article.

12 Section 13. Section 209.1 of the act, added or amended June
13 1, 1972 (P.L.333, No.93) and June 23, 1982 (P.L.613, No.173), is
14 amended to read:

15 Section 209.1. Powers and Duties of Planning Agency.--(a)
16 The planning agency shall at the request of the governing body
17 have the power and shall be required to:

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

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

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

26 (1) Make recommendations to the governing body
27 concerning the adoption or amendment of an official map[;].

28 (2) Prepare and present to the governing body of the
29 municipality a zoning ordinance, and make recommendations to
30 the governing body on proposed amendments to it as set forth

1 in this act[;].

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

5 (4) Prepare and present to the governing body of the
6 municipality a building code and a housing code and make
7 recommendations concerning proposed amendments thereto[;].

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

11 (6) Prepare and present to the governing body of the
12 municipality an environmental study[;].

13 (7) Submit to the [appointing authority] governing body
14 of a municipality a recommended capital improvements
15 program[;].

16 (8) Promote public interest in, and understanding of,
17 the comprehensive plan and planning[;].

18 (9) Make recommendations to governmental, civic and
19 private agencies and individuals as to the effectiveness of
20 the proposals of such agencies and individuals[;].

21 (10) Hold public hearings and meetings[;].

22 (10.1) Present testimony before any board.

23 (11) Require from other departments and agencies of the
24 municipality such available information as relates to the
25 work of the planning agency[;].

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

29 (13) Prepare and present to the governing body of the
30 municipality a study regarding the feasibility and

1 practicability of using renewable energy sources in specific
2 areas within the municipality.

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

8 [(c) In the performance of its powers and duties, any act or
9 recommendation of the planning agency which involves engineering
10 consideration, shall be subject to review and comments of the
11 engineer, which shall be incorporated and separately set forth
12 in any report, written act or recommendation of the planning
13 agency.]

14 Section 14. Section 210 of the act is amended to read:

15 Section 210. Administrative and Technical Assistance.--The
16 appointing authority may employ administrative and technical
17 services to aid in carrying out the provisions of this act
18 either as consultants on particular matters or as regular
19 [employees] employees of the municipality. A county planning
20 agency, with the consent of its governing body may perform
21 planning services for any [city, borough, incorporated town or
22 township] municipality whose governing body requests such
23 assistance and may enter into agreements or contracts for such
24 work.

25 Section 15. Section 211 of the act is reenacted to read:

26 Section 211. Assistance.--The planning agency may, with the
27 consent of the governing body, accept and utilize any funds,
28 personnel or other assistance made available by the county, the
29 Commonwealth or the Federal government or any of their agencies,
30 or from private sources. The governing body may enter into

1 agreements or contracts regarding the acceptance or utilization
2 of the funds or assistance in accordance with the governmental
3 procedures of the municipality.

4 Section 16. The heading of Article III is reenacted to read:

5 ARTICLE III
6 Comprehensive Plan

7 Section 17. Section 301 of the act, amended June 1, 1972
8 (P.L.333, No.93), is amended to read:

9 Section 301. Preparation of Comprehensive Plan.--The
10 comprehensive plan, consisting of maps, charts and textual
11 matter[,] shall [indicate the recommendations of the planning
12 agency for the continuing development of the municipality. The
13 comprehensive plan shall] include, but need not be limited to,
14 the following related basic elements:

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

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

28 (2.1) A plan to meet the housing needs of present
29 residents and of those individuals and families anticipated
30 to reside in the municipality, which may include conservation

1 of presently sound housing, rehabilitation of housing in
2 declining neighborhoods and the accommodation of expected new
3 housing in different dwelling types and at appropriate
4 densities for households of all income levels.

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

10 (4) A plan for community facilities and utilities, which
11 may include public and private education, recreation,
12 municipal buildings, fire and police stations, libraries,
13 hospitals, water supply[, sewage disposal, refuse disposal,]
14 and distribution, sewerage and waste treatment, solid waste
15 management, storm drainage, [hospitals,] and flood plain
16 management, utility corridors and associated facilities, and
17 other similar facilities or uses[; and].

18 (4.1) A statement of the interrelationships among the
19 various plan components, which may include an estimate of the
20 environmental, energy conservation, fiscal, economic
21 development and social consequences on the municipality.

22 (4.2) A discussion of short and long-range plan
23 implementation strategies, which may include implications for
24 capital improvements programming, new or updated development
25 regulations, and identification of public funds potentially
26 available.

27 (5) A [map or] statement indicating the relationship of
28 the [municipality and its proposed development to adjacent
29 municipalities and areas.] existing and proposed development
30 of the municipality to the existing and proposed development

1 and plans in contiguous municipalities, to the objectives and
2 plans for development in the county of which it is a part,
3 and to regional trends.

4 [In preparing the comprehensive plan the planning agency
5 shall make careful surveys and studies of existing conditions
6 and prospects for future growth in the municipality.]

7 Section 18. Section 301.1 of the act, added June 23, 1982
8 (P.L.613, No.173), is reenacted to read:

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

20 Section 19. The act is amended by adding sections to read:

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

30 Section 301.3. Submission of Plan to County Planning

1 Agency.--If a county planning agency has been created for the
2 county in which the municipality is located, then at least 45
3 days prior to the public hearing required in section 302 on the
4 comprehensive plan or amendment thereof, the municipality shall
5 forward a copy of that plan or amendment to the county planning
6 agency for its comments. At the same time, the municipality
7 shall also forward copies of the proposed plan or amendment to
8 all contiguous municipalities and to the local school district
9 for their review and comments.

10 Section 301.4. Compliance by Municipalities.--Municipalities
11 with comprehensive plans that are inconsistent with section 301
12 shall have five years from the effective date of this amendatory
13 act to conform their plans to the requirements in section 301,
14 but in all other cases shall immediately comply with the
15 provisions of this article.

16 Section 20. Section 302 of the act is amended to read:

17 Section 302. Adoption of Comprehensive Plan and Plan
18 Amendments.--(a) The governing body shall have the power to
19 adopt and amend the comprehensive plan as a whole or in parts.
20 Before adopting or amending a comprehensive plan, or any part
21 thereof, [there shall be at least one public hearing pursuant to
22 public notice.] the planning agency shall hold at least one
23 public meeting pursuant to public notice before forwarding the
24 proposed comprehensive plan or amendment thereof to the
25 governing body. In reviewing the proposed comprehensive plan,
26 the governing body shall consider the review comments of the
27 county, contiguous municipalities and the school district, as
28 well as the public meeting comments and the recommendations of
29 the municipal planning agency. The comments of the county,
30 contiguous municipalities and the local school district shall be

1 made to the governing body within 45 days, and the proposed plan
2 or amendment thereto shall not be acted upon until such comment
3 is received. If, however, the contiguous municipalities and the
4 local school district fail to respond within 45 days, the
5 governing body may proceed without their comments.

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

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

20 Section 21. Section 303 of the act, amended June 1, 1972
21 (P.L.333, No.93), is amended to read:

22 Section 303. Legal Status of Comprehensive Plan Within the
23 Jurisdiction that Adopted the Plan.--(a) Whenever the governing
24 body, pursuant to [public notice,] the procedures provided in
25 section 302, has adopted a comprehensive plan or any part
26 thereof, any subsequent proposed action of the governing body,
27 its departments, agencies and appointed authorities shall be
28 submitted to the planning agency for its recommendations when
29 the proposed action relates to:

30 (1) [The] the location, opening, vacation, extension,

1 widening, narrowing or enlargement of any street, public
2 ground, pierhead or watercourse;

3 (2) [The] the location, erection, demolition, removal or
4 sale of any public structure located within the municipality;
5 [or]

6 (3) [The] the adoption, amendment or repeal of an
7 official map, subdivision and land development ordinance,
8 zoning ordinance or provisions for planned residential
9 development [ordinances.], or capital improvements program;
10 or

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

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

18 Section 22. Section 304 of the act, amended July 20, 1974
19 (P.L.566, No.194), is amended to read:

20 Section 304. Legal Status of [the] County Comprehensive
21 Plans Within Municipalities.--(a) Following the adoption of a
22 comprehensive plan or any part thereof by a county, pursuant to
23 [a public notice] the procedures in section 302, any proposed
24 action of the governing body of a municipality, its departments,
25 agencies and appointed authorities within the county [relating
26 to] shall be submitted to the county planning agency for its
27 recommendations if the proposed action relates to:

28 [(i)] (1) the location, opening, vacation, extension,
29 widening, narrowing or enlargement of any street, public
30 ground, pierhead or watercourse;

1 [(ii)] (2) the location, erection, demolition, removal
2 or sale of any public structures located within the
3 municipality; [or]

4 [(iii)] (3) the adoption, amendment or repeal of any
5 comprehensive plan, official map, subdivision or land
6 ordinance, zoning ordinance or provisions for planned
7 residential development [ordinance shall be submitted to the
8 county planning agency for its recommendations] ; or

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

11 (b) The recommendation of the planning agency shall be made
12 to the governing body of the municipality within [forty-five] 45
13 days and the proposed action shall not be taken until such
14 recommendation is made. If, however, the planning agency fails
15 to act within [forty-five] 45 days, the governing body shall
16 proceed without its recommendation.

17 Section 23. Section 305 of the act, amended June 1, 1972
18 (P.L.333, No.93), is amended to read:

19 Section 305. The Legal Status of Comprehensive Plans Within
20 School Districts.--Following the adoption of a comprehensive
21 plan or any part thereof by any municipality or county governing
22 body, pursuant to [public notice] the procedures in section 302,
23 any proposed action of the governing body of any public school
24 district located within the municipality or county relating to
25 the location, demolition, removal [or sale], sale or lease of
26 any school district structure or land shall be submitted to the
27 municipal and county planning [agency] agencies for their
28 recommendations at least [thirty] 45 days prior to the execution
29 of such proposed action by the governing body of the school
30 district.

1 Section 24. Section 306 of the act is amended to read:

2 Section 306. Municipal and County Comprehensive Plans.--(a)
3 When a [city, borough, incorporated town or township]
4 municipality having a comprehensive plan is located in a county
5 which has adopted a comprehensive plan, both the county and the
6 [city, borough, incorporated town or township] municipality
7 shall each give the plan of the other consideration in order
8 that the objectives of each plan can be protected to the
9 greatest extent possible.

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

16 Section 25. The heading of Article IV is reenacted to read

17 ARTICLE IV
18 Official Map

19 Section 26. Section 401 of the act is amended to read:

20 Section 401. Grant of Power.--(a) The governing body of
21 each municipality shall have the power to make or cause to be
22 made [surveys of the exact location of the lines of existing and
23 proposed public streets, watercourses and public grounds,
24 including widenings, narrowings, extensions, diminutions,
25 openings or closing of same, for the whole of the municipality
26 and, by ordinance, to adopt such surveys as the official map, or
27 part thereof, of the municipality. The governing body, by
28 amending ordinances, may make additions or modifications to the
29 official map, or part thereof, by adopting surveys of the exact
30 location of the lines of the public streets, watercourses or

1 public grounds to be so added or modified and may also vacate
2 any existing or proposed public street, watercourse or public
3 ground contained in the official map, or part thereof.] an
4 official map of all or a portion of the municipality which may
5 show appropriate elements or portions of elements of the
6 comprehensive plan adopted pursuant to section 302 with regard
7 to public lands and facilities, and which may include, but need
8 not be limited to:

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

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

14 (3) Pedestrian ways and easements.

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

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

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

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

1 Section 27. Section 402 of the act, amended June 1, 1972
2 (P.L.333, No.93), is amended to read:

3 Section 402. Adoption of the Official Map and Amendments
4 Thereto.--(a) Prior to the adoption of [any survey of existing
5 or proposed public streets, watercourses or public grounds as]
6 the official map or part thereof, or any amendments to the
7 official map, the governing body shall refer [such surveys and
8 amendments] the proposed official map, or part thereof or
9 amendment thereto, with an accompanying ordinance describing the
10 proposed map, to the planning agency for review. The planning
11 agency shall report its recommendations on said proposed
12 official map and accompanying ordinance, part thereof, or
13 amendment thereto within [forty] 45 days unless an extension of
14 time shall be agreed to by the governing body. [Before voting on
15 the enactment of the proposed official map, part thereof, or
16 amendment thereto, the governing body shall hold a public
17 hearing thereon after giving public notice of such hearing.] If,
18 however, the planning agency fails to act within 45 days, the
19 governing body may proceed without its recommendations.

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

30 (c) Following adoption of the ordinance and official map, or

1 part thereof or amendment thereto, a copy of same, verified by
2 the governing body, shall be submitted to the recorder of deeds
3 of the county in which the municipality is located and shall be
4 recorded within 60 days of the effective date. The fee for
5 recording and indexing ordinances and amendments shall be paid
6 by the municipality enacting the ordinance or amendment and
7 shall be in the amount prescribed by law for the recording and
8 indexing of "other writings" by the recorder of deeds.

9 Section 28. Sections 403, 404, 405 and 406 of the act are
10 amended to read:

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

20 Section 404. Effect of Official Map on Mapped Streets,
21 Watercourses and Public Grounds.--The adoption of any street
22 [or], street lines or other public lands pursuant to this
23 article as part of the official map shall not, in and of itself,
24 constitute or be deemed to constitute the opening or
25 establishment of any street nor the taking or acceptance of any
26 land [for street purposes], nor shall it obligate the
27 municipality to improve or maintain any such street or land. The
28 adoption of proposed watercourses or public grounds as part of
29 the official map shall not, in and of itself, constitute or be
30 deemed to constitute a taking or acceptance of any land by the

1 municipality.

2 Section 405. Buildings in Mapped Streets, Watercourses[,
3 and] or Other Public Grounds.--For the purpose of preserving the
4 integrity of the official map of the municipality, no permit
5 shall be issued for any building within the lines of any street,
6 watercourse or public ground shown or laid out on the official
7 map. No person shall recover any damages for the taking for
8 public use of any building or improvements constructed within
9 the lines of any street, watercourse or public ground after the
10 same shall have been included in the official map, and any such
11 building or improvement shall be removed at the expense of the
12 owner. However, when the property of which the reserved location
13 forms a part, cannot yield a reasonable return to the owner
14 unless a permit shall be granted, the owner may apply to the
15 governing body for the grant of a special encroachment permit to
16 so build. Before granting any special encroachment permit
17 authorized in this section, the governing body may submit the
18 application for a special encroachment permit to the local
19 planning agency and allow the planning agency 30 days for review
20 and comment and shall give public notice and hold a public
21 hearing at which all parties in interest shall have an
22 opportunity to be heard. A refusal by the governing body to
23 grant the special encroachment permit applied for may be
24 appealed by the applicant to [court] the zoning hearing board in
25 the same manner, and within the same time limitation, as is
26 provided [for zoning appeals by this act] in Article IX.

27 Section 406. Time Limitations on Reservations for Future
28 Taking.--The governing body may fix the time for which streets,
29 watercourses and public grounds on the official map shall be
30 deemed reserved for future taking or acquisition for public use.

1 However, the reservation for public grounds shall lapse and
2 become void [one year] two years after an owner of such property
3 has submitted a written notice to the governing body announcing
4 his intentions to build, subdivide or otherwise develop the land
5 covered by the reservation, or has made formal application [for
6 an official] to the governing body of the municipality for a
7 permit to build a structure for private use, unless the
8 governing body shall have acquired the property, or begun
9 condemnation proceedings to acquire such property before the end
10 of the [year.] two-year period. If an application for a permit
11 is granted, the reservation for public grounds with respect to
12 property for which it is granted shall lapse immediately,
13 contingent upon the exercise of the permit within two years from
14 its date of issuance. If the owner does not exercise the permit
15 within two years of issuance by the governing body, the permit
16 shall lapse and become void at that time and the reservation for
17 public grounds shall continue to apply to the property. The
18 owner then shall follow the same procedures and time limits to
19 reapply for a new permit. If the governing body shall have
20 acquired or begun condemnation proceedings to acquire such
21 property after the owner has exercised the permit, the owner
22 shall be entitled to recover damages for any building or
23 improvements constructed or made in accordance with the permit.

24 Section 29. Section 407 of the act is reenacted to read:

25 Section 407. Release of Damage Claims or Compensation.--The
26 governing body may designate any of its agencies to negotiate
27 with the owner of land whereon reservations are made, releases
28 of claims for damages or compensation for such reservations, or
29 agreements, indemnifying the governing body from such claims by
30 others, which releases or agreements when properly executed by

1 the governing body and the owner and recorded shall be binding
2 upon the successor in title.

3 Section 30. Section 408 of the act is amended to read:

4 Section 408. Notice to Other Municipalities.--(a) When any
5 county has adopted an official map in accordance with the terms
6 of this article, a certified copy of the map and the ordinances
7 adopting it shall be sent to every [city, borough, incorporated
8 town and township] municipality within said county. All
9 amendments shall be sent to the aforementioned municipalities.
10 The powers of the governing bodies of counties to adopt, amend
11 and repeal official maps shall be limited to land and
12 watercourses in those [cities, boroughs, incorporated towns and
13 townships] municipalities wholly or partly within the county
14 which have no official map in effect at the time an official map
15 is introduced before the governing body of the county, and until
16 the [city, borough, incorporated town or township] municipal
17 official map is in effect. The adoption of an official map by
18 any municipality, other than a county, whose land or
19 watercourses are subject to county official mapping, shall act
20 as a repeal protanto of the county official map within the
21 municipality adopting such ordinance. Notwithstanding any of the
22 other terms or conditions of this section the county official
23 map shall govern as to county streets and public grounds,
24 facilities and improvements, even though such streets or public
25 grounds, facilities and improvements are located in a
26 municipality which has adopted an official map.

27 (b) When a [city, borough, incorporated town or township
28 within a county which has adopted an official map also adopts
29 such] municipality proposes to adopt an official map, or any
30 amendment thereto, a [certified] copy of the map[,] and the

1 proposed ordinance adopting it [and any later amendments], or
2 any amendment thereto, shall be forwarded for review to the
3 county planning agency, or if no such agency exists to the
4 governing body of the county[.] at the same time it is submitted
5 for review to the municipal planning agency. The comments of the
6 county planning agency shall be made to the governing body of
7 the municipality within 45 days, and the proposed action shall
8 not be taken until such comments are received. If, however, the
9 planning agency fails to act within 45 days, the governing body
10 may proceed without its comments.

11 (c) Additionally, if any municipality [adopts] proposes to
12 adopt an official map, or amendment thereto, that shows any
13 street or public lands intended to lead into any adjacent
14 municipality a [certified] copy of said official map or
15 amendment shall be forwarded to such adjacent municipality[.]
16 for review and comment by the governing body and planning agency
17 of the adjacent municipality. The comments of the adjacent
18 municipality shall be made to the governing body of the
19 municipality proposing the adoption within 45 days, and the
20 proposed action shall not be taken until such comments are
21 received. If, however, the adjacent municipality fails to act
22 within 45 days, the governing body of the proposing municipality
23 may proceed without its comments. When a municipality adopts an
24 official map, a certified copy of the map, the ordinance
25 adopting it and any later amendments shall be forwarded, within
26 30 days after adoption, to the county planning agency or, in
27 counties where no planning agency exists, to the governing body
28 of the county in which the municipality is located.
29 Additionally, if any municipality adopts an official map, or
30 amendment thereto, that shows any street or public lands

1 intended to lead into any adjacent municipality, a certified
2 copy of said official map or amendment shall be forwarded to
3 such adjacent municipality.

4 Section 31. The heading of Article V is reenacted to read:

5 ARTICLE V

6 Subdivision and Land Development

7 Section 32. Section 501 of the act, amended June 1, 1972
8 (P.L.333, No.93), is amended to read:

9 Section 501. Grant of Power.--The governing body of each
10 municipality may regulate subdivisions and land development
11 within the municipality by enacting a subdivision and land
12 development ordinance. The ordinance [may] shall require that
13 all subdivision and land development plats [of land lying]
14 situated within the municipality shall be submitted for approval
15 to the governing body or in lieu thereof to a planning agency
16 designated in the ordinance for this purpose. All powers granted
17 herein to the governing body or the planning agency shall be
18 exercised in accordance with the provisions of the subdivision
19 and land development ordinance. In the case of any development
20 governed by [an ordinance] planned residential development
21 provisions adopted pursuant to Article VII, however, the
22 applicable provisions of the subdivision and land development
23 ordinance shall be as modified by such [ordinance] provisions
24 and the procedures which shall be followed in the approval of
25 any plat and the rights and duties of the parties thereto shall
26 be governed by Article VII and the provisions [of the ordinance]
27 adopted thereunder. Provisions regulating mobilehome parks shall
28 be set forth in separate and distinct articles of any
29 subdivision and land development ordinance adopted pursuant to
30 Article V, or any planned residential development [ordinance]

1 provisions adopted pursuant to Article VII.

2 Section 33. Section 502 of the act, amended July 20, 1974
3 (P.L.566, No.194), is amended to read:

4 Section 502. Jurisdiction of County Planning Agencies;
5 Adoption by Reference of County Subdivision and Land Development
6 Ordinances.--(a) When any county has adopted a subdivision and
7 land development ordinance in accordance with the terms of this
8 article, a certified copy of the ordinance shall be sent to
9 every [city, borough, incorporated town or township]
10 municipality within the county. All amendments shall also be
11 sent to the aforementioned municipalities. The powers of
12 governing bodies of counties to enact, amend and repeal
13 subdivision and land development ordinances shall be limited to
14 land in those [cities, boroughs, incorporated towns and
15 townships] municipalities wholly or partly within the county
16 which have no subdivision and land development ordinance in
17 effect at the time a subdivision and land development ordinance
18 is introduced before the governing body of the county, and until
19 the [city, borough, incorporated town or township] municipal
20 subdivision and land development ordinance is in effect and a
21 certified copy of such ordinance is filed with the county
22 planning agency, if one exists.

23 (b) The enactment of a subdivision and land development
24 ordinance by any municipality, other than a county, whose land
25 is subject to a county subdivision and land development
26 ordinance shall act as a repeal protanto of the county
27 subdivision and land development ordinance within the
28 municipality adopting such ordinance. However, applications for
29 subdivision and land development located within a [city,
30 borough, incorporated town or township] municipality having

1 adopted a subdivision and land development ordinance as set
2 forth in this article shall be forwarded upon receipt by the
3 municipality to the county planning agency for review and report
4 together with a fee sufficient to cover the costs of the review
5 and report which fee shall be paid by the applicant: Provided,
6 That such municipalities shall not approve such applications
7 until the county report is received or until the expiration of
8 [forty-five] 30 days from the date the application was forwarded
9 to the county.

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

16 Section 34. Section 503 of the act, added or amended June 9,
17 1978 (P.L.460, No.60) and June 23, 1982 (P.L.613, No.173), is
18 amended to read:

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

22 (1) Provisions for the submittal and processing of
23 plats, including the charging of review fees, and
24 specifications for such plats, including certification as to
25 the accuracy of plats and provisions for preliminary and
26 final approval and for processing of final approval by stages
27 or sections of development.

28 (1.1) Provisions for the exclusion of certain land
29 development from the definition of land development contained
30 in section 107 only when such land development involves:

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

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

8 (2) Provisions for insuring that:

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

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

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

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

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

29 (3) Provisions governing the standards by which streets
30 shall be designed, graded and improved, and walkways, curbs,

1 gutters, street lights, fire hydrants, water and sewage
2 facilities and other improvements shall be installed as a
3 condition precedent to final approval of plats in accordance
4 with the requirements of section 509. The standards shall
5 insure that the streets be improved to such a condition that
6 the streets are passable for vehicles which are intended to
7 use that street: Provided, however, That no municipality
8 shall be required to accept such streets for public
9 dedication until the streets meet such additional standards
10 and specifications as the municipality may require for public
11 dedication.

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

20 (4.1) Provisions which apply uniformly throughout the
21 municipality regulating minimum setback lines and minimum lot
22 sizes which are based upon the availability of water and
23 sewage, in the event the municipality has not enacted a
24 zoning ordinance.

25 (5) Provisions for encouraging and promoting
26 flexibility, economy and ingenuity in the layout and design
27 of subdivisions and land developments including provisions
28 authorizing [the planning agency to alter] alterations in
29 site requirements and for encouraging other practices which
30 are in accordance with modern and evolving principles of site

1 planning and development.

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

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

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

15 (9) Provisions requiring the private reservation of
16 land, or the public dedication of land, the construction of
17 recreational facilities, or the payment of fees in lieu
18 thereof, or a combination, for park or recreation purposes as
19 a condition precedent to final plan approval, provided that:

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

23 (ii) the ordinance includes definite standards for
24 determining the proportion of a development to be
25 dedicated and the amount of any fee to be paid in lieu
26 thereof;

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

30 (iv) the governing body has a formally adopted

1 recreation plan, and the park and recreational facilities
2 are in accordance with definite principles and standards
3 contained in the subdivision and land development
4 ordinance;

5 (v) the amount and location of land to be dedicated
6 or the fees to be paid shall bear a reasonable
7 relationship to the use of the park and recreational
8 facilities by future inhabitants of the development or
9 subdivision;

10 (vi) the municipality must specify when development
11 of the park or recreational facilities will begin, and
12 any fees shall be deposited into a separate capital
13 reserve fund;

14 (vii) the payment of fees exclusively may be
15 required where the municipality determines that it is
16 either impractical to dedicate land or construct
17 recreational facilities or no suitable land is available
18 to dedicate; and

19 (viii) the ordinance assures the improvement and
20 maintenance of private land for common open space use.

21 (10) Provisions for the approval of a plat, whether
22 preliminary or final, subject to conditions acceptable to the
23 applicant and a procedure for the applicant's acceptance or
24 rejection of any conditions which may be imposed.

25 Section 35. Sections 504, 505 and 506 of the act are amended
26 to read:

27 Section 504. Enactment of Subdivision and Land Development
28 Ordinance.--(a) Before voting on the enactment of a proposed
29 subdivision and land development ordinance, the governing body
30 shall hold a public hearing thereon pursuant to public notice. A

1 brief summary setting forth the principal provisions of the
2 proposed ordinance and a reference to the place within the
3 municipality where copies of the proposed ordinance may be
4 secured or examined shall be incorporated in the public notice.
5 Unless the proposed subdivision and land development ordinance
6 shall have been prepared by the planning agency, the governing
7 body shall submit the ordinance to the planning agency at least
8 [forty] 45 days prior to the hearing on such ordinance to
9 provide the planning agency an opportunity to submit
10 recommendations. If a county planning agency shall have been
11 created for the county in which the municipality adopting the
12 ordinance is located, then at least 45 days prior to the public
13 hearing on the ordinance, the municipality shall submit the
14 proposed ordinance to said county planning agency for
15 recommendations.

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

22 Section 505. Enactment of Subdivision and Land Development
23 Ordinance Amendment.--(a) Amendments to the subdivision and
24 land development ordinance shall become effective only after a
25 public hearing held pursuant to public notice in the manner
26 prescribed for enactment of a proposed ordinance by this
27 article. In addition, in case of an amendment other than that
28 prepared by the planning agency, the governing body shall submit
29 each such amendment to the planning agency for recommendations
30 at least [thirty] 30 days prior to the date fixed for the public

1 hearing on such proposed amendment. If a county planning agency
2 shall have been created for the county in which the municipality
3 proposing the amendment is located, then at least 30 days prior
4 to the hearing on the amendment, the municipality shall submit
5 the proposed amendment to said county planning agency for
6 recommendations.

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

13 Section 506. [Publication After Enactment.--After enactment,
14 if the advertisement of a subdivision and land development
15 ordinance or amendment is required by other laws respecting the
16 advertisement of ordinances, such advertisements may consist
17 solely of a reference to the place or places, within the
18 municipality where copies of such ordinance or amendment shall
19 be obtainable for a charge not greater than the cost thereof and
20 available for examination without charge. Subdivision and land
21 development ordinances and amendments may be incorporated into
22 official ordinance books by reference with the same force and
23 effect as if duly recorded therein.] Publication, Advertisement
24 and Availability of Ordinance.--(a) Proposed subdivision and
25 land development ordinances and amendments shall not be enacted
26 unless notice of proposed enactment is given in the manner set
27 forth in this section, and shall include the time and place of
28 the meeting at which passage will be considered, a reference to
29 a place within the municipality where copies of the proposed
30 ordinance or amendment may be examined without charge or

1 obtained for a charge not greater than the cost thereof. The
2 governing body shall publish the proposed ordinance or amendment
3 once in one newspaper of general circulation in the municipality
4 not more than 60 days nor less than seven days prior to passage.
5 Publication of the proposed ordinance or amendment shall include
6 either the full text thereof or the title and a brief summary,
7 prepared by the municipal solicitor and setting forth all the
8 provisions in reasonable detail. If the full text is not
9 included:

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

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

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

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

28 Section 36. Section 507 of the act is reenacted to read:

29 Section 507. Effect of Subdivision and Land Development
30 Ordinance.--Where a subdivision and land development ordinance

1 has been enacted by a municipality under the authority of this
2 article no subdivision or land development of any lot, tract or
3 parcel of land shall be made, no street, sanitary sewer, storm
4 sewer, water main or other improvements in connection therewith
5 shall be laid out, constructed, opened or dedicated for public
6 use or travel, or for the common use of occupants of buildings
7 abutting thereon, except in accordance with the provisions of
8 such ordinance.

9 Section 37. Section 508 of the act, added or amended June 1,
10 1972 (P.L.333, No.93), April 18, 1978 (P.L.38, No.20), June 9,
11 1982 (P.L.441, No.130) and May 2, 1986 (P.L.137, No.42), is
12 amended to read:

13 Section 508. Approval of Plats.--All applications for
14 approval of a plat (other than those governed by Article VII),
15 whether preliminary or final, shall be acted upon by the
16 governing body or the planning agency within such time limits as
17 may be fixed in the subdivision and land development ordinance
18 but the governing body or the planning agency shall render its
19 decision and communicate it to the applicant not later than
20 [ninety] 90 days following the date of the regular meeting of
21 the governing body or the planning agency (whichever first
22 reviews the application) next following the date the application
23 is filed, provided that should the said next regular meeting
24 occur more than [thirty] 30 days following the filing of the
25 application, the said [ninety-day] 90-day period shall be
26 measured from the [thirtieth] 30th day following the day the
27 application has been filed.

28 (1) The decision of the governing body or the planning
29 agency shall be in writing and shall be communicated to the
30 applicant personally or mailed to him at his last known

1 address not later than [fifteen] 15 days following the
2 decision[;].

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

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

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

19 (i) From the time an application for approval of a
20 plat, whether preliminary or final, is duly filed as
21 provided in the subdivision and land development
22 ordinance, and while such application is pending approval
23 or disapproval, no change or amendment of the zoning,
24 subdivision or other governing ordinance or plan shall
25 affect the decision on such application adversely to the
26 applicant and the applicant shall be entitled to a
27 decision in accordance with the provisions of the
28 governing ordinances or plans as they stood at the time
29 the application was duly filed. In addition, when a
30 preliminary application has been duly approved, the

1 applicant shall be entitled to final approval in
2 accordance with the terms of the approved preliminary
3 application as hereinafter provided. However, if an
4 application is properly and finally denied, any
5 subsequent application shall be subject to the
6 intervening change in governing regulations.

7 (ii) When an application for approval of a plat,
8 whether preliminary or final, has been approved without
9 conditions or approved [subject to conditions acceptable
10 to the applicant] by the applicant's acceptance of
11 conditions, no subsequent change or amendment in the
12 zoning, subdivision or other governing ordinance or plan
13 shall be applied to affect adversely the right of the
14 applicant to commence and to complete any aspect of the
15 approved development in accordance with the terms of such
16 approval within five years from such approval.

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

25 (iv) Where the landowner has substantially completed
26 the required improvements as depicted upon the final plat
27 within the aforesaid five-year limit, or any extension
28 thereof as may be granted by the governing body, no
29 change of municipal ordinance or plan enacted subsequent
30 to the date of filing of the preliminary plat shall

1 modify or revoke any aspect of the approved final plat
2 pertaining to zoning classification or density, lot,
3 building, street or utility location.

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

16 (vi) Each section in any residential subdivision or
17 land development, except for the last section, shall
18 contain a minimum of [twenty-five percent] 25% of the
19 total number of dwelling units as depicted on the
20 preliminary plan, unless a lesser percentage is approved
21 by the governing body in its discretion. Provided the
22 landowner has not defaulted with regard to or violated
23 any of the conditions of the preliminary plat approval,
24 including compliance with landowner's aforesaid schedule
25 of submission of final plats for the various sections,
26 then the aforesaid protections afforded by substantially
27 completing the improvements depicted upon the final plat
28 within five years shall apply and for any section or
29 sections, beyond the initial section, in which the
30 required improvements have not been substantially

1 completed within said five-year period the aforesaid
2 protections shall apply for an additional term or terms
3 of three years from the date of final plat approval for
4 each section.

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

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

15 (6) No plat which will require access to a highway under
16 the jurisdiction of the Department of Transportation shall be
17 finally approved unless the plat contains a notice that a
18 highway occupancy permit is required pursuant to section 420
19 of the act of June 1, 1945 (P.L.1242, No.428), known as the
20 "State Highway Law," before driveway access to a State
21 highway is permitted. The department shall, within sixty days
22 of the date of receipt of an application for a highway
23 occupancy permit, (i) approve the permit, which shall be
24 valid thereafter unless, prior to commencement of
25 construction thereunder, the geographic, physical or other
26 conditions under which the permit is approved change,
27 requiring modification or denial of the permit, in which
28 event the department shall give notice thereof in accordance
29 with regulations, (ii) deny the permit, (iii) return the
30 application for additional information or correction to

1 conform with department regulations or (iv) determine that no
2 permit is required in which case the department shall notify
3 the municipality and the applicant in writing. If the
4 department shall fail to take any action within the [sixty-
5 day] 60-day period, the permit will be deemed to be issued.
6 The plat shall be marked to indicate that access to the State
7 highway shall be only as authorized by a highway occupancy
8 permit. Neither the department nor any municipality to which
9 permit-issuing authority has been delegated under section 420
10 of the "State Highway Law" shall be liable in damages for any
11 injury to persons or property arising out of the issuance or
12 denial of a driveway permit, or for failure to regulate any
13 driveway.

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

19 Section 38. Section 509 of the act, amended December 19,
20 1980 (P.L.1293, No.231), is amended to read:

21 Section 509. Completion of Improvements or Guarantee Thereof
22 Prerequisite to Final Plat Approval.--(a) No plat shall be
23 finally approved unless the streets shown on such plat have been
24 improved to a mud-free or otherwise permanently passable
25 condition, or improved as may be required by the subdivision and
26 land development ordinance and any walkways, curbs, gutters,
27 street lights, fire hydrants, shade trees, water mains, sanitary
28 sewers, storm [drains] sewers and other improvements as may be
29 required by the subdivision and land development ordinance have
30 been installed in accordance with such ordinance. [In lieu of]

1 If, as an alternative, a municipality wishes to accept financial
2 security to assure the completion of any improvements required
3 as a condition for the final approval of a plat, the subdivision
4 and land development ordinance shall provide for the deposit
5 with the municipality of financial security in an amount
6 sufficient to cover the costs of [any] such improvements or
7 common amenities including, but not limited to, roads, storm
8 water detention and/or retention basins and other related
9 drainage facilities, recreational facilities, open space
10 improvements, or buffer or screen plantings which may be
11 required.

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

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

1 of this section.

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

7 (e) Such bond, or other security shall provide for, and
8 secure to the public, the completion of any improvements which
9 may be required [within one year of the date fixed in the
10 subdivision plat for completion of such improvements] on or
11 before the date fixed in the formal action of approval or
12 accompanying agreement for completion of the improvements.

13 (f) The amount of financial security to be posted for the
14 completion of the required improvements shall be equal to [one
15 hundred ten percent] 110% of the cost of [the required
16 improvements for which financial security is to be posted]
17 completion estimated as of 90 days following the date scheduled
18 for completion by the developer. Annually the municipality may
19 adjust the amount of the financial security by comparing the
20 actual cost of the improvements which have been completed and
21 the estimated cost for the completion of the remaining
22 improvements as of the expiration of the 90th day after either
23 the original date scheduled for completion or a rescheduled date
24 of completion. Subsequent to said adjustment, the municipality
25 may require the developer to post additional security in order
26 to assure that the financial security equals said 110%. Any
27 additional security shall be posted by the developer in
28 accordance with this subsection.

29 (g) The cost of the improvements shall be established [by
30 submission to the governing body or the planning agency of bona

1 fide bid or bids from the contractor or contractors chosen by
2 the party posting the financial security to complete the
3 improvements or, in the absence of such bona fide bids, the
4 costs shall be established] by estimate prepared or approved by
5 the municipality's engineer.

6 (h) The estimate shall include the payment of prevailing
7 wages if, due to the scope of work involved in the event of
8 default and the limited resources of the municipality, the
9 municipality believes it would have to contract out the
10 completion of the improvements.

11 [If the party posting the financial security requires more
12 than one year from the date of posting of the financial security
13 to complete the required improvements, the amount of financial
14 security may be increased by an additional ten percent for each
15 one-year period beyond the first anniversary date from posting
16 of financial security or to an amount not exceeding one hundred
17 ten percent of the cost of completing the required improvements
18 as reestablished on or about the expiration of the preceding
19 one-year period by using the above bidding procedure.]

20 (i) The governing body may require a developer, as a
21 condition for approval of a subdivision or land development, to
22 pay a pro rata share of the cost of providing only reasonable
23 and necessary street improvements, water, sewerage and drainage
24 facilities, and rights-of-way and easements therefor, located
25 outside the property limits of the subdivision or land
26 development but necessitated or created and required by
27 construction or improvements within such subdivision or land
28 development.

29 (j) In the case where development is projected over a period
30 of years, the governing body or the planning agency may

1 authorize submission of final plats by section or stages of
2 development subject to such requirements or guarantees as to
3 improvements in future sections or stages of development as it
4 finds essential for the protection of any finally approved
5 section of the development.

6 (k) As the work of installing the required improvements
7 proceeds, the party posting the financial security may request
8 the governing body to release or authorize the release, from
9 time to time, such portions of the financial security necessary
10 for payment to the contractor or contractors performing the
11 work. Any such requests shall be in writing addressed to the
12 governing body, and the governing body shall have [forty-five]
13 45 days from receipt of such request within which to allow the
14 municipal engineer to certify, in writing, to the governing body
15 that such portion of the work upon the improvements has been
16 completed in accordance with the approved plat. Upon such
17 certification the governing body shall authorize release by the
18 bonding company or lending institution of an amount as estimated
19 by the municipal engineer fairly representing the value of the
20 improvements completed or, if the governing body fails to act
21 within said [forty-five-day] 45-day period, the governing body
22 shall be deemed to have approved the release of funds as
23 requested. The governing body may, prior to final release at the
24 time of completion and certification by its engineer, require
25 retention of [ten percent] 10% of the estimated cost of the
26 aforesaid improvements.

27 (l) Where the governing body accepts dedication of all or
28 some of the required improvements following completion, the
29 governing body may require the posting of financial security to
30 secure structural integrity of said improvements as well as the

1 functioning of said improvements in accordance with the design
2 and specifications as depicted on the final plat for a term not
3 to exceed [eighteen] 18 months from the date of acceptance of
4 dedication. Said financial security shall be of the same type as
5 otherwise required in this section with regard to installation
6 of such improvements, and the amount of the financial security
7 shall not exceed [fifteen percent] 15% of the actual cost of
8 installation of said improvements.

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

18 (n) If financial security has been provided in lieu of the
19 completion of improvements required as a condition for the final
20 approval of a plat as set forth in this section, the
21 municipality shall not condition the issuance of building,
22 grading or other permits relating to the erection or placement
23 of improvements, including buildings, upon the lots or land as
24 depicted upon the final plat upon actual completion of the
25 improvements depicted upon the approved final plat. Moreover, if
26 said financial security has been provided, occupancy permits for
27 any building or buildings to be erected shall not be withheld
28 following: the improvement of the streets providing access to
29 and from existing public roads to such building or buildings to
30 a mud-free or otherwise permanently passable condition, as well

1 as the completion of all other improvements as depicted upon the
2 approved plat, either upon the lot or lots or beyond the lot or
3 lots in question if such improvements are necessary for the
4 reasonable use of or occupancy of the building or buildings. Any
5 ordinance or statute inconsistent herewith is hereby expressly
6 repealed.

7 Section 39. Section 510 of the act, amended June 1, 1972
8 (P.L.333, No.93), is amended to read:

9 Section 510. Release from Improvement Bond.--(a) When the
10 developer has completed all of the necessary and appropriate
11 improvements, the developer shall notify the municipal governing
12 body, in writing, by certified or registered mail, of the
13 completion of the aforesaid improvements and shall send a copy
14 thereof to the municipal engineer. The municipal governing body
15 shall, within ten days after receipt of such notice, direct and
16 authorize the municipal engineer to inspect all of the aforesaid
17 improvements. The municipal engineer shall, thereupon, file a
18 report, in writing, with the municipal governing body, and shall
19 promptly mail a copy of the same to the developer by certified
20 or registered mail. The report shall be made and mailed within
21 [thirty] 30 days after receipt by the municipal engineer of the
22 aforesaid authorization from the governing body; said report
23 shall be detailed and shall indicate approval or rejection of
24 said improvements, either in whole or in part, and if said
25 improvements, or any portion thereof, shall not be approved or
26 shall be rejected by the municipal engineer, said report shall
27 contain a statement of reasons for such nonapproval or
28 rejection.

29 (b) The municipal governing body shall notify the developer,
30 within 15 days of receipt of the engineer's report, in writing

1 by certified or registered mail of the action of said municipal
2 governing body with relation thereto.

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

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

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

18 (f) Where herein reference is made to the municipal
19 engineer, he shall be as a consultant thereto.

20 (g) The municipality may prescribe that the developer shall
21 reimburse the municipality for up to 50% of the reasonable and
22 necessary expenses incurred by the municipal engineer for the
23 inspection of improvements. Such reimbursement shall be based
24 upon a schedule established by ordinance or resolution.

25 Section 40. Section 511 of the act is reenacted to read:

26 Section 511. Remedies to Effect Completion of
27 Improvements.--In the event that any improvements which may be
28 required have not been installed as provided in the subdivision
29 and land development ordinance or in accord with the approved
30 final plat the governing body of the municipality is hereby

1 granted the power to enforce any corporate bond, or other
2 security by appropriate legal and equitable remedies. If
3 proceeds of such bond, or other security are insufficient to pay
4 the cost of installing or making repairs or corrections to all
5 the improvements covered by said security, the governing body of
6 the municipality may, at its option, install part of such
7 improvements in all or part of the subdivision or land
8 development and may institute appropriate legal or equitable
9 action to recover the moneys necessary to complete the remainder
10 of the improvements. All of the proceeds, whether resulting from
11 the security or from any legal or equitable action brought
12 against the developer, or both, shall be used solely for the
13 installation of the improvements covered by such security, and
14 not for any other municipal purpose.

15 Section 41. The act is amended by adding a section to read:

16 Section 512.1. Modifications.--(a) The governing body or
17 the planning agency, if authorized to approve applications
18 within the subdivision and land development ordinance, may grant
19 a modification of the requirements of one or more provisions if
20 the literal enforcement will exact undue hardship because of
21 peculiar conditions pertaining to the land in question, provided
22 that such modification will not be contrary to the public
23 interest and that the purpose and intent of the ordinance is
24 observed.

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

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

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

7 Section 42. Section 513 of the act is amended to read:

8 Section 513. Recording [Plat] Plats and Deeds.--(a) Upon
9 the approval of a final plat, the developer shall within
10 [ninety] 90 days of such final approval record such plat in the
11 office of the recorder of deeds of the county in which the
12 municipality is located. Whenever such plat approval is required
13 by a municipality, the recorder of deeds of the county shall not
14 accept any plat for recording, unless such plat officially notes
15 the approval of the governing body[.] and review by the county
16 planning agency, if one exists.

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

21 Section 43. Section 514 of the act is reenacted to read:

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

27 Section 44. Section 515 of the act is repealed.

28 Section 45. The act is amended by adding sections to read:

29 Section 515.1. Enforcement; Remedies.--(a) In addition to
30 other remedies, the municipality may institute and maintain

1 appropriate actions by law or in equity to restrain, correct or
2 abate violations, to prevent unlawful construction, to recover
3 damages and to prevent illegal occupancy of a building,
4 structure or premises. The description by metes and bounds in
5 the instrument of transfer or other documents used in the
6 process of selling or transferring shall not exempt the seller
7 or transferor from such penalties or from the remedies herein
8 provided.

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

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

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

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

25 (4) The vendee or lessee of the current owner of record
26 who acquired the property subsequent to the time of violation
27 without regard as to whether such vendee or lessee had actual
28 or constructive knowledge of the violation.

29 As an additional condition for issuance of a permit or the
30 granting of an approval to any such owner, current owner, vendee

1 or lessee for the development of any such real property, the
2 municipality may require compliance with the conditions that
3 would have been applicable to the property at the time the
4 applicant acquired an interest in such real property.

5 Section 515.2. Enforcement Penalties.--(a) Any person,
6 partnership or corporation who or which has violated the
7 provisions of any subdivision or land development ordinance
8 enacted under this act or prior enabling laws shall, upon being
9 found liable therefor in a civil enforcement proceeding
10 commenced by a municipality, pay a civil fine of not more than
11 \$500 plus all court costs, including reasonable attorney fees
12 incurred by the municipality as a result thereof. No violation
13 shall be deemed to have occurred; no fine shall commence; and no
14 fine shall be imposed, levied or payable until the date of the
15 determination of the violation by the district justice. In
16 addition, a district justice shall have the authority to issue
17 an appropriate order requiring the defendant to remedy a
18 violation which has continued subsequent to an enforcement
19 notice as required herein. In default of payment of such fine or
20 upon failure to comply with the order of the district justice,
21 the municipality may petition the appropriate court of common
22 pleas for a contempt citation. Each day that a violation
23 continues shall constitute a separate violation. All fines,
24 costs and reasonable attorney fees collected for the violation
25 of subdivision or land development ordinances shall be paid over
26 to the municipality whose ordinance has been violated.

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

30 (c) Nothing contained in this section shall be construed or

1 interpreted to grant to any person or entity other than the
2 municipality the right to commence any action for enforcement
3 pursuant to this section.

4 Section 46. The heading of Article VI and section 601 of the
5 act are reenacted to read:

6 ARTICLE VI
7 Zoning

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

13 Section 47. Section 602 of the act is amended to read:

14 Section 602. County Powers.--The powers of the governing
15 bodies of counties to enact, amend and repeal zoning ordinances
16 shall be limited to land in those [cities, boroughs,
17 incorporated towns and townships,] municipalities, wholly or
18 partly within the county, which have no zoning ordinance in
19 effect at the time a zoning ordinance is introduced before the
20 governing body of the county and until the [city, borough,
21 incorporated town or township] municipality's zoning ordinance
22 is in effect. The enactment of a zoning ordinance by any
23 municipality, other than the county, whose land is subject to
24 county zoning shall act as a repeal protanto of the county
25 zoning ordinance within the municipality adopting such
26 ordinance.

27 Section 48. Section 603 of the act, amended June 9, 1982
28 (P.L.441, No.130), is amended to read:

29 Section 603. Ordinance Provisions.--(a) Zoning ordinances
30 shall be made in accordance with the statement of community

1 objectives required in section 606, with consideration for the
2 character of the municipality, its various parts and the
3 suitability of the various parts for particular uses and
4 structures.

5 (b) Zoning ordinances may permit, prohibit, regulate,
6 restrict and determine:

7 (1) Uses of land, watercourses and other bodies of
8 water[;].

9 (2) Size, height, bulk, location, erection,
10 construction, repair, maintenance, alteration, razing,
11 removal and use of structures[;].

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

16 (4) Density of population and intensity of use.

17 (5) Protection and preservation of natural resources and
18 agricultural land and activities.

19 [(b) In addition, zoning] (c) Zoning ordinances may
20 contain:

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

24 (2) [Provisions] provisions for conditional uses to be
25 allowed or denied by the governing body [after] pursuant to
26 public notice and hearing and recommendations by the planning
27 agency[,] and pursuant to express standards and criteria set
28 forth in the zoning ordinances[;]. In allowing a conditional
29 use, the governing body may attach such reasonable conditions
30 and safeguards, in addition to those expressed in the

1 ordinance, as it may deem necessary to implement the purposes
2 of this act and the zoning ordinance;

3 (2.1) [When] when an application for either a special
4 exception or a conditional use has been filed with either the
5 zoning hearing board or governing body, as relevant, and the
6 subject matter of such application would ultimately
7 constitute either a "land development" as defined in section
8 [107(11)] 107 or a "subdivision" as defined in section
9 [107(21)] 107, no change or amendment of the zoning,
10 subdivision or other governing ordinance or plans shall
11 affect the decision on such application adversely to the
12 applicant and the applicant shall be entitled to a decision
13 in accordance with the provisions of the governing ordinances
14 or plans as they stood at the time the application was duly
15 filed. Provided, further, should such an application be
16 approved by either the zoning hearing board or governing
17 body, as relevant, applicant shall be entitled to proceed
18 with the submission of either land development or subdivision
19 plans within a period of six months or longer or as may be
20 approved by either the zoning hearing board or the governing
21 body following the date of such approval in accordance with
22 the provisions of the governing ordinances or plans as they
23 stood at the time the application was duly filed before
24 either the zoning hearing board or governing body, as
25 relevant. If either a land development or subdivision plan is
26 so filed within said period, such plan shall be subject to
27 the provisions of section 508(1) through (4), and
28 specifically to the time limitations of section 508(4) which
29 shall commence as of the date of filing such land development
30 or subdivision plan;

1 (2.2) provisions for regulating transferable development
2 rights, on a voluntary basis, including provisions for the
3 protection of persons acquiring the same, in accordance with
4 express standards and criteria set forth in the ordinance and
5 section 619.1;

6 (3) [Provisions] provisions for the administration and
7 enforcement of such ordinances;

8 (4) [Such] such other provisions as may be necessary to
9 implement the purposes of this act; [and]

10 (5) [Provisions for the protection and preservation of
11 natural resources and agricultural land and activities.]

12 provisions to encourage innovation and to promote
13 flexibility, economy and ingenuity in development, including
14 subdivisions and land developments as defined in this act;
15 and

16 (6) provisions authorizing increases in the permissible
17 density of population or intensity of a particular use based
18 upon expressed standards and criteria set forth in the zoning
19 ordinance.

20 Section 49. The act is amended by adding a section to read:

21 Section 603.1. Interpretation of Ordinance Provisions.--In
22 interpreting the language of zoning ordinances to determine the
23 extent of the restriction upon the use of the property, the
24 language shall be interpreted, where doubt exists as to the
25 intention of the governing body, in favor of the property owner
26 and against any implied extension of the restriction.

27 Section 50. Section 604 of the act, amended November 26,
28 1978 (P.L.1209, No.284), is amended to read:

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

1 (1) To promote, protect and facilitate [one or more] any
2 or all of the following: the public health, safety, morals,
3 and the general welfare[,]; coordinated and practical
4 community development[,] and proper density of population[,
5 civil defense, disaster evacuation]; emergency management
6 preparedness and operations, airports, and national defense
7 facilities, the provisions of adequate light and air, access
8 to incident solar energy, police protection, vehicle parking
9 and loading space, transportation, water, sewerage, schools,
10 recreational facilities, public grounds and other public
11 requirements[,]; as well as preservation of the natural,
12 scenic and historic values in the environment and
13 preservation of forests, wetlands, aquifers and floodplains.

14 (2) To prevent one or more of the following:
15 overcrowding of land, blight, danger and congestion in travel
16 and transportation, loss of health, life or property from
17 fire, flood, panic or other dangers. [Zoning ordinances shall
18 be made in accordance with an overall program, and with
19 consideration for the character of the municipality, its
20 various parts and the suitability of the various parts for
21 particular uses and structures.]

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

25 (4) To provide for the use of land within the
26 municipality for residential housing, including, but not
27 limited to, the following dwelling types: single-family
28 detached, single-family semi-detached, two-family detached,
29 townhouses, and other forms of single-family attached
30 dwellings in various arrangements, multifamily dwellings in

1 various arrangements, mobilehomes, and mobilehome parks.

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

6 Section 51. Section 605 of the act, added or amended June 1,
7 1972 (P.L.333, No.93) and October 5, 1978 (P.L.1067, No.249), is
8 amended to read:

9 Section 605. Classifications.--In any municipality, other
10 than a county, which enacts a zoning ordinance, no part of such
11 municipality shall be left unzoned. The provisions of all zoning
12 ordinances may be classified so that different provisions may be
13 applied to different classes of situations, uses and structures
14 and to such various districts of the municipality as shall be
15 described by a map made part of the zoning ordinance. Where
16 zoning districts are created, all provisions shall be uniform
17 for each class of uses or structures, within each district,
18 except that additional classifications may be made within any
19 district:

20 (1) For the purpose of making transitional provisions at
21 and near the boundaries of districts[, and].

22 (1.1) For the purpose of regulating nonconforming uses
23 and structures[, and].

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

26 (i) major thoroughfares, their intersections and
27 interchanges, [and] transportation arteries and rail or
28 transit terminals[,];

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

1 (iii) places of relatively steep slope or grade, or
2 other areas of hazardous geological or topographic
3 features[,];

4 (iv) public buildings and public grounds[,];

5 (v) aircraft, helicopter, rocket, and spacecraft
6 facilities[,];

7 (vi) places having unique historical, architectural
8 or patriotic interest or value[,] or

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

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

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

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

24 Section 52. Section 606 of the act, amended June 1, 1972
25 (P.L.333, No.93), is amended to read:

26 Section 606. Statement of Community Development
27 Objectives.--Each zoning ordinance enacted after the effective
28 date of this act shall [contain] be substantially consistent
29 with a statement of community development objectives. This
30 statement may be supplied by reference to the community

1 comprehensive plan or such portions of the community
2 comprehensive plan as may exist and be applicable or [to], may
3 be the statement of community development objectives provided in
4 a statement of legislative findings of the governing body of the
5 [political subdivision, having a bearing on the community
6 comprehensive plan,] municipality with respect to land use[,];
7 density of population[, and]; the need for housing, commerce and
8 industry; the location and function of streets and other
9 community facilities and utilities[, together with]; the need
10 for preserving agricultural land and protecting natural
11 resources; and any other factors that the municipality believes
12 relevant in describing the purposes and intent of [such] the
13 zoning ordinance. [With respect to zoning ordinances enacted
14 prior to the effective date of this act, a statement of
15 community development objectives shall be supplied by amendment
16 to the zoning ordinance within three years from the effective
17 date of this act.]

18 Section 53. Section 607 of the act is amended to read:

19 Section 607. Preparation of Proposed Zoning Ordinance.--[The
20 planning agency of each municipality shall prepare the text and
21 map of the proposed zoning ordinance as well as make all
22 necessary studies and surveys preliminary thereto, whenever
23 instructed to do so by the governing body.] (a) The text and
24 map of the proposed zoning ordinance, as well as all necessary
25 studies and surveys preliminary thereto, shall be prepared by
26 the planning agency of each municipality upon request by the
27 governing body and shall be substantially consistent with the
28 statement of community development objectives.

29 (b) In preparing a proposed zoning ordinance, the planning
30 agency shall hold at least one public [hearing] meeting pursuant

1 to public notice and may hold additional public [hearings]
2 meetings upon such notice as it shall determine to be advisable.

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

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

10 (e) If a county planning agency shall have been created for
11 the county in which the [city, borough, incorporated town or
12 township] municipality adopting the ordinance is located, then
13 at least [thirty] 45 days prior to the [submission of the
14 ordinance to] public hearing by the local governing body as
15 provided in section 608, the [city, borough, incorporated town
16 or township planning agency] municipality shall submit the
17 proposed ordinance to said county planning agency for
18 recommendations.

19 Section 54. Sections 608, 609 and 609.1 of the act, added or
20 amended June 1, 1972 (P.L.333, No.93), are amended to read:

21 Section 608. Enactment of Zoning Ordinance.--Before voting
22 on the enactment of a zoning ordinance, the governing body shall
23 hold a public hearing thereon, pursuant to public notice. The
24 vote on the enactment by the governing body shall be within
25 [ninety] 90 days after the last public hearing. Within 30 days
26 after enactment, a copy of the zoning ordinance shall be
27 forwarded to the county planning agency, or in counties where no
28 planning agency exists, to the governing body of the county in
29 which the municipality is located.

30 Section 609. Enactment of Zoning Ordinance Amendments.--(a)

1 For the preparation of amendments to zoning ordinances, the
2 procedure set forth in [this article] section 607 for the
3 preparation of a proposed zoning ordinance shall be
4 [permissive.] optional. However, the governing body shall make a
5 finding of substantial consistency with the intent of the
6 statement of community development objectives.

7 (b) Before voting on the enactment of an amendment, the
8 governing body shall hold a public hearing thereon, pursuant to
9 public notice. In addition, if the proposed amendment involves a
10 zoning map change, notice of said public hearing shall be
11 conspicuously posted by the municipality at points deemed
12 sufficient by the municipality along the perimeter of the tract
13 to notify potentially interested citizens. The affected tract or
14 area shall be posted at least one week prior to the date of the
15 hearing.

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

21 (d) If, after any public hearing held upon an amendment, the
22 proposed amendment is [revised, or further revised] changed
23 materially, or is revised, to include land previously not
24 affected by it, the governing body shall hold another public
25 hearing, pursuant to public notice, before proceeding to vote on
26 the amendment.

27 (e) If a county planning agency shall have been created for
28 the county in which the [city, borough, incorporated town or
29 township adopting the ordinance] municipality proposing the
30 amendment is located, then at least [thirty] 30 days prior to

1 the public hearing on the [ordinance] amendment by the local
2 governing body, the [city, borough, incorporated town or
3 township planning agency] municipality shall submit the proposed
4 [ordinance] amendment to the county planning agency for
5 recommendations.

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

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

16 Section 609.1. Procedure [Upon] for Landowner Curative
17 Amendments.--(a) A landowner who desires to challenge on
18 substantive grounds the validity of [an] a zoning ordinance or
19 map or any provision thereof, which prohibits or restricts the
20 use or development of land in which he has an interest may
21 submit a curative amendment to the governing body with a written
22 request that his challenge and proposed amendment be heard and
23 decided as provided in section [1004] 916.1. The governing body
24 shall commence a hearing thereon within [sixty] 60 days of the
25 request as provided in section [1004] 916.1. The curative
26 amendment and challenge shall be referred to the planning agency
27 or agencies as provided in section 609 and notice of the hearing
28 thereon shall be given as provided in section 610 and in section
29 [1004] 916.1.

30 (b) The hearing shall be conducted in accordance with

1 [subsections (4) to (8) of] section 908 and all references
2 therein to the zoning hearing board shall, for purposes of this
3 section be references to the governing body. If a municipality
4 does not accept a landowner's curative amendment brought in
5 accordance with this subsection and a court subsequently rules
6 that the challenge has merit, the court's decision shall not
7 result in a declaration of invalidity for the entire zoning
8 ordinance and map, but only for those provisions which
9 specifically relate to the landowner's curative amendment and
10 challenge.

11 Section 55. Section 609.2 of the act, added October 5, 1978
12 (P.L.1067, No.249), is amended to read:

13 Section 609.2. Procedure [Upon] for Municipal Curative
14 Amendments.--If a municipality determines that its zoning
15 ordinance or any portion thereof is substantially invalid, it
16 shall take the following actions:

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

23 [(a)] (i) By resolution make specific findings
24 setting forth the declared invalidity of the zoning
25 ordinance which may include:

26 [(i)] (A) references to specific uses which are
27 either not permitted or not permitted in sufficient
28 quantity[,];

29 [(ii)] (B) reference to a class of use or uses
30 which require revision[,]; or

1 [(iii)] (C) reference to the entire ordinance
2 which requires revisions.

3 [(b)] (ii) Begin to prepare and consider a curative
4 amendment to the zoning ordinance to correct the declared
5 invalidity.

6 (2) Within [one hundred eighty] 180 days from the date
7 of the declaration and proposal, the municipality shall enact
8 a curative amendment to, or reaffirm the validity of, its
9 zoning ordinance pursuant to the provisions required by
10 section 609, to cure the declared invalidity of the zoning
11 ordinance.

12 (3) Upon the initiation of the procedures, as set forth
13 in [subsection] clause (1), the governing body shall not be
14 required to entertain or consider any landowner's curative
15 amendment filed under section 609.1 nor shall the [Zoning
16 Hearing Board] zoning hearing board be required to give a
17 report requested under section [910 or 913.1] 909.1 or 916.1
18 subsequent to the declaration and proposal based upon the
19 grounds identical to or substantially similar to those
20 specified in the resolution required by [subsection] clause
21 (1)(a). Upon completion of the procedures as set forth in
22 [subsections] clauses (1) and (2), no rights to a cure
23 pursuant to the provisions of sections 609.1 and [1004] 916.1
24 shall, from the date of the declaration and proposal, accrue
25 to any landowner on the basis of the substantive invalidity
26 of the unamended zoning ordinance for which there has been a
27 curative amendment pursuant to this section.

28 (4) A municipality having utilized the procedures as set
29 forth in [subsections] clauses (1) and (2) may not again
30 utilize said procedure for a [thirty-six-month] 36-month

1 period following the date of the enactment of a curative
2 amendment, or reaffirmation of the validity of its zoning
3 ordinance, pursuant to [subsection] clause (2); provided,
4 however, if after the date of declaration and proposal there
5 is a substantially new duty or obligation imposed upon the
6 municipality by virtue of a change in statute or by virtue of
7 a Pennsylvania Appellate Court decision, the municipality may
8 utilize the provisions of this section to prepare a curative
9 amendment to its ordinance to fulfill said duty or
10 obligation.

11 Section 56. Section 610 of the act is amended to read:

12 Section 610. [Content of Public Notice.--Public notices of
13 proposed zoning ordinances and amendments shall include either
14 the full text thereof, or a brief summary setting forth the
15 principal provisions in reasonable detail, and a reference to a
16 place within the municipality where copies of the proposed
17 ordinance or amendment may be examined, in addition to the time
18 and place of hearing.] Publication, Advertisement and
19 Availability of Ordinances.--(a) Proposed zoning ordinances and
20 amendments shall not be enacted unless notice of proposed
21 enactment is given in the manner set forth in this section, and
22 shall include the time and place of the meeting at which passage
23 will be considered, a reference to a place within the
24 municipality where copies of the proposed ordinance or amendment
25 may be examined without charge or obtained for a charge not
26 greater than the cost thereof. The governing body shall publish
27 the proposed ordinance or amendment once in one newspaper of
28 general circulation in the municipality not more than 60 days
29 nor less than 7 days prior to passage. Publication of the
30 proposed ordinance or amendment shall include either the full

1 text thereof or the title and a brief summary, prepared by the
2 municipal solicitor and setting forth all the provisions in
3 reasonable detail. If the full text is not included:

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

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

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

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

22 Section 57. Section 611 of the act is repealed.

23 Section 58. Sections 613 and 614 of the act, amended June 1,
24 1972 (P.L.333, No.93), are amended to read:

25 Section 613. Registration of Nonconforming Uses, Structures
26 and Lots.--Zoning ordinances [shall] may contain provisions
27 requiring the zoning officer to identify and register
28 nonconforming uses, [and nonconforming] structures and lots,
29 together with the reasons why the zoning officer identified them
30 as nonconformities.

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

13 Section 59. Section 615 of the act is reenacted to read:

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

17 Section 60. Section 616 of the act is repealed.

18 Section 61. The act is amended by adding a section to read:

19 Section 616.1. Enforcement Notice.--(a) If it appears to
20 the municipality that a violation of any zoning ordinance
21 enacted under this act or prior enabling laws has occurred, the
22 municipality shall initiate enforcement proceedings by sending
23 an enforcement notice as provided in this section.

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

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

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

3 (2) The location of the property in violation.

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

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

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

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

18 Section 62. Section 617 of the act is amended to read:

19 Section 617. Enforcement Remedies.--In case any building,
20 structure, landscaping, or land is, or is proposed to be,
21 erected, constructed, reconstructed, altered, converted,
22 maintained or used in violation of any ordinance enacted under
23 this act or prior enabling laws, the governing body or, with the
24 approval of the governing body, an officer of the municipality,
25 or any aggrieved owner or tenant of real property who shows that
26 his property or person will be substantially affected by the
27 alleged violation, in addition to other remedies, may institute
28 [in the name of the municipality] any appropriate action or
29 proceeding to prevent, restrain, correct or abate such building,
30 structure, landscaping or land, or to prevent, in or about such

1 premises, any act, conduct, business or use constituting a
2 violation. When any such action is instituted by a landowner or
3 tenant, notice of that action shall be served upon the
4 municipality at least 30 days prior to the time the action is
5 begun by serving a copy of the complaint on the governing body
6 of the municipality. No such action may be maintained until such
7 notice has been given.

8 Section 63. The act is amended by adding sections to read:

9 Section 617.1. Enforcement Penalties.--(a) Any person,
10 partnership or corporation who or which has violated or
11 permitted the violation of the provisions of any zoning
12 ordinance enacted under this act or prior enabling laws shall,
13 upon being found liable therefor in a civil enforcement
14 proceeding commenced by a municipality, pay a civil fine of not
15 more than \$500 plus all court costs, including reasonable
16 attorney fees incurred by a municipality as a result thereof. No
17 violation shall be deemed to have occurred nor shall any fine
18 commence, or be imposed, levied or payable until the date of the
19 determination of the violation by the district justice. In
20 addition, a district justice shall have the authority to issue
21 an appropriate order requiring the defendant to remedy a
22 violation which has continued subsequent to an enforcement
23 notice as required herein. In default of payment of such fine or
24 upon failure to comply with the order of the district justice,
25 the municipality may petition the appropriate court of common
26 pleas for a contempt citation. Each day that a violation
27 continues shall constitute a separate violation. All fines,
28 costs and reasonable attorney fees collected for the violation
29 of zoning ordinances shall be paid over to the municipality
30 whose ordinance has been violated.

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

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

8 Section 617.2. Finances and Expenditures.--(a) The
9 governing body may appropriate funds to finance the preparation
10 of zoning ordinances and shall appropriate funds for
11 administration, for enforcement and for actions to support or
12 oppose, upon appeal to the courts, decisions of the zoning
13 hearing board.

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

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

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

29 (e) The governing body may prescribe reasonable fees with
30 respect to the administration of a zoning ordinance and with

1 respect to hearings before the zoning hearing board. Fees for
2 hearings may include compensation for the secretary and members
3 of the zoning hearing board, notice and advertising costs and
4 necessary administrative overhead connected with the hearing.
5 The costs, however, shall not include legal expenses of the
6 zoning hearing board, expenses for engineering, architectural or
7 other technical consultants or expert witness costs.

8 Section 64. Section 618 of the act is repealed.

9 Section 65. Section 619 of the act is reenacted to read:

10 Section 619. Exemptions.--This article shall not apply to
11 any existing or proposed building, or extension thereof, used or
12 to be used by a public utility corporation, if, upon petition of
13 the corporation, the Pennsylvania Public Utility Commission
14 shall, after a public hearing, decide that the present or
15 proposed situation of the building in question is reasonably
16 necessary for the convenience or welfare of the public.

17 Section 66. The act is amended by adding a section to read:

18 Section 619.1. Transferable Development Rights.--(a) To and
19 only to the extent a local ordinance enacted in accordance with
20 this article and Article VII so provides, there is hereby
21 created, as a separate estate in land, the development rights
22 therein, and the same are declared to be severable and
23 separately conveyable from the estate in fee simple to which
24 they are applicable.

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

29 (c) The recorder of deeds shall not accept for recording any
30 such instrument of conveyance unless there is endorsed thereon

1 the approval of the municipal governing body having zoning or
2 planned residential development jurisdiction over the land
3 within which the development rights are to be conveyed, dated
4 not more than 60 days prior to the recording.

5 (d) No development rights shall be transferable beyond the
6 boundaries of the municipality wherein the lands from which the
7 development rights arise are situated.

8 Section 67. The heading of Article VII is reenacted to read:

9 ARTICLE VII

10 Planned Residential Development

11 Section 68. Sections 701 and 702 of the act are amended to
12 read:

13 Section 701. Purposes.--In order that the purposes of this
14 act be furthered in an era of increasing urbanization and of
15 growing demand for housing of all types and design; to insure
16 that the provisions of Article VI which are concerned in part
17 with the uniform treatment of dwelling type, bulk, density,
18 intensity and open space within each zoning district, shall not
19 be applied to the improvement of land by other than lot by lot
20 development in a manner that would distort the objectives of
21 that Article VI; to encourage innovations in residential and
22 nonresidential development and renewal so that the growing
23 demand for housing and other development may be met by greater
24 variety in type, design and layout of dwellings and other
25 buildings and structures and by the conservation and more
26 efficient use of open space ancillary to said dwellings and
27 uses; so that greater opportunities for better housing and
28 recreation may extend to all citizens and residents of this
29 [State] Commonwealth; and in order to encourage a more efficient
30 use of land and of public services and to reflect changes in the

1 technology of land development so that economies secured may
2 enure to the benefit of those who need homes and for other uses;
3 and, in aid of these purposes, to provide a procedure which can
4 relate the type, design and layout of residential and
5 nonresidential development to the particular site and the
6 particular demand for housing existing at the time of
7 development in a manner consistent with the preservation of the
8 property values within existing residential and nonresidential
9 areas, and to insure that the increased flexibility of
10 regulations over land development authorized herein is carried
11 out under such administrative standards and procedures as shall
12 encourage the disposition of proposals for land development
13 without undue delay, the following powers are granted to all
14 municipalities.

15 Section 702. Grant of Power.--The governing body of each
16 municipality may enact, amend and repeal [ordinances] provisions
17 within a zoning ordinance fixing standards and conditions for
18 planned residential development. The enactment of such
19 [ordinances] provisions shall be in accordance with the
20 procedures required for the enactment of an amendment of a
21 zoning ordinance as provided in Article VI of this act. Pursuant
22 to such [ordinances] provisions the governing body may approve,
23 modify or disapprove any development plan within the
24 municipality adopting such [ordinances] provisions or designate
25 the planning agency[, or any other committee, commission or
26 office] as its official agency for such purposes. Such
27 [ordinances] provisions shall:

28 (1) Specify [the] whether the governing body, or the
29 planning agency [or office within the municipality which]
30 shall administer planned residential development [ordinances]

1 provisions pursuant to the provisions of this article;

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

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

10 Section 69. The act is amended by adding a section to read:

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

17 Section 70. Sections 703 and 704 of the act are amended to
18 read:

19 Section 703. [Application] Applicability of Comprehensive
20 Plan and Statement of Community Development Objectives.--[Every
21 ordinance] All provisions and all amendments thereto adopted
22 pursuant to this article shall be based on and interpreted in
23 relation to the statement of community development objectives of
24 the zoning ordinance and may be related to either the
25 comprehensive plan for the development of the municipality
26 prepared under the provisions of this act or a statement of
27 legislative findings in accordance with section 606. Every
28 application for approval of a planned residential development
29 either shall be based on and interpreted in relation to [such
30 comprehensive plan.] the statement of community development

1 objectives, and may be related to the comprehensive plan, or
2 shall be based on and interpreted in relation to the statement
3 of legislative findings.

4 Section 704. Jurisdiction of County Planning Agencies.--(a)
5 When any county has adopted [a] planned residential development
6 [ordinance] provisions in accordance with the terms of this
7 article, a certified copy of [the ordinance] such provisions
8 shall be sent to every [city, borough, incorporated town or
9 township] municipality within the county. All amendments shall
10 also be sent to the aforementioned municipalities.

11 (b) The powers of governing bodies of counties to enact,
12 amend and repeal planned residential development [ordinances]
13 provisions shall not supersede any local planned residential
14 development, zoning or subdivision and land development
15 ordinance which is already in effect or subsequently becomes
16 effective in any [city, borough, incorporated town or township]
17 municipality within such county, provided that a certified copy
18 of [each] such [ordinance] provision is filed with the county
19 planning agency, if one exists. However, all applications for
20 tentative approval of planned residential development of land
21 located within a [city, borough, incorporated town or township]
22 municipality having adopted [a] planned residential development
23 [ordinance] provisions as set forth in this article shall
24 nevertheless be referred to the county planning agency, if one
25 exists, for study and recommendation and such county planning
26 agency shall be required to report to such municipality within
27 [thirty] 30 days or forfeit the right to review. [Further, any
28 city, borough, incorporated town or township may designate the
29 county planning agency as its official agency for review and
30 approval of planned residential development applications.]

1 Section 71. Section 705 of the act, amended June 23, 1982
2 (P.L.613, No.173), is amended to read:

3 Section 705. Standards and Conditions for Planned
4 Residential Development.--[Every ordinance] (a) All provisions
5 adopted pursuant to [the provisions of] this article shall set
6 forth all the standards, conditions and regulations by which a
7 proposed planned residential development shall be evaluated, and
8 said standards, conditions and regulations shall be consistent
9 with the following [provisions:] subsections.

10 [(a)] (b) The [ordinance] provisions adopted pursuant to
11 this article shall set forth the uses permitted in a planned
12 residential development, which uses may include [and] but shall
13 not be limited to:

14 (1) Dwelling units [in detached, semi-detached, attached
15 or multistoried structures] of any dwelling type or
16 configuration, or any combination thereof[; and].

17 (2) [those] Those nonresidential uses deemed to be
18 appropriate for incorporation in the design of the planned
19 residential development.

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

25 [(b)] (d) The [ordinance] provisions adopted pursuant to
26 this article shall establish standards governing the density, or
27 intensity of land use, in a planned residential development. The
28 standards may vary the density or intensity of land use,
29 otherwise applicable to the land under the provisions of a
30 zoning ordinance of the municipality within the planned

1 residential development in consideration of all of the
2 following:

3 (1) The amount, location and proposed use of common open
4 space[;]_.

5 (2) The location and physical characteristics of the
6 site of the proposed planned residential development[; and]_.

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

9 [(c)] (e) In the case of a planned residential development
10 proposed to be developed over a period of years, standards
11 established in [an ordinance] provisions adopted pursuant to
12 this article may, to encourage the flexibility of housing
13 density, design and type intended by this article[, permit]:

14 (1) Permit a variation in each section to be developed
15 from the density, or intensity of use, established for the
16 entire planned residential development. [The ordinance may
17 include provisions to allow]

18 (2) Allow for a greater concentration of density[, of]
19 or intensity of land use, within some section or sections of
20 development, whether it be earlier or later in the
21 development than upon others. [The ordinance may require]

22 (3) Require that the approval of such greater
23 concentration of density or intensity of land use for any
24 section to be developed be offset by a smaller concentration
25 in any completed prior stage or by an appropriate reservation
26 of common open space on the remaining land by a grant of
27 easement or by covenant in favor of the municipality,
28 provided that such reservation shall, as far as practicable,
29 defer the precise location of such common open space until an
30 application for final approval is filed, so that flexibility

1 of development which is a prime objective of this article,
2 can be maintained.

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

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

26 (2) In the event that the organization established to
27 own and maintain common open space, or any successor
28 organization, shall at any time after establishment of the
29 planned residential development fail to maintain the common
30 open space in reasonable order and condition in accordance

1 with the development plan, the municipality may serve written
2 notice upon such organization or upon the residents of the
3 planned residential development setting forth the manner in
4 which the organization has failed to maintain the common open
5 space in reasonable condition, and said notice shall include
6 a demand that such deficiencies of maintenance be corrected
7 within [thirty] 30 days thereof, and shall state the date and
8 place of a hearing thereon which shall be held within
9 [fourteen] 14 days of the notice. At such hearing the
10 municipality may modify the terms of the original notice as
11 to the deficiencies and may give an extension of time within
12 which they shall be corrected.

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

24 (4) Before the expiration of said year, the municipality
25 shall, upon its initiative or upon the request of the
26 organization theretofore responsible for the maintenance of
27 the common open space, call a public hearing upon notice to
28 such organization, or to the residents of the planned
29 residential development, to be held by the governing body or
30 its designated agency, at which hearing such organization or

1 the residents of the planned residential development shall
2 show cause why such maintenance by the municipality shall
3 not, at the option of the municipality, continue for a
4 succeeding year. If the governing body, or its designated
5 agency, shall determine that such organization is ready and
6 able to maintain said common open space in reasonable
7 condition, the municipality shall cease to maintain said
8 common open space at the end of said year. If the governing
9 body or its designated agency shall determine that such
10 organization is not ready and able to maintain said common
11 open space in a reasonable condition, the municipality may,
12 in its discretion, continue to maintain said common open
13 space during the next succeeding year and, subject to a
14 similar hearing and determination, in each year thereafter.

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

19 ~~[(3)]~~ (6) The cost of such maintenance by the
20 municipality shall be assessed ratably against the properties
21 within the planned residential development that have a right
22 of enjoyment of the common open space, and shall become a
23 lien on said properties. The municipality at the time of
24 entering upon said common open space for the purpose of
25 maintenance shall file a notice of lien in the office of the
26 prothonotary of the county, upon the properties affected by
27 the lien within the planned residential development.

28 ~~[(e) An ordinance]~~ (g) Provisions adopted pursuant to [the
29 provisions of] this article may require that a planned
30 residential development contain a minimum number of dwelling

1 units.

2 [(f)] (h) The authority granted a municipality by Article V
3 to establish standards for the location, width, course and
4 surfacing of streets, walkways, curbs, gutters, street lights,
5 shade trees, water, sewage and drainage facilities, easements or
6 rights-of-way for drainage and utilities, reservations of public
7 grounds, other improvements, regulations for the height and
8 setback as they relate to renewable energy systems and energy-
9 conserving building design, regulations for the height and
10 location of vegetation with respect to boundary lines, as they
11 relate to renewable energy systems and energy-conserving
12 building design, regulations for the type and location of
13 renewable energy systems or their components and regulations for
14 the design and construction of structures to encourage the use
15 of renewable energy systems, shall be vested in the governing
16 body or [its designated] the planning agency for the purposes of
17 this article. The standards applicable to a particular planned
18 residential development may be different than or modifications
19 of, the standards and requirements otherwise required of
20 subdivisions authorized under an ordinance adopted pursuant to
21 Article V, provided, however, that [an ordinance] provisions
22 adopted pursuant to this article shall set forth the limits and
23 extent of any modifications or changes in such standards and
24 requirements in order that a landowner shall know the limits and
25 extent of permissible modifications from the standards otherwise
26 applicable to subdivisions.

27 [(g)] (i) [An ordinance] The provisions adopted pursuant to
28 this article shall set forth the standards and criteria by which
29 the design, bulk and location of buildings shall be evaluated,
30 and all such standards and criteria for any feature of a planned

1 residential development shall be set forth in such [ordinance]
2 provisions with sufficient certainty to provide reasonable
3 criteria by which specific proposals for a planned residential
4 development can be evaluated. All standards in such [ordinance]
5 provisions shall not unreasonably restrict the ability of the
6 landowner to relate his development plan to the particular site
7 and to the particular demand for housing existing at the time of
8 development.

9 Section 72. Section 706 of the act is amended to read:

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

- 22 (1) The provisions of the development plan relating to:
23 (i) the use, bulk and location of buildings and
24 structures[,]
25 (ii) the quantity and location of common open space,
26 except as otherwise provided in this article[,]
27 (iii) the intensity of use or the density of
28 residential units;

29 shall run in favor of the municipality and shall be
30 enforceable in law or in equity by the municipality, without

1 limitation on any powers of regulation otherwise granted the
2 municipality by law.

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

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

22 (i) [no] No such modification, removal or release of
23 the provisions of the development plan by the
24 municipality shall affect the rights of the residents of
25 the planned residential development to maintain and
26 enforce those provisions, at law or equity, as provided
27 in this section[;].

28 (ii) [no] No modification, removal or release of the
29 provisions of the development plan by the municipality
30 shall be permitted except upon a finding by the governing

1 body or [its designated] the planning agency, following a
2 public hearing thereon pursuant to public notice called
3 and held in accordance with the provisions of this
4 article, that the same is consistent with the efficient
5 development and preservation of the entire planned
6 residential development, does not adversely affect either
7 the enjoyment of land abutting upon or across the street
8 from the planned residential development or the public
9 interest, and is not granted solely to confer a special
10 benefit upon any person.

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

18 Section 73. Section 707 of the act, amended June 23, 1982
19 (P.L.613, No.173), is amended to read:

20 Section 707. Application for Tentative Approval of Planned
21 Residential Development.--In order to provide an expeditious
22 method for processing a development plan for a planned
23 residential development under the terms of an ordinance adopted
24 pursuant to the powers granted herein, and to avoid the delay
25 and uncertainty which would arise if it were necessary to secure
26 approval, by a multiplicity of local procedures, of a plat of
27 subdivision as well as approval of a change in the zoning
28 regulations otherwise applicable to the property, it is hereby
29 declared to be in the public interest that all procedures with
30 respect to the approval or disapproval of a development plan for

1 a planned residential development and the continuing
2 administration thereof shall be consistent with the following
3 provisions:

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

7 (2) The application for tentative approval shall be
8 filed by the landowner in such form, upon the payment of such
9 a reasonable fee and with such officials of the municipality
10 as shall be designated in the [ordinance] provisions adopted
11 pursuant to this article;

12 (3) All planning, zoning and subdivision matters
13 relating to the platting, use and development of the planned
14 residential development and subsequent modifications of the
15 regulations relating thereto, to the extent such modification
16 is vested in the municipality, shall be determined and
17 established by the governing body or [its designated] the
18 planning agency;

19 (4) The [ordinance] provisions shall require only such
20 information in the application as is reasonably necessary to
21 disclose to the governing body or [its designated] the
22 planning agency:

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

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

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

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

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

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

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

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

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

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

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

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

6 Section 74. Section 708 of the act is amended to read:

7 Section 708. Public Hearings.--(a) Within [sixty] 60 days
8 after the filing of an application for tentative approval of a
9 planned residential development pursuant to this article, a
10 public hearing pursuant to public notice on said application
11 shall be held by the governing body or the planning agency, if
12 designated, in the manner prescribed in Article [VI for the
13 enactment of an amendment to a zoning ordinance. The chairman,
14 or, in his absence, the acting chairman, of the governing body
15 or its designated agency may administer oaths and compel the
16 attendance of witnesses. All testimony by witnesses at any
17 hearing shall be given under oath and every party of record at a
18 hearing shall have the right to cross-examine adverse witnesses.

19 (b) A verbatim record of the hearing shall be caused to be
20 made by the governing body whenever such records are requested
21 by any party to the proceedings; but the cost of making and
22 transcribing such a record shall be borne by the party
23 requesting it and the expense of copies of such record shall be
24 borne by those who wish to obtain such copies. All exhibits
25 accepted in evidence shall be identified and duly preserved or,
26 if not accepted in evidence, shall be properly identified and
27 the reason for the exclusion clearly noted in the record] IX.

28 [(c)] (b) The governing body or the planning agency may
29 continue the hearing from time to time, and where applicable,
30 may refer the matter back to the planning agency for a report,

1 provided, however, that in any event, the public hearing or
2 hearings shall be concluded within [sixty] 60 days after the
3 date of the first public hearing.

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

10 Section 75. Section 709 of the act, amended October 5, 1978
11 (P.L.1067, No.249), is amended to read:

12 Section 709. The Findings.--(a) The governing body, or the
13 planning agency, within [sixty] 60 days following the conclusion
14 of the public hearing provided for in this article, shall, by
15 official written communication, to the landowner, either:

16 (1) [Grant] grant tentative approval of the development
17 plan as submitted;

18 (2) [Grant] grant tentative approval subject to
19 specified conditions not included in the development plan as
20 submitted; or

21 (3) [Deny] deny tentative approval to the development
22 plan.

23 Failure to so act within said period shall be deemed to be a
24 grant of tentative approval of the development plan as
25 submitted. In the event, however, that tentative approval is
26 granted subject to conditions, the landowner may, within
27 [thirty] 30 days after receiving a copy of the official written
28 communication of the governing body notify such governing body
29 of his refusal to accept all said conditions, in which case, the
30 governing body shall be deemed to have denied tentative approval

1 of the development plan. In the event the landowner does not,
2 within said period, notify the governing body of his refusal to
3 accept all said conditions, tentative approval of the
4 development plan, with all said conditions, shall stand as
5 granted.

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

14 (1) [In] in those respects in which the development plan
15 is or is not consistent with the comprehensive plan for the
16 development of the municipality;

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

22 (3) [The] the purpose, location and amount of the common
23 open space in the planned residential development, the
24 reliability of the proposals for maintenance and conservation
25 of the common open space, and the adequacy or inadequacy of
26 the amount and purpose of the common open space as related to
27 the proposed density and type of residential development;

28 (4) [The] the physical design of the development plan
29 and the manner in which said design does or does not make
30 adequate provision for public services, provide adequate

1 control over vehicular traffic, and further the amenities of
2 light and air, recreation and visual enjoyment;

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

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

11 (c) In the event a development plan is granted tentative
12 approval, with or without conditions, the governing body may set
13 forth in the official written communication the time within
14 which an application for final approval of the development plan
15 shall be filed or, in the case of a development plan which
16 provides for development over a period of years, the periods of
17 time within which applications for final approval of each part
18 thereof shall be filed. Except upon the consent of the
19 landowner, the time so established between grant of tentative
20 approval and an application for final approval shall not be less
21 than three months and, in the case of developments over a period
22 of years, the time between applications for final approval of
23 each part of a plan shall be not less than [twelve] 12 months.

24 Section 76. Section 710 of the act is amended to read:

25 Section 710. Status of Plan After Tentative Approval.--(a)
26 The official written communication provided for in this article
27 shall be certified by the municipal secretary or clerk of the
28 governing body and shall be filed in his office, and a certified
29 copy shall be mailed to the landowner. Where tentative approval
30 has been granted, [the same] it shall be deemed an amendment to

1 the zoning map and shall be noted on the zoning map.

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

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

1 Section 77. Section 711 of the act, amended October 16, 1981
2 (P.L.293, No.101), is amended to read:

3 Section 711. Application for Final Approval.--(a) An
4 application for final approval may be for all the land included
5 in a development plan or, to the extent set forth in the
6 tentative approval, for a section thereof. Said application
7 shall be made to the official of the municipality designated by
8 the ordinance and within the time or times specified by the
9 official written communication granting tentative approval. The
10 application shall include any drawings, specifications,
11 covenants, easements, performance bond and such other
12 requirements as may be specified by ordinance, as well as any
13 conditions set forth in the official written communication at
14 the time of tentative approval. A public hearing on an
15 application for final approval of the development plan, or part
16 thereof, shall not be required provided the development plan, or
17 the part thereof, submitted for final approval, is in compliance
18 with the development plan theretofore given tentative approval
19 and with any specified conditions attached thereto.

20 (b) In the event the application for final approval has been
21 filed, together with all drawings, specifications and other
22 documents in support thereof, and as required by the ordinance
23 and the official written communication of tentative approval,
24 the municipality shall, within [forty-five] 45 days of such
25 filing, grant such development plan final approval.

26 (c) In the event the development plan as submitted contains
27 variations from the development plan given tentative approval,
28 the [governing] approving body may refuse to grant final
29 approval and shall, within [forty-five] 45 days from the filing
30 of the application for final approval, so advise the landowner

1 in writing of said refusal, setting forth in said notice the
2 reasons why one or more of said variations are not in the public
3 interest. In the event of such refusal, the landowner may
4 either:

5 (1) [Refile] refile his application for final approval
6 without the variations objected[,]; or

7 (2) [File] file a written request with the [governing]
8 approving body that it hold a public hearing on his
9 application for final approval.

10 If the landowner wishes to take either such alternate action he
11 may do so at any time within which he shall be entitled to apply
12 for final approval, or within [thirty] 30 additional days if the
13 time for applying for final approval shall have already passed
14 at the time when the landowner was advised that the development
15 plan was not in substantial compliance. In the event the
16 landowner shall fail to take either of these alternate actions
17 within said time, he shall be deemed to have abandoned the
18 development plan. Any such public hearing shall be held pursuant
19 to public notice within [thirty] 30 days after request for the
20 hearing is made by the landowner, and the hearing shall be
21 conducted in the manner prescribed in this article for public
22 hearings on applications for tentative approval. Within [thirty]
23 30 days after the conclusion of the hearing, the [governing]
24 approving body shall by official written communication either
25 grant final approval to the development plan or deny final
26 approval. The grant or denial of final approval of the
27 development plan shall, in cases arising under this section, be
28 in the form and contain the findings required for an application
29 for tentative approval set forth in this article.

30 (d) A development plan, or any part thereof, which has been

1 given final approval shall be so certified without delay by the
2 [governing] approving body and shall be filed of record
3 forthwith in the office of the recorder of deeds before any
4 development shall take place in accordance therewith. Upon the
5 filing of record of the development plan the zoning and
6 subdivision regulations otherwise applicable to the land
7 included in such plan shall cease to apply thereto. Pending
8 completion [within a reasonable time], in accordance with the
9 time provisions stated in section 508, of said planned
10 residential development or of that part thereof, as the case may
11 be, that has been finally approved, no modification of the
12 provisions of said development plan, or part thereof, as finally
13 approved, shall be made except with the consent of the
14 landowner. Upon approval of a final plat, the developer shall
15 record the plat in accordance with the provisions of section
16 513(a) and post financial security in accordance with section
17 509.

18 (e) In the event that a development plan, or a section
19 thereof, is given final approval and thereafter the landowner
20 shall abandon such plan or the section thereof that has been
21 finally approved, and shall so notify the [governing] approving
22 body in writing; or, in the event the landowner shall fail to
23 commence and carry out the planned residential development
24 [within such reasonable period of time as may be fixed by
25 ordinance] in accordance with the time provisions stated in
26 section 508 after final approval has been granted, no
27 development or further development shall take place on the
28 property included in the development plan until after the said
29 property [is resubdivided and] is reclassified by enactment of
30 an amendment to the municipal zoning ordinance in the manner

1 prescribed for such amendments in Article VI.

2 Section 78. The act is amended by adding sections and an
3 article to read:

4 Section 712.1. Enforcement Penalties.--(a) Any person,
5 partnership or corporation, who or which has violated the
6 planned residential development provisions of any ordinance
7 enacted under this act or prior enabling laws shall, upon being
8 found liable therefor in a civil enforcement proceeding
9 commenced by a municipality, pay a civil fine of not more than
10 \$500 plus all court costs, including reasonable attorney fees
11 incurred by a municipality as a result thereof. No violation
12 shall be deemed to have occurred nor shall any fine commence or
13 be imposed, levied or payable until the date of the
14 determination of the violation by the district justice. In
15 addition, a district justice shall have the authority to issue
16 an appropriate order requiring the defendant to remedy a
17 violation which has continued subsequent to an enforcement
18 notice as required herein. In default of payment of such fine or
19 upon failure to comply with the order of the district justice,
20 the municipality may petition the appropriate court of common
21 pleas for a contempt citation. Each day that a violation
22 continues shall constitute a separate violation. All fines,
23 costs and reasonable attorney fees collected for the violation
24 of planned residential development provisions shall be paid over
25 to the municipality whose ordinance has been violated.

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

29 (c) Nothing contained in this section shall be construed or
30 interpreted to grant to any person or entity other than the

1 municipality the right to commence any action for enforcement
2 pursuant to this section.

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

7 ARTICLE VIII-A

8 Joint Municipal Zoning

9 Section 801-A. General Powers.--(a) For the purpose of
10 permitting municipalities which cooperatively plan for their
11 future to also regulate future growth and change in a
12 cooperative manner, the governing body of each municipality in
13 accordance with the conditions and procedures set forth in this
14 act, may cooperate with one or more municipalities to enact,
15 amend and repeal joint municipal zoning ordinances in order to
16 implement joint municipal comprehensive plans and to accomplish
17 any of the purposes of this act.

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

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

29 Section 803-A. Ordinance Provisions.--Joint municipal zoning
30 ordinances may permit, prohibit, regulate, restrict and

1 determine and may contain the same elements as authorized for
2 municipal zoning ordinances by section 603.

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

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

11 Section 806-A. Statement of Community Development
12 Objectives.--(a) Every joint municipal zoning ordinance shall
13 contain a statement of community development objectives as
14 defined by section 606.

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

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

28 Section 807-A. Preparation of Proposed Zoning Ordinance.--
29 The requirements of section 607 as applicable to municipal
30 zoning ordinances shall equally apply to the preparation of a

1 joint municipal zoning ordinance except that:

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

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

10 Section 808-A. Enactment of Zoning Ordinance.--(a) The
11 procedural requirements of section 608 shall be applicable to
12 the enactment of a joint municipal zoning ordinance.

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

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

1 party to the joint municipal zoning ordinance.

2 Section 809-A. Enactment of Zoning Ordinance Amendments.--

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

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

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

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

29 Section 811-A. Area of Jurisdiction for Challenges.--In any
30 challenge to the validity of the joint municipal zoning

1 ordinance, the court shall consider the validity of the
2 ordinance as it applies to the entire area of its jurisdiction
3 as enacted and shall not limit consideration to any single
4 constituent municipality.

5 Section 812-A. Procedure for Joint Municipal Curative
6 Amendments.--The governing bodies of all the participating
7 municipalities may declare the joint municipal zoning ordinance
8 or portions thereof substantially invalid and prepare a
9 municipal curative amendment pursuant to section 609.2. The
10 provisions of section 609.2(4) shall apply to all municipalities
11 participating in the joint municipal zoning ordinance.

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

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

19 Section 815-A. Administration.--(a) The governing bodies of
20 the municipalities adopting the joint municipal zoning ordinance
21 may establish a joint zoning hearing board pursuant to the
22 authority of section 904, except that:

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

30 (2) These same procedures shall be followed by a joint

1 zoning hearing board as set forth in Article IX for
2 individual municipal zoning hearing boards.

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

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

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

16 Section 818-A. Enforcement Remedies.--(a) Enforcement
17 remedies shall be as specified in section 617.

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

22 Section 819-A. Finances.--(a) The governing body of a
23 municipality may appropriate and receive funds for a joint
24 municipal zoning ordinance in the same manner as authorized for
25 a municipal zoning ordinance by section 617.2.

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

30 Section 820-A. Exemptions.--The exemptions for a joint

1 municipal zoning ordinance shall be those identified by section
2 619.

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

8 Section 79. The heading of Article IX and section 901 of the
9 act are amended to read:

10 ARTICLE IX

11 Zoning Hearing Board and other
12 Administrative Proceedings

13 Section 901. [Creation of Board] General Provisions.--Every
14 municipality which has enacted or enacts a zoning ordinance
15 pursuant to this act or prior enabling laws, shall create a
16 zoning hearing board. As used in [this act] sections 901 through
17 907, unless the context clearly indicates otherwise, the term
18 "board" shall refer to such zoning hearing board.

19 Section 80. Section 902 of the act is repealed.

20 Section 81. Section 903 of the act, amended October 4, 1978
21 (P.L.990, No.203), is amended to read:

22 Section 903. Membership of Board.--(a) The membership of
23 the board shall, upon the determination of the governing body,
24 consist of either three or five residents of the municipality
25 appointed by resolution by the governing body. The terms of
26 office of a three member board shall be three years and shall be
27 so fixed that the term of office of one member shall expire each
28 year. The terms of office of a five member board shall be
29 [three] five years and shall be so fixed that the term of office
30 of [no more than two members] one member of a five member board

1 shall expire each year [and of the initial appointments of the
2 two additional members, one shall be appointed for a one year
3 term and one shall be appointed for a two year term]. If a three
4 member board is changed to a five member board, the members of
5 the existing three member board shall continue in office until
6 their term of office would expire under prior law. The governing
7 body shall appoint two additional members to the board with
8 terms scheduled to expire in accordance with the provisions of
9 this section. The board shall promptly notify the governing body
10 of any vacancies which occur. Appointments to fill vacancies
11 shall be only for the unexpired portion of the term. Members of
12 the board shall hold no other office in the municipality[,
13 except that no more than one member of the board may also be a
14 member of the planning commission].

15 (b) A five member board shall not be changed to a three
16 member board except upon [an affirmative] a majority vote [on
17 the question by a majority of the electors] of the governing
18 body of the municipality [voting thereon at a referendum held at
19 the municipal or general election prior to a year in which the
20 terms of two of the members on the board expire]. Such action by
21 the governing body may not occur less than five years from the
22 date of the action to increase the board size.

23 (c) The governing body may appoint by resolution at least
24 one but no more than three residents of the municipality to
25 serve as alternate members of the board. The term of office of
26 an alternate member shall be three years. When seated pursuant
27 to the provisions of section 906, an alternate shall be entitled
28 to participate in all proceedings and discussions of the board
29 to the same and full extent as provided by law for board
30 members, including specifically the right to cast a vote as a

1 voting member during the proceedings, and shall have all the
2 powers and duties set forth in this act and as otherwise
3 provided by law. Alternates shall hold no other office in the
4 municipality, including membership on the planning commission
5 and zoning officer. Any alternate may participate in any
6 proceeding or discussion of the board but shall not be entitled
7 to vote as a member of the board nor be compensated pursuant to
8 section 907 unless designated as a voting alternate member
9 pursuant to section 906 of the act.

10 Section 82. Sections 904 and 905 of the act are amended to
11 read:

12 Section 904. Joint Zoning Hearing Boards.--(a) Two or more
13 municipalities may, by ordinances enacted in each, create a
14 joint zoning hearing board in lieu of a separate board for each
15 municipality. A joint board shall consist of two members
16 appointed from among the residents of each municipality by its
17 governing body.

18 (b) The term of office of members of joint boards shall be
19 five years, except that of the two members first appointed from
20 each municipality, the term of office of one member shall be
21 three years. When any vacancies occur, the joint board shall
22 promptly notify the governing body which appointed the member
23 whose office has become vacant, and such governing body shall
24 appoint a member for the unexpired portion of the term. Members
25 of the joint board shall hold no other office in the
26 participating municipality[, except that no more than one member
27 of the board appointed by any municipality may also be a member
28 of a planning commission of the municipality from which such
29 appointment is made].

30 (c) Where legal counsel is desired, the governing bodies of

1 the participating municipalities shall appoint an attorney,
2 other than the solicitors of the participating municipalities,
3 to serve as counsel to the joint zoning hearing boards.

4 (d) In all other respects, joint zoning hearing boards shall
5 be governed by provisions of this act not inconsistent with the
6 provisions of this section.

7 Section 905. Removal of Members.--Any board member may be
8 removed for malfeasance, misfeasance or nonfeasance in office or
9 for other just cause by a majority vote of the governing body
10 which appointed the member, taken after the member has received
11 [fifteen] 15 days' advance notice of the intent to take such a
12 vote. A hearing shall be held in connection with the vote if the
13 member shall request it in writing.

14 Section 83. Section 906 of the act, amended October 4, 1978
15 (P.L.990, No.203), is amended to read:

16 Section 906. Organization of Board.--(a) The board shall
17 elect from its own membership its officers, who shall serve
18 annual terms as such and may succeed themselves. For the conduct
19 of any hearing and the taking of any action, a quorum shall be
20 not less than a majority of all the members of the board, but
21 the board may appoint a hearing officer from its own membership
22 to conduct any hearing on its behalf and the parties may waive
23 further action by the board as provided in section 908.

24 (b) If, by reason of absence or disqualification of a
25 member, a quorum is not reached, the chairman of the board shall
26 designate an alternate member of the board to sit on the board
27 for the absent or disqualified member. Any alternate member of
28 the board shall continue to serve on the board in all
29 proceedings involving the matter or case for which the alternate
30 was initially appointed until the board has made a final

1 determination of the matter or case. Designation of an alternate
2 pursuant to this section shall be made on a case-by-case basis
3 in rotation according to declining seniority among all
4 alternates.

5 (c) The board may make, alter and rescind rules and forms
6 for its procedure, consistent with ordinances of the
7 municipality and laws of the Commonwealth. The board shall keep
8 full public records of its business, which records shall be the
9 property of the municipality, and shall submit a report of its
10 activities to the governing body [once a year] as requested by
11 the governing body.

12 Section 84. Section 907 of the act is amended to read:

13 Section 907. Expenditures for Services.--Within the limits
14 of funds appropriated by the governing body, the board may
15 employ or contract for secretaries, clerks, legal counsel,
16 consultants and other technical and clerical services. Members
17 of the board may receive compensation for the performance of
18 their duties, as may be fixed by the governing body, but in no
19 case shall it exceed the rate of compensation authorized to be
20 paid to the members of the governing body. Alternate members of
21 the board may receive compensation, as may be fixed by the
22 governing body, for the performance of their duties when
23 designated as alternate members pursuant to section 906, but in
24 no case shall such compensation exceed the rate of compensation
25 authorized to be paid to the members of the governing body.

26 Section 85. Section 908 of the act, amended June 1, 1972
27 (P.L.333, No.93), December 10, 1974 (P.L.822, No.272) and July
28 13, 1979 (P.L.105, No.43), is amended to read:

29 Section 908. Hearings.--The board shall conduct hearings and
30 make decisions in accordance with the following requirements:

1 (1) [Notice] Public notice shall be given [to the
2 public,] and written notice shall be given to the applicant,
3 the zoning officer, such other persons as the governing body
4 shall designate by ordinance and to any person who has made
5 timely request for the same. [Notices] Written notices shall
6 be given at such time and in such manner as shall be
7 prescribed by ordinance or, in the absence of ordinance
8 provision, by rules of the board. [The governing body may
9 establish reasonable fees, based on cost, to be paid by the
10 applicant and by persons requesting any notice not required
11 by ordinance.] In addition to the written notice provided
12 herein, written notice of said hearing shall be conspicuously
13 posted on the affected tract of land at least one week prior
14 to the hearing.

15 (1.1) The governing body may prescribe reasonable fees
16 with respect to hearings before the zoning hearing board.
17 Fees for said hearings may include compensation for the
18 secretary and members of the zoning hearing board, notice and
19 advertising costs and necessary administrative overhead
20 connected with the hearing. The costs, however, shall not
21 include legal expenses of the zoning hearing board, expenses
22 for engineering, architectural or other technical consultants
23 or expert witness costs.

24 (1.2) The hearing shall be held within 60 days from the
25 date of the applicant's request, unless the applicant has
26 agreed in writing to an extension of time.

27 (2) The hearings shall be conducted by the board or the
28 board may appoint any member as a hearing officer. The
29 decision, or, where no decision is called for, the findings
30 shall be made by the board[, but]; however, the [parties may]

1 appellant or the applicant, as the case may be, in addition
2 to the municipality, may, prior to the decision of the
3 hearing, waive decision or findings by the board and accept
4 the decision or findings of the hearing officer as final.

5 (3) The parties to the hearing shall be the
6 municipality, any person affected by the application who has
7 made timely appearance of record before the board, and any
8 other person including civic or community organizations
9 permitted to appear by the board. The board shall have power
10 to require that all persons who wish to be considered parties
11 enter appearances in writing on forms provided by the board
12 for that purpose.

13 (4) The chairman or acting chairman of the board or the
14 hearing officer presiding shall have power to administer
15 oaths and issue subpoenas to compel the attendance of
16 witnesses and the production of relevant documents and
17 papers, including witnesses and documents requested by the
18 parties.

19 (5) The parties shall have the right to be represented
20 by counsel and shall be afforded the opportunity to respond
21 and present evidence and argument and cross-examine adverse
22 witnesses on all relevant issues.

23 (6) Formal rules of evidence shall not apply, but
24 irrelevant, immaterial, or unduly repetitious evidence may be
25 excluded.

26 (7) The board or the hearing officer, as the case may
27 be, shall keep a stenographic record of the proceedings [and
28 a transcript of the proceedings and copies of graphic or
29 written material received in evidence shall be made available
30 to any party at cost]. The appearance fee for a stenographer

1 shall be shared equally by the applicant and the board. The
2 cost of the original transcript shall be paid by the board if
3 an appeal is made or a transcript is ordered by the board or
4 hearing officer, with the costs of additional copies to be
5 paid by the party requesting the copy. In other cases the
6 party requesting the original transcript shall bear the cost
7 thereof.

8 (8) The board or the hearing officer shall not
9 communicate, directly or indirectly, with any party or his
10 representatives in connection with any issue involved except
11 upon notice and opportunity for all parties to participate,
12 shall not take notice of any communication, reports, staff
13 memoranda, or other materials, except advice from their
14 solicitor, unless the parties are afforded an opportunity to
15 contest the material so noticed and shall not inspect the
16 site or its surroundings after the commencement of hearings
17 with any party or his representative unless all parties are
18 given an opportunity to be present.

19 (9) The board or the hearing officer, as the case may
20 be, shall render a written decision or, when no decision is
21 called for, make written findings on the application within
22 [forty-five] 45 days after the last hearing before the board
23 or hearing officer. Where the application is contested or
24 denied, each decision shall be accompanied by findings of
25 fact and conclusions based thereon together with the reasons
26 therefor. Conclusions based on any provisions of this act or
27 of any ordinance, rule or regulation shall contain a
28 reference to the provision relied on and the reasons why the
29 conclusion is deemed appropriate in the light of the facts
30 found. If the hearing is conducted by a hearing officer, and

1 there has been no stipulation that his decision or findings
2 are final, the board shall make his report and
3 recommendations available to the parties within 45 days and
4 the parties shall be entitled to make written representations
5 thereon to the board prior to final decision or entry of
6 findings, and the board's decision shall be entered no later
7 than [forty-five] 30 days after the [decision] report of the
8 hearing officer. Where the board fails to render the decision
9 within the period required by this subsection, or fails to
10 hold the required hearing within [sixty] 60 days from the
11 date of the applicant's request for a hearing, the decision
12 shall be deemed to have been rendered in favor of the
13 applicant unless the applicant has agreed in writing or on
14 the record to an extension of time. When a decision has been
15 rendered in favor of the applicant because of the failure of
16 the board to meet or render a decision as hereinabove
17 provided, the [municipality] board shall give public notice
18 of said decision within ten days from the last day it could
19 have met to render a decision in the same manner as provided
20 in subsection (1) of this section. If the board shall fail to
21 provide such notice, the applicant may do so. Nothing in this
22 subsection shall prejudice the right of any party opposing
23 the application to [urge that such decision is erroneous]
24 appeal the decision to a court of competent jurisdiction.

25 (10) A copy of the final decision or, where no decision
26 is called for, of the findings shall be delivered to the
27 applicant personally or mailed to him not later than the day
28 following its date. To all other persons who have filed their
29 name and address with the board not later than the last day
30 of the hearing, the board shall provide by mail or otherwise,

1 brief notice of the decision or findings and a statement of
2 the place at which the full decision or findings may be
3 examined.

4 Section 86. The act is amended by adding a section to read:

5 Section 908.1. Mediation Option.--(a) Parties to
6 proceedings authorized in this article and Article X-A may
7 utilize mediation as an aid in completing such proceedings. In
8 proceedings before the zoning hearing board, in no case shall
9 the zoning hearing board initiate mediation or participate as a
10 mediating party. Mediation shall supplement, not replace, those
11 procedures in this article and Article X-A once they have been
12 formally initiated. Nothing in this section shall be interpreted
13 as expanding or limiting municipal police powers or as modifying
14 any principles of substantive law.

15 (b) Participation in mediation shall be wholly voluntary.
16 The appropriateness of mediation shall be determined by the
17 particulars of each case and the willingness of the parties to
18 negotiate. Any municipality offering the mediation option shall
19 assure that in each case, the mediating parties, assisted by the
20 mediator as appropriate, develop terms and conditions for:

21 (1) Funding mediation.

22 (2) Selecting a mediator who, at a minimum, shall have a
23 working knowledge of municipal zoning and subdivision
24 procedures and demonstrated skills in mediation.

25 (3) Completing mediation, including time limits for such
26 completion.

27 (4) Suspending time limits otherwise authorized in this
28 act, provided there is written consent by the mediating
29 parties, and by an applicant or municipal decisionmaking body
30 if either is not a party to the mediation.

1 (5) Identifying any additional important parties and
2 affording them the opportunity to participate.

3 (6) Subject to legal restraints, determining whether
4 some or all of the mediation sessions shall be open or closed
5 to the public.

6 (7) Assuring that mediated solutions are in writing and
7 signed by the parties, and become subject to review and
8 approval by the appropriate decisionmaking body pursuant to
9 the authorized procedures set forth in the other sections of
10 this act.

11 (c) No offers or statements made in the mediation sessions,
12 excluding the final written mediated agreement, shall be
13 admissible as evidence in any subsequent judicial or
14 administrative proceedings.

15 Section 87. Section 909 of the act is repealed.

16 Section 88. The act is amended by adding a section to read:

17 Section 909.1. Jurisdiction.--(a) The zoning hearing board
18 shall have exclusive jurisdiction to hear and render final
19 adjudications in the following matters:

20 (1) Substantive challenges to the validity of any land
21 use ordinance, except those brought before the governing body
22 pursuant to sections 609.1 and 916.1(a)(2).

23 (2) Challenges to the validity of a land use ordinance
24 raising procedural questions or alleged defects in the
25 process of enactment or adoption which challenges shall be
26 raised by an appeal taken within 30 days after the effective
27 date of said ordinance. Where the ordinance appealed from is
28 the initial zoning ordinance of the municipality and a zoning
29 hearing board has not been previously established, the appeal
30 raising procedural questions shall be taken directly to

1 court.

2 (3) Appeals from the determination of the zoning
3 officer, including but not limited to, the grant or denial of
4 any permit, the issuance of any cease and desist order or the
5 registration or refusal to register any nonconforming use,
6 structure or lot.

7 (4) Appeals from a determination by a municipal engineer
8 or the zoning officer with reference to the administration of
9 any flood plain or flood hazard ordinance or such provisions
10 within a land use ordinance.

11 (5) Applications for variances from the terms of the
12 zoning ordinance and flood hazard ordinance or such
13 provisions within a land use ordinance, pursuant to section
14 910.2.

15 (6) Applications for special exceptions under the zoning
16 ordinance or flood plain or flood hazard ordinance or such
17 provisions within a land use ordinance, pursuant to section
18 912.1.

19 (7) Appeals from the determination of any officer or
20 agency charged with the administration of any transfers of
21 development rights or performance density provisions of the
22 zoning ordinance.

23 (8) Appeals from the zoning officer's determination
24 under section 916.2.

25 (9) Appeals from the determination of the zoning officer
26 or municipal engineer in the administration of any land use
27 ordinance or provision thereof with reference to
28 sedimentation and erosion control and storm water management
29 insofar as the same relate to development not involving
30 Article V or VII applications.

1 (b) The governing body or the planning agency, if
2 designated, shall have exclusive jurisdiction to hear and render
3 final adjudications in the following matters:

4 (1) All applications for approvals of planned
5 residential developments under Article VII pursuant to the
6 provisions of section 702.

7 (2) All applications pursuant to section 508 for
8 approval of subdivisions or land developments under Article
9 V. Any provision in a subdivision and land development
10 ordinance requiring that final action concerning subdivision
11 and land development applications be taken by a planning
12 agency rather than the governing body shall vest exclusive
13 jurisdiction in the planning agency in lieu of the governing
14 body for purposes of the provisions of this paragraph.

15 (3) Applications for conditional use under the express
16 provisions of the zoning ordinance pursuant to section
17 603(c)(2).

18 (4) Applications for curative amendment to a zoning
19 ordinance pursuant to sections 609.1 and 916.1(a)(2).

20 (5) All petitions for amendments to land use ordinances,
21 pursuant to the procedures set forth in section 609. Any
22 action on such petitions shall be deemed legislative acts,
23 provided that nothing contained in this clause shall be
24 deemed to enlarge or diminish existing law with reference to
25 appeals to court.

26 (6) Appeals from the determination of the zoning officer
27 or the municipal engineer in the administration of any land
28 use ordinance or provisions thereof with reference to
29 sedimentation and erosion control and storm water management
30 insofar as the same relate to application for land

1 development under Articles V and VII. Where such
2 determination relates only to development not involving an
3 Article V or VII application, the appeal from such
4 determination of the zoning officer or the municipal engineer
5 shall be to the zoning hearing board pursuant to subsection
6 (a)(9). Where the applicable land use ordinance vests
7 jurisdiction for final administration of subdivision and land
8 development applications in the planning agency, all appeals
9 from determinations under this paragraph shall be to the
10 planning agency and all appeals from the decision of the
11 planning agency shall be to court.

12 (7) Applications for a special encroachment permit
13 pursuant to section 405 and applications for a permit
14 pursuant to section 406.

15 Section 89. Section 910 of the act is repealed.

16 Section 90. The act is amended by adding sections to read:

17 Section 910.1. Applicability of Judicial Remedies.--Nothing
18 contained in this article shall be construed to deny the
19 appellant the right to proceed directly to court where
20 appropriate, pursuant to the Pennsylvania Rules of Civil
21 Procedure No. 1091 (relating to action in mandamus).

22 Section 910.2. Zoning Hearing Board's Functions;
23 Variances.--(a) The board shall hear requests for variances
24 where it is alleged that the provisions of the zoning ordinance
25 inflict unnecessary hardship upon the applicant. The board may
26 by rule prescribe the form of application and may require
27 preliminary application to the zoning officer. The board may
28 grant a variance, provided that all of the following findings
29 are made where relevant in a given case:

30 (1) That there are unique physical circumstances or

1 conditions, including irregularity, narrowness, or
2 shallowness of lot size or shape, or exceptional
3 topographical or other physical conditions peculiar to the
4 particular property and that the unnecessary hardship is due
5 to such conditions and not the circumstances or conditions
6 generally created by the provisions of the zoning ordinance
7 in the neighborhood or district in which the property is
8 located.

9 (2) That because of such physical circumstances or
10 conditions, there is no possibility that the property can be
11 developed in strict conformity with the provisions of the
12 zoning ordinance and that the authorization of a variance is
13 therefore necessary to enable the reasonable use of the
14 property.

15 (3) That at the time of acquisition of the property the
16 appellant had neither actual or constructive knowledge of
17 such physical circumstances or conditions, and that such
18 unnecessary hardship has not been created by the appellant.

19 (4) That the variance, if authorized, will not alter the
20 essential character of the neighborhood or district in which
21 the property is located, nor substantially or permanently
22 impair the appropriate use or development of adjacent
23 property, nor be detrimental to the public welfare.

24 (5) That the variance, if authorized, will represent the
25 minimum variance that will afford relief and will represent
26 the least modification possible of the regulation in issue.

27 (b) In granting any variance, the board may attach such
28 reasonable conditions and safeguards as it may deem necessary to
29 implement the purposes of this act and the zoning ordinance.

30 Section 91. Section 912 of the act is repealed.

1 Section 92. The act is amended by adding a section to read:

2 Section 912.1. Zoning Hearing Board's Functions; Special
3 Exception.--Where the governing body, in the zoning ordinance,
4 has stated special exceptions to be granted or denied by the
5 board pursuant to express standards and criteria, the board
6 shall hear and decide requests for such special exceptions in
7 accordance with such standards and criteria. In granting a
8 special exception, the board may attach such reasonable
9 conditions and safeguards, in addition to those expressed in the
10 ordinance, as it may deem necessary to implement the purposes of
11 this act and the zoning ordinance.

12 Section 93. Sections 913 and 913.1 of the act are repealed.

13 Section 94. The act is amended by adding sections to read:

14 Section 913.2. Governing Body's Functions; Conditional
15 Uses.--Where the governing body, in the zoning ordinances, has
16 stated conditional uses to be granted or denied by the governing
17 body pursuant to express standards and criteria, the governing
18 body shall hold hearings on and decide requests for such
19 conditional uses in accordance with such standards and criteria.
20 In granting a conditional use, the governing body may attach
21 such reasonable conditions and safeguards, in addition to those
22 expressed in the ordinance, as it may deem necessary to
23 implement the purposes of this act in the zoning ordinance.

24 Section 913.3. Parties Appellant Before the Board.--Appeals
25 under section 909.1(a)(1), (2), (3), (4), (7), (8) and (9) may
26 be filed with the board in writing by the landowner affected,
27 any officer or agency of the municipality, or any person
28 aggrieved. Requests for a variance under section 910.2 and for
29 special exception under section 912.1 may be filed with the
30 board by any landowner or any tenant with the permission of such

1 landowner.

2 Section 95. Section 914 of the act is repealed.

3 Section 96. The act is amended by adding a section to read:

4 Section 914.1. Time Limitations.--(a) No person shall be
5 allowed to file any proceeding with the board later than 30 days
6 after an application for development, preliminary or final, has
7 been approved by an appropriate municipal officer, agency or
8 body if such proceeding is designed to secure reversal or to
9 limit the approval in any manner unless such person alleges and
10 proves that he had no notice, knowledge, or reason to believe
11 that such approval had been given. If such person has succeeded
12 to his interest after such approval, he shall be bound by the
13 knowledge of his predecessor in interest. The failure of anyone
14 other than the landowner to appeal from an adverse decision on a
15 tentative plan pursuant to section 709 or from an adverse
16 decision by a zoning officer on a challenge to the validity of
17 an ordinance or map pursuant to section 916.2 shall preclude an
18 appeal from a final approval except in the case where the final
19 submission substantially deviates from the approved tentative
20 approval.

21 (b) All appeals from determinations adverse to the
22 landowners shall be filed by the landowner within 30 days after
23 notice of the determination is issued.

24 Section 97. Section 915 of the act is repealed.

25 Section 98. The act is amended by adding a section to read:

26 Section 915.1. Stay of Proceedings.--(a) Upon filing of any
27 proceeding referred to in section 913.3 and during its pendency
28 before the board, all land development pursuant to any
29 challenged ordinance, order or approval of the zoning officer or
30 of any agency or body, and all official action thereunder, shall

1 be stayed unless the zoning officer or any other appropriate
2 agency or body certifies to the board facts indicating that such
3 stay would cause imminent peril to life or property, in which
4 case the development or official action shall not be stayed
5 otherwise than by a restraining order, which may be granted by
6 the board or by the court having jurisdiction of zoning appeals,
7 on petition, after notice to the zoning officer or other
8 appropriate agency or body. When an application for development,
9 preliminary or final, has been duly approved and proceedings
10 designed to reverse or limit the approval are filed with the
11 board by persons other than the applicant, the applicant may
12 petition the court having jurisdiction of zoning appeals to
13 order such persons to post bond as a condition to continuing the
14 proceedings before the board.

15 (b) After the petition is presented, the court shall hold a
16 hearing to determine if the filing of the appeal is frivolous.
17 At the hearing, evidence may be presented on the merits of the
18 case. It shall be the burden of the respondent to a petition for
19 a bond to prove the appeal is not frivolous. After consideration
20 of all evidence presented, if the court determines that the
21 appeal is frivolous, it shall grant the petition for a bond. The
22 right to petition the court to order the appellants to post bond
23 may be waived by the appellee, but such waiver may be revoked by
24 him if an appeal is taken from a final decision of the court.

25 (c) The question whether or not such petition should be
26 granted and the amount of the bond shall be within the sound
27 discretion of the court. An order denying a petition for bond
28 shall be interlocutory. An order directing the responding party
29 to post a bond shall be interlocutory.

30 (d) If an appeal is taken by a respondent to the petition

1 for a bond from an order of the court dismissing a zoning appeal
2 for refusal to post a bond and the appellate court sustains the
3 order of the court below to post a bond, the respondent to the
4 petition for a bond, upon motion of the petitioner and after
5 hearing in the court having jurisdiction of zoning appeals,
6 shall be liable for all reasonable costs, expenses, and
7 attorney's fees incurred by the petitioner.

8 Section 99. Section 916 of the act is repealed.

9 Section 100. The act is amended by adding sections to read:

10 Section 916.1. Validity of Ordinance; Substantive

11 Questions.--(a) A landowner who, on substantive grounds,
12 desires to challenge the validity of an ordinance or map or any
13 provision thereof which prohibits or restricts the use or
14 development of land in which he has an interest shall submit the
15 challenge either:

16 (1) to the zoning hearing board under section 909.1(a);
17 or

18 (2) to the governing body under section 909.1(b)(4),
19 together with a request for a curative amendment under
20 section 609.1.

21 (b) Persons aggrieved by a use or development permitted on
22 the land of another by an ordinance or map, or any provision
23 thereof, who desires to challenge its validity on substantive
24 grounds shall first submit their challenge to the zoning hearing
25 board for a decision thereon under section 909.1(a)(1).

26 (c) The submissions referred to in subsections (a) and (b)
27 shall be governed by the following:

28 (1) In challenges before the zoning hearing board, the
29 challenging party shall make a written request to the board
30 that it hold a hearing on its challenge. The request shall

1 contain the reasons for the challenge. Where the landowner
2 desires to challenge the validity of such ordinance and
3 elects to proceed by curative amendment, under section 609.1,
4 his application to the governing body shall contain, in
5 addition to the requirements of the written request hereof,
6 the plans and explanatory materials describing the use or
7 development proposed by the landowner in lieu of the use or
8 development permitted by the challenged ordinance or map.
9 Such plans or other materials shall not be required to meet
10 the standards prescribed for preliminary, tentative or final
11 approval or for the issuance of a permit, so long as they
12 provide reasonable notice of the proposed use or development
13 and a sufficient basis for evaluating the challenged
14 ordinance or map in light thereof. Nothing herein contained
15 shall preclude the landowner from first seeking a final
16 approval before submitting his challenge.

17 (2) If the submission is made by the landowner to the
18 governing body under subsection (a)(2), the request also
19 shall be accompanied by an amendment or amendments to the
20 ordinance proposed by the landowner to cure the alleged
21 defects therein.

22 (3) If the submission is made to the governing body, the
23 municipal solicitor shall represent and advise it at the
24 hearing or hearings referred to in section 909.1(b)(4).

25 (4) The governing body may retain an independent
26 attorney to present the defense of the challenged ordinance
27 or map on its behalf and to present their witnesses on its
28 behalf.

29 (5) Based upon the testimony presented at the hearing or
30 hearings, the governing body or the zoning board, as the case

1 may be, shall determine whether the challenged ordinance or
2 map is defective, as alleged by the landowner, and notify the
3 landowner in writing of its decision within 45 days after the
4 conclusion of the last hearing.

5 (6) If the governing body or the zoning board, as the
6 case may be, fails to act on the landowner's request within
7 the time limits referred to in paragraph (5), a denial of the
8 request is deemed to have occurred on the 46th day after the
9 close of the last hearing.

10 (d) The zoning hearing board or governing body, as the case
11 may be, shall commence its hearings within 60 days after the
12 request is filed unless the landowner requests or consents to an
13 extension of time.

14 (e) Public notice of the hearing shall include notice that
15 the validity of the ordinance or map is in question and shall
16 give the place where and the times when a copy of the request,
17 including any plans, explanatory material or proposed amendments
18 may be examined by the public.

19 (f) The challenge shall be deemed denied when:

20 (1) the zoning hearing board or governing body, as the
21 case may be, fails to commence the hearing within the time
22 limits set forth in subsection (d);

23 (2) the governing body notifies the landowner that it
24 will not adopt the curative amendment;

25 (3) the governing body adopts another curative amendment
26 which is unacceptable to the landowner; or

27 (4) the zoning hearing board or governing body, as the
28 case may be, fails to act on the request 45 days after the
29 close of the last hearing on the request, unless the time is
30 extended by mutual consent by the landowner and municipality.

1 (g) Where, after the effective date of this act, a curative
2 amendment proposal is approved by the grant of a curative
3 amendment application by the governing body pursuant to section
4 909.1(b)(4) or a validity challenge is sustained by the zoning
5 hearing board pursuant to section 909.1(a)(1) or the court acts
6 finally on appeal from denial of a curative amendment proposal
7 or a validity challenge, and the proposal or challenge so
8 approved requires a further application for subdivision or land
9 development, the developer shall have two years from the date of
10 such approval to file an application for preliminary or
11 tentative approval pursuant to Article V or VII. Within the two-
12 year period, no subsequent change or amendment in the zoning,
13 subdivision or other governing ordinance or plan shall be
14 applied in any manner which adversely affects the rights of the
15 applicant as granted in the curative amendment or the sustained
16 validity challenge. Upon the filing of the preliminary or
17 tentative plan, the provisions of section 508(4) shall apply.
18 Where the proposal appended to the curative amendment
19 application or the validity challenge is approved but does not
20 require further application under any subdivision or land
21 development ordinance, the developer shall have one year within
22 which to file for a building permit. Within the one-year period,
23 no subsequent change or amendment in the zoning, subdivision or
24 other governing ordinance or plan shall be applied in any manner
25 which adversely affects the rights of the applicant as granted
26 in the curative amendment or the sustained validity challenge.
27 During these protected periods, the court shall retain or assume
28 jurisdiction for the purpose of awarding such supplemental
29 relief as may be necessary.

30 Section 916.2. Procedure to Obtain Preliminary Opinion.--In

1 order not to unreasonably delay the time when a landowner may
2 secure assurance that the ordinance or map under which he
3 proposed to build is free from challenge, and recognizing that
4 the procedure for preliminary approval of his development may be
5 too cumbersome or may be unavailable, the landowner may advance
6 the date from which time for any challenge to the ordinance or
7 map will run under section 914.1 by the following procedure:

8 (1) The landowner may submit plans and other materials
9 describing his proposed use or development to the zoning
10 officer for a preliminary opinion as to their compliance with
11 the applicable ordinances and maps. Such plans and other
12 materials shall not be required to meet the standards
13 prescribed for preliminary, tentative or final approval or
14 for the issuance of a building permit so long as they provide
15 reasonable notice of the proposed use or development and a
16 sufficient basis for a preliminary opinion as to its
17 compliance.

18 (2) If the zoning officer's preliminary opinion is that
19 the use or development complies with the ordinance or map,
20 notice thereof shall be published once each week for two
21 successive weeks in a newspaper of general circulation in the
22 municipality. Such notice shall include a general description
23 of the proposed use or development and its location, by some
24 readily identifiable directive, and the place and times where
25 the plans and other materials may be examined by the public.
26 The favorable preliminary approval under section 914.1 and
27 the time therein specified for commencing a proceeding with
28 the board shall run from the time when the second notice
29 thereof has been published.

30 Section 101. Article X of the act is repealed.

1 Section 102. The act is amended by adding an article to
2 read:

3 ARTICLE X-A

4 Appeals To Court

5 Section 1001-A. Land Use Appeals.--The procedures set forth
6 in this article shall constitute the exclusive mode for securing
7 review of any decision rendered pursuant to Article IX or deemed
8 to have been made under this act.

9 Section 1002-A. Jurisdiction and Venue on Appeal; Time for
10 Appeal.--All appeals from all land use decisions rendered
11 pursuant to Article IX shall be taken to the court of common
12 pleas of the judicial district wherein the land is located and
13 shall be filed within 30 days after entry of the decision as
14 provided in 42 Pa.C.S. § 5572 (relating to time of entry of
15 order) or in the case of a deemed decision within 30 days after
16 the date upon which notice of said deemed decision is given as
17 set forth in section 908(9) of this act.

18 Section 1003-A. Appeals to Court; Commencement; Stay of
19 Proceedings.--(a) Land use appeals shall be entered as of
20 course by the prothonotary or clerk upon the filing of a land
21 use appeal notice which concisely sets forth the grounds on
22 which the appellant relies. The appeal notice need not be
23 verified. The land use appeal notice shall be accompanied by a
24 true copy thereof.

25 (b) Upon filing of a land use appeal, the prothonotary or
26 clerk shall forthwith, as of course, send to the governing body,
27 board or agency whose decision or action has been appealed, by
28 registered or certified mail, the copy of the land use appeal
29 notice, together with a writ of certiorari commanding said
30 governing body, board or agency, within 20 days after receipt

1 thereof, to certify to the court its entire record in the matter
2 in which the land use appeal has been taken, or a true and
3 complete copy thereof, including any transcript of testimony in
4 existence and available to the governing body, board or agency
5 at the time it received the writ of certiorari.

6 (c) If the appellant is a person other than the landowner of
7 the land directly involved in the decision or action appealed
8 from, the appellant, within seven days after the land use appeal
9 is filed, shall serve a true copy of the land use appeal notice
10 by mailing said notice to the landowner or his attorney at his
11 last known address. For identification of such landowner, the
12 appellant may rely upon the record of the municipality and, in
13 the event of good faith mistakes as to such identity, may make
14 such service nunc pro tunc by leave of court.

15 (d) The filing of an appeal in court under this section
16 shall not stay the action appealed from, but the appellants may
17 petition the court having jurisdiction of land use appeals for a
18 stay. If the appellants are persons who are seeking to prevent a
19 use or development of the land of another, whether or not a stay
20 is sought by them, the landowner whose use or development is in
21 question may petition the court to order the appellants to post
22 bond as a condition to proceeding with the appeal. After the
23 petition for posting a bond is presented, the court shall hold a
24 hearing to determine if the filing of the appeal is frivolous.
25 At the hearing, evidence may be presented on the merits of the
26 case. It shall be the burden of the respondent to the petition
27 for posting a bond to prove the appeal is not frivolous. After
28 consideration of all evidence presented, if the court determines
29 that the appeal is frivolous, it shall grant the petition for
30 posting a bond. The right to petition the court to order the

1 appellants to post bond may be waived by the appellee, but such
2 waiver may be revoked by him if an appeal is taken from a final
3 decision of the court. The question of the amount of the bond
4 shall be within the sound discretion of the court. An order
5 denying a petition for bond shall be interlocutory. An order
6 directing the respondent to the petition for posting a bond to
7 post a bond shall be interlocutory. If an appeal is taken by a
8 respondent to the petition for posting a bond from an order of
9 the court dismissing a land use appeal for refusal to post a
10 bond, such responding party, upon motion of petitioner and after
11 hearing in the court having jurisdiction of land use appeals,
12 shall be liable for all reasonable costs, expenses and
13 attorney's fees incurred by petitioner.

14 Section 1004-A. Intervention.--Within the 30 days first
15 following the filing of a land use appeal, if the appeal is from
16 a board or agency of a municipality, the municipality and any
17 owner or tenant of property directly involved in the action
18 appealed from may intervene as of course by filing a notice of
19 intervention, accompanied by proof of service of the same, upon
20 each appellant or each appellant's counsel of record. All other
21 intervention shall be governed by the Pennsylvania Rules of
22 Civil Procedure.

23 Section 1005-A. Hearing and Argument of Land Use Appeal.--
24 If, upon motion, it is shown that proper consideration of the
25 land use appeal requires the presentation of additional
26 evidence, a judge of the court may hold a hearing to receive
27 additional evidence or may refer the case to a referee to
28 receive additional evidence, provided that appeals brought
29 before the court pursuant to this article shall not be remanded
30 for further hearings before any body, agency or officer of the

1 municipality. If the record below includes findings of fact made
2 by the governing body, board or agency whose decision or action
3 is brought up for review and the court does not take additional
4 evidence or appoint a referee to take additional evidence, the
5 findings of the governing body, board or agency shall not be
6 disturbed by the court if supported by substantial evidence. If
7 the record does not include findings of fact, or if additional
8 evidence is taken by the court or by a referee, the court shall
9 make its own findings of fact based on the record below as
10 supplemented by the additional evidence, if any.

11 Section 1006-A. Judicial Relief.--(a) In a land use appeal,
12 the court shall have power to declare any ordinance or map
13 invalid and set aside or modify any action, decision or order of
14 the governing body, agency or officer of the municipality
15 brought up on appeal.

16 (b) Where municipalities have adopted a joint municipal
17 comprehensive plan and enacted a zoning ordinance or ordinances
18 consistent with the joint municipal comprehensive plan within a
19 region pursuant to Articles VIII-A and XI, the court, when
20 determining the validity of a challenge to such a municipality's
21 zoning ordinance, shall consider the zoning ordinance or
22 ordinances as they apply to the entire region and shall not
23 limit its consideration to the application of the zoning
24 ordinance within the boundaries of the respective
25 municipalities.

26 (c) If the court finds that an ordinance or map, or a
27 decision or order thereunder, which has been brought up for
28 review unlawfully prevents or restricts a development or use
29 which has been described by the landowner through plans and
30 other materials submitted to the governing body, agency or

1 officer of the municipality whose action or failure to act is in
2 question on the appeal, it may order the described development
3 or use approved as to all elements or it may order it approved
4 as to some elements and refer other elements to the governing
5 body, agency or officer having jurisdiction thereof for further
6 proceedings, in accordance with the court's opinion and order.

7 (d) Upon motion by any of the parties or upon motion by the
8 court, the judge of the court may hold a hearing or hearings to
9 receive additional evidence or employ experts to aid the court
10 to frame an appropriate order. If the court employs an expert,
11 the report or evidence of such expert shall be available to any
12 party and he shall be subject to examination or cross-
13 examination by any party. He shall be paid reasonable
14 compensation for his services which may be assessed against any
15 or all of the parties as determined by the court. The court
16 shall retain jurisdiction of the appeal during the pendency of
17 any such further proceedings and may, upon motion of the
18 landowner, issue such supplementary orders as it deems necessary
19 to protect the rights of the landowner as declared in its
20 opinion and order.

21 (e) The fact that the plans and other materials are not in a
22 form or are not accompanied by other submissions which are
23 required for final approval of the development or use in
24 question or for the issuance of permits shall not prevent the
25 court from granting the definitive relief authorized. The court
26 may act upon preliminary or sketch plans by framing its decree
27 to take into account the need for further submissions before
28 final approval is granted.

29 Section 103. The heading of Article XI is reenacted to read:

30

ARTICLE XI

1 Joint Municipal Planning Commission

2 Section 104. Sections 1101, 1102, 1103 and 1104 of the act
3 are amended to read:

4 Section 1101. Legislative Finding and Declaration of
5 Policy.--For the purpose of encouraging municipalities to
6 effectively plan for their future development and to coordinate
7 their planning with neighboring municipalities, counties and
8 other governmental agencies, and promoting health, safety,
9 morals and the general welfare of the various areas in the
10 Commonwealth through the effective development of such areas,
11 the following powers for the establishment and operation of
12 joint municipal planning commissions are hereby granted.

13 Section 1102. Creation, Appointment and Operation of Joint
14 Municipal Planning Commission.--The governing bodies of two or
15 more municipalities may by ordinance [or resolution] authorize
16 the establishment and participation or membership in and support
17 of, a joint municipal planning commission. The number and
18 qualifications of the members of such planning commission and
19 their terms and method of appointment or removal shall be such
20 as may be determined and agreed upon by the governing bodies.
21 Members of a joint municipal planning commission shall serve
22 without salary but may be paid expenses, incurred in the
23 performance of their duties. The joint municipal planning
24 commission shall elect a chairman whose term shall not exceed
25 one year and who shall be eligible for reelection. The
26 commission may create and fill such other offices as it may
27 determine. Every joint municipal planning commission shall adopt
28 rules for the transactions, findings and determinations, which
29 record shall be a public record. Each participating or member
30 municipality may from time to time, upon the request of the

1 joint municipal planning commission, assign or detail to the
2 commission any [employes] employees of the municipality to make
3 special surveys or studies.

4 Section 1103. Finances, Staff and Program.--(a) The
5 governing bodies of municipalities shall have the authority to
6 appropriate funds for the purpose of contributing to the
7 operation of a joint municipal planning commission. A joint
8 municipal planning commission, with the consent of all the
9 governing bodies, may also receive grants from the Federal or
10 State governments, or from individuals or foundations, and shall
11 have the authority to contract therewith. Every joint municipal
12 planning commission shall have the power to appoint such
13 [employes] employees and staff as it may deem necessary for its
14 work, and contract with planners and other consultants for the
15 services it may require to the extent permitted by its financial
16 resources. Each such commission may also perform planning
17 services for any municipality which is not a member thereof and
18 may charge fees for the work. A joint municipal planning
19 commission may also prepare and sell maps, reports, bulletins or
20 other material and establish reasonable charges therefor.

21 (a.1) A joint municipal planning commission shall, at the
22 request of the governing bodies of the participating or member
23 municipalities, have the power and shall be required to
24 undertake any of the activities specified in section 209.1. Such
25 activities shall relate to the area encompassed by the
26 participating or member municipalities.

27 (b) [A joint municipal planning commission may provide
28 planning assistance and do planning work, including surveys,
29 land use studies, urban renewal plans, technical services and
30 other elements of comprehensive planning and planning

1 effectuation programs in and for any participating or member
2 municipality and for] For this purpose a joint municipal
3 planning commission may, with the consent of all the governing
4 bodies, accept and utilize any funds, personnel or other
5 assistance made available by the Federal or State governments or
6 any of their agencies, or from individuals or foundations, and
7 for the purposes of receiving and using Federal or State
8 planning grants for provision of [urban] planning assistance may
9 enter into agreements or contracts regarding acceptance or
10 utilization of the funds or assistance.

11 (c) The ordinance which creates a joint municipal planning
12 commission shall:

13 (1) State the purpose for the creation of the planning
14 commission.

15 (2) Specify which of the activities identified by this
16 act the joint municipal planning commission shall be
17 authorized to undertake.

18 (3) Specify which activities shall remain with the local
19 planning commissions, when they are retained.

20 (4) Specify the notice and procedures which a member
21 municipality must follow when withdrawing from the joint
22 municipal planning commission.

23 (5) Specify the notice and procedures when the member
24 municipalities decide to dissolve the joint municipal
25 planning commission.

26 Section 1104. Preparation of Comprehensive Plan.--(a) Every
27 joint municipal planning commission [shall] may prepare and
28 maintain a comprehensive plan, in accordance with the provisions
29 of this act, for the guidance of the continuing development of
30 the area encompassed by the participating or member

1 municipalities. The governing bodies shall have the power to
2 adopt and amend the joint municipal comprehensive plan. Said
3 joint municipal comprehensive plan shall be a prerequisite for a
4 joint municipal zoning ordinance as specified in this act.

5 (b) Such joint municipal comprehensive plan shall
6 specifically identify issues of significance to the area which
7 is encompassed by the participating or member municipalities and
8 shall specify those municipal activities which will require
9 coordination or cooperation among them.

10 (c) In the preparation of the joint municipal comprehensive
11 plan, consideration shall be given to the comprehensive plans of
12 the county, adjoining municipalities and the member or
13 participating municipalities in order that the objectives of
14 each plan can be protected to the greatest extent possible and
15 to attain consistency between the various plans and the joint
16 municipal comprehensive plan.

17 Section 105. Section 1105 of the act is reenacted to read:

18 Section 1105. Cooperation Among Joint Municipal Planning
19 Commission, Municipalities and Others.--Every joint municipal
20 planning commission shall encourage the cooperation of the
21 participating municipalities in matters which concern the
22 integrity of the comprehensive plan or maps prepared by the
23 commission, and, as an aid toward coordination, all
24 municipalities and public officials shall upon request furnish
25 to the joint municipal planning commission within a reasonable
26 time the available maps, plans, reports, statistical or other
27 information such commission may require for its work.

28 Section 106. Section 1106 of the act is amended to read:

29 Section 1106. Established Regional Planning Commission.--
30 Municipalities which are presently participating in an existing

1 regional planning commission [may elect to comply with and be
2 governed by the provisions of this act] or a joint municipal
3 planning commission shall comply with and be governed by the
4 provisions of this act within five years from the effective date
5 of this amendatory act.

6 Section 107. Section 1107 of the act is reenacted to read:

7 Section 1107. Saving Clause.--The passage of this act and
8 the repeal by it of any prior enabling laws relating to regional
9 planning shall not invalidate any regional planning commission
10 created under such other laws. This act, in such respect, shall
11 be deemed a continuation and codification of such prior enabling
12 laws.

13 Section 108. Article XI-A of the act is repealed.

14 Section 109. The heading of Article XII and sections 1201
15 and 1202 of the act are reenacted to read:

16 ARTICLE XII

17 Repeals

18 Section 1201. Specific Repeals.--The following acts and
19 parts of acts and amendments thereof are repealed to the extent
20 hereinafter specified:

21 (1) Section 12, act of May 16, 1891 (P.L.75), entitled "An
22 act in relation to the laying out, opening, widening,
23 straightening, extending or vacating streets and alleys, and the
24 construction of bridges in the several municipalities of this
25 Commonwealth, the grading, paving, macadamizing or otherwise
26 improving streets and alleys, providing for ascertaining the
27 damages to private property resulting therefrom, the assessment
28 of the damages, costs and expenses thereof upon the property
29 benefited, and the construction of sewers and payment of the
30 damages, costs and expenses thereof, including damages to

1 private property resulting therefrom," as to cities of the
2 second class A, incorporated towns and townships of the first
3 and second class.

4 (2) Sections 1151, 1152, 1153, 1154, 1155, 1156, 1601, 1602,
5 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1711, 1721, 1722,
6 2706, 2707, 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3208, 3209
7 and 3210, act of February 1, 1966 (P.L.1656), known as "The
8 Borough Code," absolutely.

9 (3) Sections 2001, 3015, 3016, 3061, 3062, 3063, 3064, 3065,
10 3066, 3067, 3068, 3101, 3102, 3103, 3104, 3105, 3106, 3107,
11 3107.1, 3107.2, 3108, 3109, 3110, 3111, 3201, 3202 and 3203, act
12 of June 24, 1931 (P.L.1206), known as "The First Class Township
13 Code," reenacted and amended May 27, 1949 (P.L.1955),
14 absolutely.

15 (4) Sections 2901, 2902, 2903, 2904, 2905, 2906, 3701, 3702,
16 4001, 4002, 4003, 4004, 4005, 4006, 4101, 4102, 4103, 4104,
17 4105, 4106, 4107, 4110, 4111, 4112, 4113, 4114, 4120, 4121,
18 4122, 4123, 4124, 4125, 4126, 4127, 4128 and 4129, act of June
19 23, 1931 (P.L.932), known as "The Third Class City Code,"
20 reenacted and amended June 28, 1951 (P.L.662), absolutely.

21 (5) Sections 1201-A, 1202-A, 1203-A, 1204-A, 1205-A, 1206-A,
22 1207-A, 1208-A, 1907.1, 1907.2, 2001, 2002, 2003, 2004, 2005,
23 2006, 2007, 2008, 2009, 2010, 2051, 2052, 2053, 2054, 2055, 2056
24 and 2057, act of May 1, 1933 (P.L.103), known as "The Second
25 Class Township Code," reenacted and amended July 10, 1947
26 (P.L.1481), absolutely.

27 (6) The act of April 18, 1945 (P.L.258), entitled "An act
28 requiring cities, boroughs, towns and townships to notify
29 adjacent political subdivisions of proposed streets, roads and
30 highways leading into them," as to cities of the second class A

1 and third class, boroughs, incorporated towns and townships of
2 the first and second class.

3 (7) Sections 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008,
4 2009, 2010, 2011, 2020, 2021, 2022, 2023, 2024, 2025, 2026,
5 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036,
6 2037, 2038 and 2039, act of August 9, 1955 (P.L.323), known as
7 "The County Code," absolutely.

8 (8) Sections 2201 through 2211 and 2220 through 2239, act of
9 July 28, 1953 (P.L.723), known as the "Second Class County
10 Code," in so far as they relate to counties of the second class
11 A.

12 Section 1202. General Repeal.--All other acts and parts of
13 acts are repealed in so far as they are inconsistent herewith,
14 but this act shall not repeal or modify any of the provisions of
15 the "Public Utility Law," or any laws administered by the
16 Department of Highways of the Commonwealth of Pennsylvania.

17 Section 110. (a) The provisions of the act of June 9, 1982
18 (P.L.441, No.130), which amended the Pennsylvania Municipalities
19 Planning Code, relating to sections 107(22) and 508 shall apply
20 to any land development or subdivision pending prior to or on
21 August 8, 1982, before a municipality. Any subdivision or land
22 development for which preliminary plans were approved by a
23 municipality within the five-year period immediately preceding
24 August 8, 1982, shall not be adversely affected by any
25 intervening or subsequent change in municipal ordinances or
26 plans pertaining to zoning classification or density, building,
27 lot, street or utility location enacted subsequent to submission
28 of the preliminary plat provided landowner has commenced or does
29 commence, installation of the improvements depicted upon the
30 approved final plat within three years of approval of same.

1 (b) The provisions of this amendatory act relating to
2 section 603 shall apply to any pending special exception or
3 conditional use prior to or on August 8, 1982.

4 (c) The provisions of this amendatory act relating to
5 section 603 shall apply to previously approved conditional uses
6 or special exceptions as follows:

7 (1) If no preliminary plan has been filed, applicant
8 shall have six months from August 8, 1982, in which to do so
9 and, in that event, all provisions of the act of June 9, 1982
10 (P.L.441, No.130), pertaining to section 603 shall apply.

11 (2) If preliminary plans for the entire development or
12 any section thereof have been filed prior to August 8, 1982,
13 such conditional use or special exception shall not be
14 affected by any change in municipal ordinances or plans
15 pertaining to zoning classification or density, or lot,
16 building, street or utility location, enacted subsequent to
17 the filing of the special exception or conditional use
18 application provided the conditional use approval or special
19 exception approval did not contain a specific and express
20 provision to the contrary.

21 Section 111. This act shall take effect in 60 days.