

No. 2000-67

## AN ACT

HB 14

Amending the act of July 31, 1968 (P.L.805, No.247), entitled, as amended, "An act to empower cities of the second class A, and third class, boroughs, incorporated towns, townships of the first and second classes including those within a county of the second class and counties of the second through eighth classes, individually or jointly, to plan their development and to govern the same by zoning, subdivision and land development ordinances, planned residential development and other ordinances, by official maps, by the reservation of certain land for future public purpose and by the acquisition of such land; to promote the conservation of energy through the use of planning practices and to promote the effective utilization of renewable energy sources; providing for the establishment of planning commissions, planning departments, planning committees and zoning hearing boards, authorizing them to charge fees, make inspections and hold public hearings; providing for mediation; providing for transferable development rights; providing for appropriations, appeals to courts and penalties for violations; and repealing acts and parts of acts," adding definitions; providing for intergovernmental cooperative planning and implementation agreements; further providing for repeals; and making an editorial change.

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

Section 1. Section 107(a) of the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code, reenacted and amended December 21, 1988 (P.L.1329, No.170), is amended by adding definitions to read:

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

\* \* \*

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

\* \* \*

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

\* \* \*

*"Future growth area," an area of a municipal or multimunicipal plan outside of and adjacent to a designated growth area where residential, commercial, industrial and institutional uses and development are*

*permitted or planned at varying densities and public infrastructure services may or may not be provided, but future development at greater densities is planned to accompany the orderly extension and provision of public infrastructure services.*

\* \* \*

*“Multimunicipal plan,” a plan developed and adopted by any number of contiguous municipalities, including a joint municipal plan as authorized by this act.*

\* \* \*

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

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

\* \* \*

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

\* \* \*

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

\* \* \*

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

\* \* \*

Section 2. Sections 916.1 and 1006-A of the act are amended by adding subsections to read:

Section 916.1. Validity of Ordinance; Substantive Questions.—\* \* \*

*(h) Where municipalities have adopted a multimunicipal comprehensive plan pursuant to Article XI but have not adopted a joint municipal ordinance pursuant to Article VIII-A and all municipalities participating in the multimunicipal comprehensive plan have adopted and are administering zoning ordinances generally consistent with the provisions of the multimunicipal comprehensive plan and a challenge is brought to the validity of a zoning ordinance of a participating municipality involving a proposed use, then the zoning hearing board or governing body, as the case may be, shall consider the availability of uses under zoning ordinances within the municipalities participating in the multimunicipal comprehensive plan within a reasonable geographic area and shall not limit its consideration to the application of the zoning ordinance on the municipality whose zoning ordinance is being challenged.*

Section 1006-A. Judicial Relief.—\* \* \*

*(b.1) Where municipalities have adopted a multimunicipal comprehensive plan pursuant to Article XI but have not adopted a joint municipal ordinance pursuant to Article VIII-A and all municipalities participating in the multimunicipal comprehensive plan have adopted and are administering zoning ordinances generally consistent with the provisions of the multimunicipal comprehensive plan and a challenge is brought to the validity of a zoning ordinance of a participating municipality involving a proposed use, then the court shall consider the availability of uses under zoning ordinances within the municipalities participating in the multimunicipal comprehensive plan within a reasonable geographic area and shall not limit its consideration to the application of the zoning ordinance on the municipality whose zoning ordinance is being challenged.*

\* \* \*

Section 3. The heading of Article XI and sections 1101, 1102, 1103, 1104, 1105, 1106 and 1107 of the act are amended to read:

#### ARTICLE XI

**[Joint Municipal Planning Commissions]  
Intergovernmental Cooperative Planning  
and Implementation Agreements**

Section 1101. [Legislative Finding and Declaration of Policy.—For the purpose of encouraging municipalities to effectively plan for their future development and to coordinate their planning with neighboring municipalities, counties and other governmental agencies, and promoting health, safety, morals and the general welfare of the various areas in the Commonwealth through the effective development of such areas, the following powers for the establishment and operation of joint municipal planning commissions are hereby granted.] *Purposes.—It is the purpose of this article:*

*(1) To provide for development that is compatible with surrounding land uses and that will complement existing land development with a balance of commercial, industrial and residential uses.*

*(2) To protect and maintain the separate identity of Pennsylvania's communities and to prevent the unnecessary conversion of valuable and limited agricultural land.*

*(3) To encourage cooperation and coordinated planning among adjoining municipalities so that each municipality accommodates its share of the multimunicipal growth burden and does not induce unnecessary or premature development of rural lands.*

*(4) To minimize disruption of the economy and environment of existing communities.*

*(5) To complement the economic and transportation needs of the region and this Commonwealth.*

*(6) To provide for the continuation of historic community patterns.*

*(7) To provide for coordinated highways, public services and development.*

*(8) To ensure that new public water and wastewater treatment systems are constructed in areas that will result in the efficient utilization of existing systems, prior to the development and construction of new systems.*

*(9) To ensure that new or major extension of existing public water and wastewater treatment systems are constructed only in those areas within which anticipated growth and development can adequately be sustained within the financial and environmental resources of the area.*

*(10) To identify those areas where growth and development will occur so that a full range of public infrastructure services, including sewer, water, highways, police and fire protection, public schools, parks, open space and other services, can be adequately planned and provided as needed to accommodate the growth that occurs.*

*(11) To encourage innovations in residential, commercial and industrial development to meet growing population demands by an increased variety in type, design and layout of structures and by the conservation and more efficient use of open space ancillary to such structures.*

*(12) To facilitate the development of affordable and other types of housing in numbers consistent with the need for such housing as shown by existing and projected population and employment data for the region.*

Section 1102. [Creation, Appointment and Operation of Joint Municipal Planning Commission.—The governing bodies of two or more municipalities may by ordinance authorize the establishment and participation or membership in and support of, a joint municipal planning commission. The number and qualifications of the members of

such planning commission and their terms and method of appointment or removal shall be such as may be determined and agreed upon by the governing bodies. Members of a joint municipal planning commission shall serve without salary but may be paid expenses, incurred in the performance of their duties. The joint municipal planning commission shall elect a chairman whose term shall not exceed one year and who shall be eligible for reelection. The commission may create and fill such other offices as it may determine. Every joint municipal planning commission shall adopt rules for the transactions, findings and determinations, which record shall be a public record. Each participating or member municipality may from time to time, upon the request of the joint municipal planning commission, assign or detail to the commission any employees of the municipality to make special surveys or studies.] *Intergovernmental Cooperative Planning and Implementation Agreements.*—*For the purpose of developing, adopting and implementing a comprehensive plan for the entire county or for any area within the county, the governing bodies of municipalities located within the county or counties may enter into intergovernmental cooperative agreements, as provided by 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation), except for any provisions permitting initiative and referendum. Such agreements may also be entered into between and among counties and municipalities for areas that include municipalities in more than one county, and between and among counties, municipalities, authorities and special districts providing water and sewer facilities, transportation planning or other services within the area of a plan and with the opportunity for the active participation of State agencies and school districts. Implementation of the comprehensive plan and subdivision and zoning ordinances shall be accomplished in accordance with articles of this act.*

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

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

(b) For this purpose, a joint municipal planning commission may, with the consent of all the governing bodies, accept and utilize any funds, personnel or other assistance made available by the Federal or State governments or any of their agencies, or from individuals or foundations, and for the purposes of receiving and using Federal or State planning grants for provision of planning assistance may enter into agreements or contracts regarding acceptance or utilization of the funds or assistance.

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

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

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

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

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

(5) Specify the notice and procedures when the member municipalities decide to dissolve the joint municipal planning commission.] *County or Multimunicipal Comprehensive Plans.—(a) The comprehensive plan that is the subject of an agreement may be developed by the municipalities or, at the request of the municipalities, by the county planning agency, or agencies in the case of a plan covering municipalities in more than one county, in cooperation with municipalities within the area and shall include all the elements required or authorized in section 301 for the region of the plan, including a plan to meet the housing needs of present residents and those individuals and families anticipated to reside in the area of the plan, which may include conservation of presently sound housing, rehabilitation of housing in declining neighborhoods and the accommodations of expected new housing in different dwelling types and of appropriate densities for households of all income levels. The plan may:*

(1) *Designate growth areas where:*

(i) *Orderly and efficient development to accommodate the projected growth of the area within the next 20 years is planned for residential and mixed use densities of one unit or more per acre.*

*(ii) Commercial, industrial and institutional uses to provide for the economic and employment needs of the area and to insure that the area has an adequate tax base are planned for.*

*(iii) Services to serve such development are provided or planned for.*

*(2) Designate potential future growth areas where future development is planned for densities to accompany the orderly extension and provision of services.*

*(3) Designate rural resource areas, if applicable, where:*

*(i) Rural resource uses are planned for.*

*(ii) Development at densities that are compatible with rural resource uses are or may be permitted.*

*(iii) Infrastructure extensions or improvements are not intended to be publicly financed by municipalities, except in villages, unless the participating or affected municipalities agree that such service should be provided to an area for health or safety reasons or to accomplish one or more of the purposes set forth in section 1101.*

*(4) Plan for the accommodation of all categories of uses within the area of the plan, provided, however, that all uses need not be provided in every municipality but shall be planned and provided for within a reasonable geographic area of the plan.*

*(5) Plan for developments of areawide significance and impact, particularly those identified in section 301(3) and (4).*

*(6) Plan for the conservation and enhancement of the natural, scenic, historic and aesthetic resources within the area of the plan.*

*(b) The county may facilitate a multimunicipal process and may enter into cooperative planning agreements with participating municipalities governing particular planning subjects and responsibilities. The planning process shall include a public participation process to assure that all governing bodies, municipal authorities, school districts and agencies, whether public or private, having jurisdiction or operating within the area of the plan and landowners and citizens affected by the plan have an opportunity to be heard prior to the public hearings required for the adoption of the plan under section 302(a).*

*(c) Adoption of the plan and plan amendments shall conform to the requirements of section 302 and may be reflected on the official map of each participating municipality pursuant to section 401. Where a county and municipality have developed and adopted a comprehensive county or multimunicipal plan that conforms to the requirements of this article within five years prior to the date of adoption of this article, the plan may be implemented by agreements as provided for in this article.*

Section 1104. [Preparation of Comprehensive Plan.—(a) Every joint municipal planning commission may prepare and maintain a comprehensive plan, in accordance with the provisions of this act, for the guidance of the continuing development of the area encompassed by

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

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

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

*Implementation Agreements.*—(a) *In order to implement multimunicipal comprehensive plans under section 1103, counties and municipalities shall have authority to enter into intergovernmental cooperative agreements.*

(b) *Cooperative implementation agreements shall:*

(1) *Establish the process that the participating municipalities will use to achieve general consistency between the county or multimunicipal comprehensive plan and zoning ordinances, subdivision and land development and capital improvement plans within participating municipalities, including adoption of conforming ordinances by participating municipalities within two years and a mechanism for resolving disputes over the interpretation of the multimunicipal comprehensive plan and the consistency of implementing plans and ordinances.*

(2) *Establish a process for review and approval of developments of regional significance and impact that are proposed within any participating municipality. Subdivision and land development approval powers under this act shall only be exercised by the municipality in which the property where the approval is sought. Under no circumstances shall a subdivision or land development applicant be required to undergo more than one approval process.*

(3) *Establish the role and responsibilities of participating municipalities with respect to implementation of the plan, including the provision of public infrastructure services within participating municipalities as described in subsection (d), the provision of affordable housing and purchase of real property, including rights-of-way and easements.*

(4) *Require a yearly report by participating municipalities to the county planning agency and by the county planning agency to the participating municipalities concerning activities carried out pursuant*



*to the agreement during the previous year. Such reports shall include summaries of public infrastructure needs in growth areas and progress toward meeting those needs through capital improvement plans and implementing actions and reports on development applications and dispositions for residential, commercial and industrial development in each participating municipality for the purpose of evaluating the extent of provision for all categories of use and housing for all income levels within the region of the plan.*

*(5) Describe any other duties and responsibilities as may be agreed upon by the parties.*

*(c) Cooperative implementation agreements may designate growth areas, future growth areas and rural resource areas within the plan. The agreement shall also provide a process for amending the multimunicipal comprehensive plan and redefining the designated growth area, future growth area and rural resource area within the plan.*

*(d) The county may facilitate convening representatives of municipalities, municipal authorities, special districts, public utilities, whether public or private, or other agencies that provide or declare an interest in providing a public infrastructure service in a public infrastructure service area or a portion of a public infrastructure service area within a growth area, as established in a county or multimunicipal comprehensive plan, for the purpose of negotiating agreements for the provision of such services. The county may provide or contract with others to provide technical assistance, mediation or dispute resolution services in order to assist the parties in negotiating such agreements.*

Section 1105. [Cooperation Among Joint Municipal Planning Commission, Municipalities and Others.—Every joint municipal planning commission shall encourage the cooperation of the participating municipalities in matters which concern the integrity of the comprehensive plan or maps prepared by the commission, and, as an aid toward coordination, all municipalities and public officials shall upon request furnish to the joint municipal planning commission within a reasonable time the available maps, plans, reports, statistical or other information such commission may require for its work.] *Legal Effect.—(a) Where municipalities have adopted a county plan or a multimunicipal plan is adopted under this article and the participating municipalities have conformed their local plans and ordinances to the county or multimunicipal plan by implementing cooperative agreements and adopting appropriate resolutions and ordinances, the following shall apply:*

*(1) Sections 916.1 and 1006-A.*

*(2) State agencies shall consider and may rely upon comprehensive plans and zoning ordinances when reviewing applications for the funding or permitting of infrastructure or facilities.*

*(3) State agencies shall consider and may give priority consideration to applications for financial or technical assistance for projects consistent with the county or multimunicipal plan.*

*(b) Participating municipalities that have entered into implementation agreements to carry out a county or multimunicipal plan as described in this article shall have the following additional powers:*

*(1) To provide by cooperative agreement for the sharing of tax revenues and fees by municipalities within the region of the plan.*

*(2) To adopt a transfer of development rights program by adoption of an ordinance applicable to the region of the plan so as to enable development rights to be transferred from rural resource areas in any municipality within the plan to designated growth areas in any municipality within the plan.*

*(c) Nothing in this article shall be construed to authorize a municipality to regulate the allocation or withdrawal of water resources by a municipal authority or water company that is otherwise regulated by the Pennsylvania Public Utility Commission or other Federal or State agencies or statutes.*

*(d) Except as provided in section 619.2, nothing in this article shall be construed as limiting the authority of the Pennsylvania Public Utility Commission over the implementation, location, construction and maintenance of public utility facilities and the rendering of public utility services to the public.*

Section 1106. [Established Regional Planning Commission.—Municipalities which are presently participating in an existing regional planning commission or a joint municipal planning commission shall comply with and be governed by the provisions of this act within five years from the effective date of this amendatory act.] *Specific Plans.—(a) Participating municipalities shall have authority to adopt a specific plan for the systematic implementation of a county or multimunicipal comprehensive plan for any nonresidential part of the area covered by the plan. Such specific plan shall include a text and a diagram or diagrams and implementing ordinances which specify all of the following in detail:*

*(1) The distribution, location, extent of area and standards for land uses and facilities, including design of sewage, water, drainage and other essential facilities needed to support the land uses.*

*(2) The location, classification and design of all transportation facilities, including, but not limited to, streets and roads needed to serve the land uses described in the specific plan.*

*(3) Standards for population density, land coverage, building intensity and supporting services, including utilities.*

*(4) Standards for the preservation, conservation, development and use of natural resources, including the protection of significant open*

*spaces, resource lands and agricultural lands within or adjacent to the area covered by the specific plan.*

*(5) A program of implementation including regulations, financing of the capital improvements and provisions for repealing or amending the specific plan. Regulations may include zoning, storm water, subdivision and land development, highway access and any other provisions for which municipalities are authorized by law to enact. The regulations may be amended into the county or municipal ordinances or adopted as separate ordinances. If enacted as separate ordinances for the area covered by the specific plan, the ordinances shall repeal and replace any county or municipal ordinances in effect within the area covered by the specific plan, and ordinances shall conform to the provisions of the specific plan.*

*(b) (1) No specific plan may be adopted or amended unless the proposed plan or amendment is consistent with an adopted county or multimunicipal comprehensive plan.*

*(2) No capital project by any municipal authority or municipality shall be approved or undertaken and no final plan, development plan or plat for any subdivision or development of land shall be approved unless such projects, plans or plats are consistent with the adopted specific plan.*

*(c) In adopting or amending a specific plan, a county and participating municipalities shall use the same procedures as provided in this article for adopting comprehensive plans and ordinances.*

*(d) Whenever a specific plan has been adopted, applicants for subdivision or land development approval shall be required to submit only a final plan as provided in Article V, provided that such final plan is consistent with and implements the adopted specific plan.*

*(e) A county or counties and participating municipalities are prohibited from assessing subdivision and land development applicants for the cost of the specific plan.*

Section 1107. Saving Clause.—*(a)* The passage of this act and the repeal by it of any prior enabling laws relating to regional planning shall not invalidate any regional planning commission created under such other laws. This act, in such respect, shall be deemed a continuation and codification of such prior enabling laws.

*(b) The amendment of this article shall not invalidate any joint municipal planning commission established under the former provisions of this article. A joint municipal planning commission shall continue to function under the amended provisions of this article.*

Section 4. Section 1202 of the act is amended to read:

Section 1202. General Repeal.—All other acts and parts of acts are repealed in so far as they are inconsistent herewith, but this act shall not repeal or modify any of the provisions of *66 Pa.C.S. Pt. I (relating to public utility code)*, *68 Pa.C.S. Pt. II Subpt. B (relating to condominiums)*[, the

“**Public Utility Law,**”] or any laws administered by the Department of **[Highways] *Transportation*** of the Commonwealth of Pennsylvania.

Section 5. This act shall take effect in 60 days.

APPROVED—The 22nd day of June, A.D. 2000.

THOMAS J. RIDGE