



The Comprehensive Plan in Pennsylvania



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The Comprehensive Plan in Pennsylvania

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Introduction

Today, land use is an important issue to people – both locally and nationally. In Pennsylvania, land use planning is a topic among state agencies, county and local governments, business and industry, charitable and private foundations, as well as environmental organizations. In fact, all levels of government and all branches of state government are actively dealing with planning and land use matters.

Pennsylvania has modernized its planning enabling legislation to meet the contemporary demands of the 21st Century. Communities in the Commonwealth have new tools to use in planning how their resources are utilized and conserved. The community tool chest has been expanded to specifically authorize municipalities to designate growth areas, rural resource areas and then transfer development rights between or among municipalities by cooperative planning and implementation agreements.

Particularly, the most recent legislative session resulted in passage of four acts that significantly impact the way state agencies, county and local governments do planning. Collectively, Acts 32, 67, 68 and 127 of 2000 provide broad authorization to look closely at areas already developed, examine natural areas for conservation, achieve general consistency among local, county and state entities for promoting sound land use. Each component element of the legislation constitutes an important connection in implementing basic principles of sound land use.

Act 32 requests state agencies to look for and consider locations in downtown areas based on guidelines developed by the Department of General Services. Acts 67 and 68 require all state agencies to consider and rely upon comprehensive plans, including implementing zoning ordinances, when making infrastructure decisions that impact land use. Act 127 allows a municipality to better manage validity challenges that allege simultaneous substantive constitutional challenges. No longer must a municipality hear multiple curative amendments regarding the same property at the same time. Municipalities have more incentives than ever before to cross municipal boundaries and plan together.

A comprehensive plan is more than just a document disclosing past and present land use trends with a proposed course of action. It is a process of organizing for the future. It creates a blueprint for our land use patterns of tomorrow. Even to not plan is a strategy for dealing with what lies ahead. Community planning is an organized way or process of thinking about tomorrow. By thinking about how a community changed in the past can help predict what changes might be in store for the future. When this type of thinking translates into action, it needs to be done in an orderly fashion and made part of a routine administrative process.

Pennsylvanians know that land is one of our most valuable natural resources and the way it is used or developed creates a significant part of our physical surroundings. Any change in land use becomes a permanent part of our daily lives in the future. Yet all valuable resources must be used reasonably, economically and equitably to benefit both the property owner's interest as well as the general public. An important power of local government is to plan for and guide the way land resources are used. We hope that this publication assists local officials in this stewardship and planning endeavor.

Background

Responsibility of Local Government to Plan

Local government is the backbone of Pennsylvania's governmental structure and has the responsibility to plan and take charge rather than doing nothing. To do nothing can put planning in the hands of others. All land use decisions begin with a plan. Whether the idea for development is that of an individual prepared and submitted or that of something suggested in a plan prepared for the community and adopted by the governing body there is a plan. Even no plan is a plan of some sort.

Municipal government must recognize that no one person, agency or group controls the development process. Government's responsibility is to provide a framework for change. Without a framework or plan, the development process is reactive. This reactive process results in piecemeal uncoordinated development. The courts have labeled it disjointed incrementalism. Early in the 20th Century Frederick Law Olmsted, Jr., renowned community planner in Pennsylvania, observed that lack of planning results in a “. . . drifting hand-to-mouth policy of doing only what must be done today.” This practice puts planning in the hands of others.

The choice is up to the elected official - to plan or not to plan for the community? Local government can provide a framework for change. Elected officials make the decision whether a community wants to react on an ad hoc basis or decide if their citizens are better served by a proactive approach that plans for the future. Everyone that has a part in their community should let officials know their preference whether to plan or not to plan.

Today, municipal plans mean more than in the past. State agencies are required to consider and rely upon plans and zoning ordinances that are generally consistent. Without a plan, state agencies, developers, elected officials and landowners have nothing to guide them in the decision-making process. The Pennsylvania Municipalities Planning Code (MPC) has been modernized to make it easier than ever to plan and plan cooperatively. Opportunities abound for those officials interested in shaping future land use patterns in their communities.

Municipal, Multimunicipal and County Comprehensive Plans

Under the updated MPC, four types of comprehensive plans are defined. A municipal, multimunicipal, county and specific plan. A municipal plan covers a single municipality. A multimunicipal plan is developed and adopted by any number of contiguous municipalities and includes any joint municipal plan previously authorized by the MPC. A specific plan is a detailed plan for nonresidential development covered by a municipal or multimunicipal comprehensive plan.

The MPC defines a “*County Comprehensive Plan*” as “*a land use and growth management plan prepared by the county planning commission and adopted by the county commissioners which establishes broad goals and criteria for municipalities to use in preparation of their comprehensive plan and land use regulation.*” A multimunicipal plan is defined as “*a plan developed by any number of contiguous municipalities, including a joint municipal plan as authorized by this act.*” A “*Specific Plan*” is a means to expedite development approval by giving municipalities the authority to adopt a plan for the systematic implementation of a generally consistent comprehensive plan for any nonresidential area.

All comprehensive plans are subject to the following four common criteria: 1) contain basic plan elements set forth in Section 301(a); 2) contain a plan for the reliable supply of water, considering current and future water resources availability; 3) be reviewed every 10 years, and 4) “. . . identify those areas where growth and develop-

ment will occur so that a full range of public infrastructure, including sewer, water, highways, police and fire protection, public schools, parks open space and other services can be adequately planned and provided as needed to accommodate growth.”

County comprehensive plans have an additional set of requirements. MPC Section 301 (7) requires a county plan to:

- (i) Identify land uses as they relate to important natural resources and appropriate utilization of existing minerals.
- (ii) Identify current and proposed land use which have a regional impact and significance, such as large shopping centers, major industrial parks, mines and related activities, office parks, storage facilities, large residential developments, regional entertainment and recreational complexes, hospitals, airports and port facilities.
- (iii) Identify a plan for the preservation and enhancement of prime agricultural land and encourage the compatibility of land use regulation with existing agricultural operations.
- (iv) Identify a plan for historic preservation.

In addition, counties are required to update the comprehensive plan every ten years. Whereas municipal and multimunicipal plans are to be reviewed at least every 10 years and at that time sent to contiguous municipalities for review and comment. As municipal and multimunicipal plan, are sent for review, copies should be sent to the Governor’s Center for Local Government Services for informational purposes.

The MPC encourages municipalities to adopt municipal or multimunicipal comprehensive plans that are generally consistent with the respective county comprehensive plan. In fact, municipal plans adopted after February 21, 1989, are to be generally consistent with the adopted county comprehensive plan. To achieve general consistency, two or more contiguous municipalities can request a county to amend its plan. The county must accept the requested amendment unless good cause is given to refuse the request.

MPC Plan Requirements

MPC Section 301 (a) requires each municipal, multimunicipal and county comprehensive plan to have nine elements. Collectively these basic elements should present a composite vision of private and public development for the future based on a statement of community development goals and objectives. Each and every basic element is linked, interrelated or connected. For example, resident population data equates to housing needs, demographics such as age cohorts can relate to housing types and educational needs, both present and future. There are a multitude of interrelationships among and between the required comprehensive plan elements.

A summary of the required plan elements derived from MPC sections 301 (a) follows:

- A statement of community development goals and objectives that chart the location, character and timing of future development.
- A plan for land use identifying the amount, intensity, character and timing of land use.
- A plan to meet housing needs of present residents and those families anticipated to live in the municipality as well as accommodating new housing in different dwelling types and at appropriate densities for households of all income levels.
- A transportation plan.
- A community facilities plan.

- A statement of the interrelationships among the various plan components which estimates the environmental, energy conservation, fiscal, economic development and social consequences on the municipality.
- A discussion of short- and long-range plans implementation strategies.
- A statement indicating that existing and proposed development is compatible with plans and development in contiguous municipalities. This statement should indicate that existing and proposed development is generally consistent with the objectives and plans of the county comprehensive plan.
- A plan for the protection of natural and historic resources to the extent the municipalities are not limited by other federal or state statutes, these resources include, wetlands, aquifer recharge zones, woodlands, steep slopes, prime agricultural land, flood plain, unique natural areas and historic sites.

Getting Started — Preparing a Comprehensive Plan

First, a municipality should examine its planning problems, needs and resources. Once this open exercise is completed, these elements or factors must be quantified and then prioritized. It is a good idea to take this list to the county planning office to learn their thoughts and discover how they might be able to help. Armed with a list of problems, essential needs and crucial resources, the planning commission and governing body must decide what can be done within the realm of existing resources and capabilities.

Any successful comprehensive planning process demands citizen input from the very onset. Plans should not be made in a vacuum and it clearly violates the Sunshine Act to discuss public matters behind closed doors. Recognize that effective comprehensive planning is an expression of community-wide values. Input from the citizenry is needed to understand and document community interests. Use municipal surveys to open up the planning process, access community-wide values and document citizen interests.

Frequently, planning agencies utilize a visioning exercise to kick off a comprehensive planning effort. Visioning is a facilitated process by which citizens develop and articulate their preferences for the future of their community. A community vision should reflect the thoughts and concerns of the residents regarding environmental, social, and economic values, as well as consider future land uses, residents, and the corresponding desires and needs.

In addition to or along with a visioning program, it is a good idea to begin any planning program with a public meeting explaining what is going to be done, how it is going to be done, who is involved, what estimated costs are going to be, when surveys will be done and the projected time frame for completion.

Very few municipalities can afford their own full time professional planner. Most hire consultants or purchase services of the county planning commission's staff on a contractual basis. A municipality without some type of professional volunteer or paid professional to assist in the planning effort is at a serious disadvantage. Mistakes are expensive and costly to correct. Some limited services from professional planners can almost always be obtained within available financial resources.

The team approach to comprehensive planning can be most effective. Join with another community to pool both resources and capabilities. Development in one municipality will affect adjacent communities and the MPC encourages coordination with contiguous municipalities. The team approach can also mean working with a college or university to arrange for an intern to do certain segments or tasks under the supervision of a planning professional.

Few municipalities within the Commonwealth have the luxury of a full-time paid professional planner. Yet, professional assistance is generally essential. On the other hand, however, the need for planning bears little relationship to the financial ability to pay for services of a professional. Planning needs and capabilities, as well as financial resources, must be balanced so that some level of planning gets done. Check with adjacent municipalities about their planning needs. If they have similar planning needs, perhaps you can join forces and combine financial resources thereby working as a planning team doing integrated plans.

The Comprehensive Plan

Once the planning team is selected work on the plan starts. Land use planning begins with municipalities preparing a comprehensive plan. The comprehensive plan document consists of three separate but related parts: (1) the background studies; (2) the community development goals and objectives; and (3) the plan or plans for future actions and alternative actions regarding the various components such as future land use, housing, transportation and community facilities.

Background Studies

MPC Section 301.2 regarding surveys by planning agencies states that:

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

In the beginning of the 20th Century, Frederick Law Olmsted Jr., renowned designer/planner of several communities in Pennsylvania including the first planned industrial town designed to be sold to its workers, urged municipalities to “. . . create or acquire statistical databases on the physical, social, economic and financial environment; compile information on relevant legal and administrative matters and draw up accurate topographical maps.” A comprehensive plan entails such an inventory and makes recommendations regarding policies designed to guide future development thereby avoiding costly unwise development. Olmsted also noted that “prevention is cheaper than the cure.”

The studies performed in the areas referred to above attempt to objectively analyze the community from a number of different perspectives. Each individual study takes an in-depth look at a specific topic. When completed, each study or survey will then lend support to the development of the plan.

Various sources must be utilized to gather the data necessary to prepare the studies. Historical documents, municipal records, soil and geological surveys, various census reports and other sources of information are essential. From these reports, surveys and documents, the facts and trends can be analyzed to develop the basic assumptions and projections necessary for the development of the comprehensive plan.

These background studies and surveys describe the natural and man-made conditions, community facilities and socioeconomic trends that affect the pattern of development. They should comprise the best available information for determining which uses are best suited to given areas of the community. In addition to mapping data about natural features such as terrain and existing man-made improvements, these studies will also shed light on the probable magnitude, direction, and characteristics of future development pressures.

Community Development Goals and Objectives

Local goals, objectives and policies represent an important part of the plan document. Community development goals and objectives are a required section of any zoning ordinance; you must have them to implement any type of a zoning program. They are developed primarily on the basis of the constraints, problems, and opportunities, needs and assumptions made about the future in the background studies. The goals and objectives should be prioritized because there is competition for future use of land and resources are dwindling.

Developers and even municipal officials will often dismiss the plan's community development goals and objectives as meaningless rhetoric or idealistic jargon. While it may be true that some statements of goals and objectives may be too idealistic and/or altruistic, the importance cannot be overstated. In addition to being a statutory requirement, they are not only supposed to guide the policy decisions made in the development of the plan, but also may be closely examined by the courts for intent should land use decisions be challenged.

Statements constituting the community goals and objectives should be clearly and concisely articulated because they serve as guides for the decision-making process. They are to be as specific as possible and be unique to each community. Goals and objectives should not be cloned from another municipality, nor should they be drafted without thought and discussion. These statements are the basis for and justify regulations governing the future growth and development of your community.

Goals or objectives that violate constitutional rights are unconstitutional. Statements articulating goals or objectives that violate either state or federal statutes are illegal and will be struck down when challenged. The court system will not tolerate discrimination. Goals or objectives, whether at face value or by defacto effect, that are exclusionary, unduly restrictive or unconstitutional once challenged will be found invalid.

Plan Components

Comprehensive plan components should convey a clear strategy for residential, recreational, agricultural, open space, commercial, industrial, resource extraction and institutional uses as well as the necessary infrastructure to serve development as planned. In recognition of the truism that "one size does not fit all" these following plan components represent a benchmark for comprehensive plans developed under the MPC. Some components or elements may not be appropriate in a given community, while other elements may require more detail and need considerable more attention in another community.

As noted previously, a MPC plan has three parts – community goals and objectives, technical background studies and various other plans commonly called functional plans. A comprehensive plan paves the way for preparation of these so called functional plans, which contain more detail. An outline of these suggested elements is found in Appendix II.

Community Planning Process

Assessment – This results in a general statement of appearance of the community. It can be an exercise formulating a brief description of the general character and appearance of the community as it exists at the time of the planning assessment and at the beginning of the planning process.

Visioning – This facilitated process provides an opportunity for residents to develop and articulate preferences for the future of the community.

Citizens Participation – This outreach effort, if thorough and successful, results in citizen buy in and acceptance of the final product; a plan for the future of the community.

History of the community and region – An assessment of past development patterns, cultural, social and economic characteristics that resulted in the present form of the community.

Regional characteristics – An analysis of regional factors and conditions that impact and influence the community, its people, its economy and its environment.

Build-out map – A build-out analysis can help visualize future land use patterns for the community. It shows likely location of new roads and lots that could legally be built on vacant land presently undeveloped in the community.

Physical Environment, Natural and Historic Resources

Topography – A detailed description of surface features of a community and its region.

Natural Resources – An inventory of the soils, water, minerals, gas, petroleum, forest, fish and game in the community.

Water Resources – An inventory and description of water resources and supply, wetlands, and floodplain areas.

Watershed Inventory – A description and assessment for features and characteristics compiled on a watershed basis.

Resource Inventory/Analysis Maps – A compilation of the natural environmental features in the community.

Natural Diversity Inventory – A register of significant ecological features. These features include plant and animal species of special concern and outstanding geological features as well.

Green Infrastructure Inventory – Public and private natural areas such as parks, greenways, river and stream corridors, paths and trails.

Natural hazard areas – A list of hazard sites and areas such as floodplains, steep slopes, mudflow or other geological hazard areas, old land fills, sink hole prone sites, and man-made sites or facilities, such as underground storage facilities, chemical and other know technological facilities.

Inventory of Historic Features – A list that identifies historically significant cultural, natural or man-made structures.

Population Characteristics and Trends

Demographic Studies – This element of a comprehensive plan inventories the population of the community. Population statistics characterize the past and present size, density, distribution, data by sex, age cohorts, racial and ethnic composition and human movement patterns. This statistical inventory of its people is utilized to project population trends and condition into the future for the community

Public, Semi-public, Community Services and Utility Facilities

Community Facilities Plan – This element inventories, analyzes and projects future community facilities and utility needs for the community. A plan for community facilities can be as inclusive as deemed appropriate depending upon the needs of the municipality.

Transportation

Inventory of all transportation modes and systems – This element describes components of the circulation system in the community, its interstates, expressways, beltways, highways, boulevards, streets, alleys and public ways.

Pedestrian; bikeway; equestrian; trails; pathways – These are not as traditional ways of transport as those above, but nonetheless are important ways to move around and through the community, either for recreational purposes or more practical trips for specific reasons.

Terminals; airport; port; railroad; water – Perhaps not appropriate for all communities, but if one of these significant facilities is present in the community it should be inventoried, analyzed, and planned for in some way.

Classification of roads, streets and ways – This component categorizes roads by function and purpose. A classification system can be the basis for functional street standards, setting speed limits and programmed maintenance schedules.

Traffic patterns; origin and destination – This information is utilized to program road improvement needs and secure funding.

Traffic volumes and capacity analysis – This data provides important traffic flow information and can be used to establish background levels of service criteria for the community.

Public transportation; assessment and needs – Where appropriate, this component provides important data for present and future public transportation needs.

Housing

Inventory of Housing Stock – This element identifies housing needs, inventories and trends.

Housing Characteristics – An analysis of housing characteristics provides data relative to housing age, type of construction and specifications, such as manufactured, code standard, company homes.

Housing Types – This data quantifies type dwellings, such as, single-family, two-family, manufactured homes and residential parks; range of multifamily residential structures.

Housing Occupancy and Vacancy Study – This element assesses housing occupancy and vacancy rates and projects future needs and trends.

Housing Quality Value and Needs Assessment – This type of inventory and analysis provides data about housing costs and dollars value per unit of the housing stock.

Housing Needs and Affordability – This component of the plan compares personal income levels to housing costs to determine housing affordability data.

Future housing needs – An assessment of future housing requirements provides important information not only to community officials, but also the builders in community that build residential dwellings.

Residential Neighborhood Patterns – Community housing patterns and densities are useful in understanding the role of housing in the well being for the larger community. It is important to recognize housing mobility, changes and shifts in housing patterns, such as transitional housing stock can be identified and accommodated by a plan.

Housing Ownership and Funding – Identifying and analyzing ownership patterns and trends enables builders, developers and community officials to better understand the dynamics of the community housing stock. Bankers and community leaders can better address funding needs and future requirements.

Economic Conditions

Economic analysis of the community – This analysis enables community officials to recognize the composition of the local and regional economy.

Community Income Analysis – A study of income by source and distribution provides valuable data regarding economic patterns in the community.

Labor Force Characteristics – An analysis of the labor force and market by size and character is important when considering local economies. This study looks at the labor force by categories such as, skilled, semi-skilled, unskilled workers, managerial and professional force.

Economic stability and versatility – This type of economic analysis allows municipal officials to value and understand the significant economic components of the community and region. This data helps identify which sectors of the economy that need to be addressed to in increase the economic and versatility and vitality of the community.

Inventory of industrial, commercial and trade establishments – An inventory by types of industry, commercial and trade establishments, is an important factor in assessing a community’s economy. Factors such as size of physical plants, payroll, capitalization demands and requirements are critical considerations.

Agricultural resources and production – An inventory and assessment of agricultural activities provides data that ensures that essential agricultural dependent industries and businesses are in place to support the farming community.

Mining, quarrying and other extraction and raw materials processing activities – An inventory of aggregated related industries is important to community and economy in many ways. These activities need to be considered as they enable economic expansion and are specifically addressed in the MPC.

Underutilized and Undeveloped Industrial and Commercial Areas – This background study identifies these areas and incorporates recommendations to maximize commercial and industrial activities.

Land Use Plans

Existing land use inventory, land characteristics and coverage – This element inventories and identifies existing land uses within the community.

Future land use plan – The element projects land use patterns of the future.

Other future land use plans as appropriate – These functional plans include Sewage Facilities Planning, Recreation Plans, Storm Water Management Plans, Energy Conservation Plans, and Solid Waste Management Plans, etc.

Function and Form of Government

Type of government – This element describes all aspects of form of government in place within the community, including the charter if it is home rule. It also provides information on advisory commissions, authorities and intergovernmental organization that official governing body participates in regarding regional affairs.

Administrative organization – This section describes the day-to-day administrative components of the municipal government. This includes an organizations chart for the administrative functions of the municipality as well as committees and task forces established to serve the community.

Consistency of plans (horizontal and vertical) – This element is an assessment of the consistency among and between plans. It analyzes each comprehensive plan element and implementation ordinance in terms of consistency of impact on land use in the community, surrounding municipalities and the county. This component also assesses how the plan relates to school district plans, as well as county and regional plans.

Implementation Ordinances (non-land use) – This section inventories codes and code enforcement activities such as NFIP floodplain regulations including: building; housing; electrical; plumbing; fire; property maintenance codes.

MPC Land Use Ordinances – Official map; zoning; subdivision and land development; PRD provisions.

Designated Growth Areas – An area designated for growth used as a tool to build on and implement a comprehensive plan. A growth area is a geographic delineation, or boundary line, within which development at higher density and intensity is encouraged.

Hazard Mitigation Plan – A hazard mitigation plan seeks to ensure that development, both existing and future, is compatible with the hazards facing a community.

Energy Conservation Plan – An energy conservation plan systematically analyzes the impact of each component and element of a comprehensive plan on the present and future use of energy in the community.

Capital Improvement Plan – A schedule or list of projects for which public funds are to be used (wholly or partially).

Historic and natural features preservation ordinances – These are free standing implementation ordinances such as wellhead protection standards and historical preservation regulations implemented under Act 167 the Historic Preservation Act.

Not Just a Document: Comprehensive Planning is a Process

To summarize, the planning process consists of making surveys, data collection, analysis and projections; problem identification; setting goals and objectives; formulating options; choosing an alternative; implementing decisions; experiencing the results; evaluating the outcomes and updating the goals or methods of implementation.

This systematic process represents a means of dealing with change. If a community is growing, change will occur more quickly than in a stable community. Even a placid community will change over time. The makeup of the population will alter; the economy will fluctuate; the housing stock will age and its condition change; the environment will continue to be threatened and the needs of the citizens will not be the same today as in the future.

A municipality is not required to regulate land use, but if it decides to implement zoning, it must have a well-articulated statement of community development objectives. Objectives should be supported by sufficient analysis and documentation to defend the zoning or other land use ordinances of the community against legal challenges. Preparing a comprehensive plan provides the most effective basis for the development of land use ordinances.

Any community planning process must be a public process. It must also look beyond the municipal boundary. This publication will describe the details of the comprehensive plan: its development, its uses, its adoption and its implementation. It explains the planning process, the relationship of the local citizenry, the planning commission and the governing body.

This process results in a comprehensive plan that is not a legal document nor is it a land use ordinance. However, like a land use regulation, it can and should be adopted. It is an overall plan embracing general goals and objectives with which a governing body agrees, based on input from its constituents, to observe in making day-to-day decisions. There is no specific requirement that a community must have a comprehensive plan. The three exceptions are: 1) when a governing body enacts a transportation impact fee ordinance detailed in

Article V-A (Municipal Capital Improvement) of the MPC; 2) if municipalities collectively enact joint zoning controls, or 3) if the governing body is a county.

A comprehensive plan is a document that states basic objectives and policies that guide future growth and development. It can assist municipal leaders in their decision-making. It is a factual report that examines how the past led to the present, and reports in detail how to chart the community's path into the future.

Implementation

Adopting the Comprehensive Plan

A successful comprehensive planning process requires citizen participation from the very onset. Good plans are not made in a vacuum. Effective planning is an expression of community-wide values. The citizenry at large must be involved to understand and document community interests.

The MPC contains the procedural requirements for adopting the comprehensive plan. At a minimum, the planning agency must hold at least one public meeting scheduled pursuant to public notice prior to forwarding the proposed plan to the governing body. The governing body of the municipality must hold at least one public hearing after having given public notice of the hearing. The plan can then be adopted by resolution of the governing body, provided that a majority of members of the governing body vote in the affirmative. A governing body may choose to vote on the comprehensive plan document in its entirety, element by element or piecemeal as each section is completed.

While the proposed plan is under review by the governing body they must consider the review comments of the county, contiguous municipalities, as well as the public meeting comments and the recommendations of the municipal planning agency. If any action is taken that substantially revises the proposed comprehensive plan, the governing body must hold another public hearing following the public notice procedure set forth in the MPC. (See *Appendix III -Comprehensive Plan or Plan Amendment Adoption.*)

Plan Implementation Tools and Techniques

Land Use Ordinances

The primary tools used by most municipalities to implement the comprehensive plan are the land use ordinances commonly known as the subdivision and land development ordinance and the zoning ordinance. The MPC defines a land use ordinance as “*any ordinance or map adopted pursuant to the authority granted in Articles IV, V, VI, and VII.*” In addition, MPC Section 303 (d) – legal status of comprehensive plans – states that: “*Municipal zoning, subdivision and land development regulations and capital improvement programs shall generally implement the municipal and multimunicipal comprehensive plan or, where none exists, the municipal statement of community development objectives.*”

The authority and requirement to implement comprehensive plans that are generally consistent with county and adjacent municipal plans is clear. The next step to is enacting specific land use ordinances as appropriate. The most recent survey of selected municipal land use controls in Pennsylvania revealed that of the communities with comprehensive plans, 90 percent enacted zoning and 80 percent enacted subdivision and land development regulations. According to this same survey 73 percent of the municipalities with comprehensive plans use both zoning and subdivision and land development ordinances as implementation mechanisms.

Subdivision regulations are designed to:

- Ensure a well-designed subdivision or land development;
- Set minimum standards for the layout or design of developments;
- Promote coordinated development;
- Insure the installation of necessary improvements;

- Minimize existing or foreseen problems; and
- Manage storm water runoff and erosion.
(See MPC Section 503)

A zoning ordinance regulates and promotes:

- Uses of land, water courses and other bodies of water;
- Size, height, bulk and location of structures;
- Areas and dimensions of land to be occupied or to be unoccupied by uses and structures;
- Density of population and intensity of use;
- A variety of residential dwelling types;
- All basic forms of housing;
- Protection of natural resources and agricultural land; and
- Reasonable overall community growth.
(See MPC Sections 603 and 604 for zoning ordinance provisions and purposes respectively.)

Zoning provisions for Planned Residential Development (PRD) can be incorporated in a zoning ordinance to direct mixed uses and higher residential densities near community facilities such as water, sewer or transportation. Also, under MPC Articles VI and VII, municipalities can enact a local ordinance that provides for Transferable Development Rights (TDRs).

Newly authorized zoning provisions allow for Traditional Neighborhood Development (TND) regulations. The TND attempts to recapture the village and town square flavor of a pedestrian oriented setting. By utilizing traffic calming design measures such as narrow streets, frequent intersections and on-street parking, in combination with a mixed array and proximity to each other of housing, businesses and services, the TND also integrates different segments of the population otherwise separated by age or income. Overall, the positive impacts of a TND can be felt through an increase in safety and a resulting enhancement in community camaraderie.

Transferable development rights (TDR) are used by a municipality to make growth restrictions more financially equitable to landowners. Municipalities participating in Intergovernmental Cooperative Planning and Implementation Agreements can now transfer these rights among and between municipal boundaries. The underlying principle is that real property is a bundle of rights rather than a single entity. Just as mineral rights can be separated from the land, so can the right to develop. The development right can be transferred from one site to another, from an area to be preserved or protected to an area whose land is being restricted and would therefore be fairly compensated. The imposition of the regulation becomes more palatable in this manner and, in most cases, the taking issue can be avoided.

Another land use ordinance that can be used to implement recommendations made in the comprehensive plan is the official map ordinance provided for in Article IV of the MPC. An official map is a declaration by the governing body of the projected areas a community needs for public purposes sometime in the future. This plan implementation technique combines two powers delegated to municipalities, namely the regulatory function under the police powers and real property acquisition by negotiation or ultimately under the powers of eminent domain.

The discussion of plan implementation techniques thus far has been limited to land use ordinances. It is important to understand that a comprehensive plan is not a law nor does it connote any legal status. Pennsylvania's enabling legislation contains neither concurrence nor congruity requirements that some other state statutes may have. However, Section 301.4 of the MPC does require that municipal plans be

“...generally consistent with the adopted county comprehensive plan.” Land use ordinances are local laws that can be enforced when an action or activity occurs in violation of the law. A comprehensive plan is advisory only – it recommends certain patterns of growth and lacks compliance authority.

Other Implementation Ordinances

As noted by reference to MPC Section 303 (d), municipalities are authorized to enact other ordinances that can support implementation of the comprehensive plan. There are certain types of codes that may be adopted by a municipality to regulate existing and new construction. Adoption of these various construction codes (building, plumbing, electrical, property maintenance and fire prevention codes) is a commonly accepted function of local government. These codes also provide the necessary regulatory function for new and old construction and are safeguard from fire and other life safety hazards. These codes are enacted under the authority of the local municipal codes and home rule charters and not the MPC.

When properly adopted, administered and enforced, these codes can increase the quality and safety of housing or other construction through the regulation of construction activities. They can also promote the improvement and rehabilitation of older sections of the community. Codes can therefore be a vital link in the achieving of the goals in a comprehensive plan.

A comprehensive plan cannot be implemented entirely by codes and ordinances. Some recommendations made within the plan require other types of actions that only a governing body can take. Examples of these types of actions are: developing capital improvements programs; promoting redevelopment or in fill development, and fostering good public relations, perhaps the keystone and the catalyst of most plan implementation techniques. Obviously, there can be many other similar actions that can aid in implementing the comprehensive plan, none of which require codes and ordinances to be put into effect but which, nevertheless, are equally as important to assist with plan implementation.

For example, periodic informational meetings with the local Chamber of Commerce to discuss the comprehensive plan can aid in plan implementation. Exchanges with this group and other civic organizations will keep the plan in the forefront as individuals make business decisions and civic groups plan their community assistance activities. Collectively, actions by individuals and individual civic groups can add up toward accomplishing goals set forth in the plan. When government sponsored activities are linked to non-governmental actions real progress can be made.

Life After the Plan

After a municipality adopts a comprehensive plan and any implementing codes and ordinances, there is a tendency to put the plan away and to consider the planning task complete. This is not and should not be the case. A community is seldom a stagnant place; some type of change is almost always occurring. Planning is an organized process of dealing with change. Therefore, all change must be examined to see what effects it may have upon the community.

The comprehensive plan and its implementing ordinances must be adjusted accordingly. This examination and updating procedure should be done methodically and periodically. This is known as the continuing planning process. The MPC envisions an ongoing process. MPC Section 303 requires that where municipal comprehensive plans are adopted: “...any subsequent proposed action of the governing body, its departments, agencies and appointed authorities shall be submitted to the planning agency for its recommendations....” In another similar provision, Section 209.1 mandates that the planning agency “review the zoning ordinance, subdivision and land development ordinance, official map, provisions for planned residential development, and such other ordinances and regulations governing the development of land no less frequently than it reviews the comprehensive plan.”

Municipal and multimunicipal comprehensive plans should be reviewed every 10 years to conform to the recently enacted MPC amendments. If the review uncovers shortcomings, it is only prudent that the plan be updated. Counties, however, are required to update their comprehensive plans every 10 years.

Citizens, Planning Agencies, and the Governing Body

To be effective, planning must have the support and understanding of the citizens of the community. Its citizens, who may also be developers, need to be informed about the planning process being undertaken and given an opportunity to participate in the process. Citizens comprise the backbone of a community and are the crucial ingredient for a successful planning program. The planning agency acts as an advisor to the governing body on all matters of community growth and development. A planning commission should be viewed as a peer group or citizens group of unpaid volunteers. It is not some cold distant bureaucratic agency to be feared or avoided. The governing body and the developers both have rules that they follow. Citizens' concerns can be adequately addressed in the planning process.

Land use regulations restrict or limit use of private property for the benefit of the public good. The state's police power delegated to local elected officials allows this without the government acquiring or purchasing the land. Land use controls can create basic tensions between the rights of individuals to make free choices about the use of their property and the obligation not to adversely affect the public good or cause harm to the environment. Balancing these rights can present difficulties. Planning agencies can play a major role in balancing these interests.

Governing bodies must be careful that land use ordinances do not place too many constraints upon private property that restrictions become so severe that they constitute a taking requiring compensation. Public officials must be prepared to demonstrate that the imposition of the regulation is connected to legitimate protection of the public good. Careful comprehensive plan preparation and implementation of the land use ordinances can help document a community's effort to balance the rights of the general public and those of the individual property owner.

Conclusion

Planning for the future growth and development of the community is the responsibility of the governing body and the planning agency. The comprehensive plan is the first step taken to rationally carry out this responsibility. The planning commission generally prepares it with input from the local citizenry. Following its adoption, the governing body has a sound footing upon which to base the plan implementation activities, i.e. adoption of land use ordinances.

The comprehensive plan is a document prepared to assist in the determination of future growth and development policies. It contains sections or studies performed on various aspects of the community, community development goals and objectives, and plans for future land uses. It is officially adopted by the governing body of a municipality, and is implemented to a large extent by zoning and by subdivision and land development ordinances. The plan must be periodically reviewed and updated and must have the understanding and cooperation of the citizenry, the planning commission and the governing body.

Appendix I

Comprehensive Plan Elements

A comprehensive plan paves the way for preparation of functional and more detailed plans. A comprehensive plan consists of three major parts: community goals, objectives, and policies; technical background studies and various other plans which may be called functional plans.

I. Planning Process and the Community

- General appearance of the community
- Visioning
- Statement of Community Development Objectives and Policies
- Citizens Participation
- History of the community and region
- Regional characteristics
- Build out map

II. Physical Environment and Natural Resources

- Topography
- Natural resources – soils; water; minerals; gas; petroleum; forest; fish; game
- Water resources; water survey and supply; wetlands; flood plain
- Watershed inventory
- Resource Inventory/Analysis maps
- Natural Diversity Inventory
- Green Infrastructure Inventory
- Natural hazard areas; special hazard areas.
- Inventory of Historic Structures

III. Population Characteristics and Trends

- Demographics
- Present size; density
- Distribution
- Age-sex distribution
- Racial and ethnic character
- Population movements
- Family patterns; special sociological characteristics

IV. Public, Semi-public, and Community Service and Utility Facilities

- Community Facilities plan
- Utilities – water; sewer; electricity; gas; lines and plants
- Municipal service operations – police; fire; health; other
- Volunteer service operations: fire; medical; other
- Schools – physical plant; student distribution
- Technical and other training centers

- Recreational areas – parks; playgrounds; trails; other
- Cultural resources and services – libraries; museums; theatres; music and art centers.
- Hospitals
- Cemeteries
- Communications and media facilities – newspaper; radio; television; communication towers.
- Solid waste management plan

V. Transportation

- Inventory of all transportation modes and systems
- Interstates; expressways; beltways; highways; boulevards; streets; alleys and public ways
- Pedestrian; bikeway; equestrian; trails; pathways
- Terminals – airport; port; railroad; water
- Classification of roads, streets and ways
- Traffic patterns; origin and destination
- Traffic volumes and capacity analysis
- Public transportation; assessment and needs

VI. Housing

- Housing characteristics needs, inventory and trends
- Age, construction type, specification, manufactured, code standard, company homes
- Type, single-family, two-family, manufactured homes and residential parks; range of multifamily dwellings
- Housing occupancy and vacancy
- Quality value and needs assessment
- Housing needs and affordability
- Future housing needs
- Residential neighborhood patterns; housing densities; housing mobility and shifts
- Housing ownership and funding; past, present and projected

VII. Economic Conditions

- Economic analysis of the community
- Community income; source; distribution
- Size and character of labor force, skilled, semi-skilled, unskilled workers; managerial and professional force
- Economic stability and versatility
- Types of industry, commercial and trade establishments; size; payroll; capitalization
- Agricultural resources and production
- Mining, quarrying and other extraction and raw materials processing activities
- Sources of loan capital
- Undeveloped industrial and commercial areas

VIII. Land Use Plans

- Existing land use inventory, land characteristics and coverage
- Future land use plan
- Other future functional plans as appropriate

IX. Function and Form of Government

- Type of government
- Administrative organization
- Consistency of plans (horizontal and vertical)
- Codes and code enforcement: building; housing; electrical; plumbing; fire; property maintenance
- MPC land use ordinances; official map; zoning; subdivision and land development; PRD provisions
- Designated Growth Areas
- Energy conservation plan
- Capital improvement plan
- Nutrient Management
- Historic and natural features preservation ordinances

Appendix II

Comprehensive Plan Adoption and Plan Amendment

1. A planning agency must hold at least one public meeting pursuant to public notice before forwarding the proposed comprehensive plan or amendment to the governing body.
See MPC Section 301.3.
2. At least 45 days prior to the required public hearing held by the governing body, the municipality shall submit the proposed comprehensive plan to the county planning agency for recommendations. At the same time, the municipality must forward copies of the proposed plan or amendment to all contiguous municipalities and to the local school district for their review and comment.
See MPC Section 301.3.
3. Comments from the county, contiguous municipalities and the local school district must be made to the governing body within 45 days of receipt. A governing body cannot act upon the amendment until comments are received or the 45 day review period has expired.
See MPC Section 302.
4. In reviewing the proposed comprehensive plan, the governing body must consider the review comments of the county, contiguous municipalities and the school district, as well as the public meeting comments and the recommendations of the municipal planning agency.
See MPC Section 302.
5. Before voting on adoption of the proposed plan or amendment to the plan, the governing body **MUST** hold at least one public meeting pursuant to public notice.
See MPC Section 302(b).
6. If, after the public hearing the proposed plan or amendment is substantively revised, the governing body shall hold another public hearing prior to voting on adoption of the plan or plan amendment.
See MPC Section 302(b).
7. Adoption of the comprehensive plan, or any part thereof, or any plan amendment shall be by resolution carried by the affirmative votes of not less than a majority of all members of the governing body at a public meeting.
See MPC Section 302(c).
8. Within 30 days after adoption, the governing body of a municipality other than a county shall forward a certified copy of the comprehensive plan or amendment to the county planning agency. Where no county planning agency exists, a certified copy must go to the governing body of the county.
See MPC Section 306(b).

Appendix III

Planning Assistance from the Governor's Center for Local Government Services

The Governor's Center for Local Government Services is available to assist municipalities. Assistance is offered to assist municipalities in assessing the impact of state agency decisions on local planning and zoning activities. Municipalities with an adopted comprehensive plan and zoning ordinance located within a county with an adopted comprehensive plan have the benefit of Commonwealth agencies considering the documents when reviewing applications for the funding or permitting of municipal infrastructure or other facilities. In addition, the Center offers grant assistance to prepare and/or update these important land use documents.

The Land Use Planning and Technical Assistance Program (LUPTAP) is a significant component of the Growing Smarter Action Plan of the Governor's Center for Local Government Services. The LUPTAP provides matching grants for municipalities preparing to develop and strengthen community planning and land use management practices.

Guidelines for LUPTAP incorporate the principles of the Land Use Planning Executive Order and the recent changes to the MPC. The guidelines make clear that priority consideration for funding is given to municipalities that incorporate multimunicipal approaches into their planning efforts. Similarly, those municipalities that strive for general consistency between their comprehensive plan, the county comprehensive plan and local zoning ordinances also receive priority consideration.

LUPTAP funding is one of the Center's most significant support programs. It allows municipalities to use funds to develop new or update existing comprehensive plans and land use implementation ordinances. It also allows municipalities to prepare strategies or special studies that will support the comprehensive planning process. LUPTAP funds can also be used to develop or update zoning or subdivision and land development ordinances, or to utilize advanced technology, such as Geographic Information Systems. Municipalities are permitted and encouraged to use up to \$1,000 of the funding received toward educational programs on planning issues for local officials. The training and education program offered by the Center's training partners represent an excellent use of the funds.

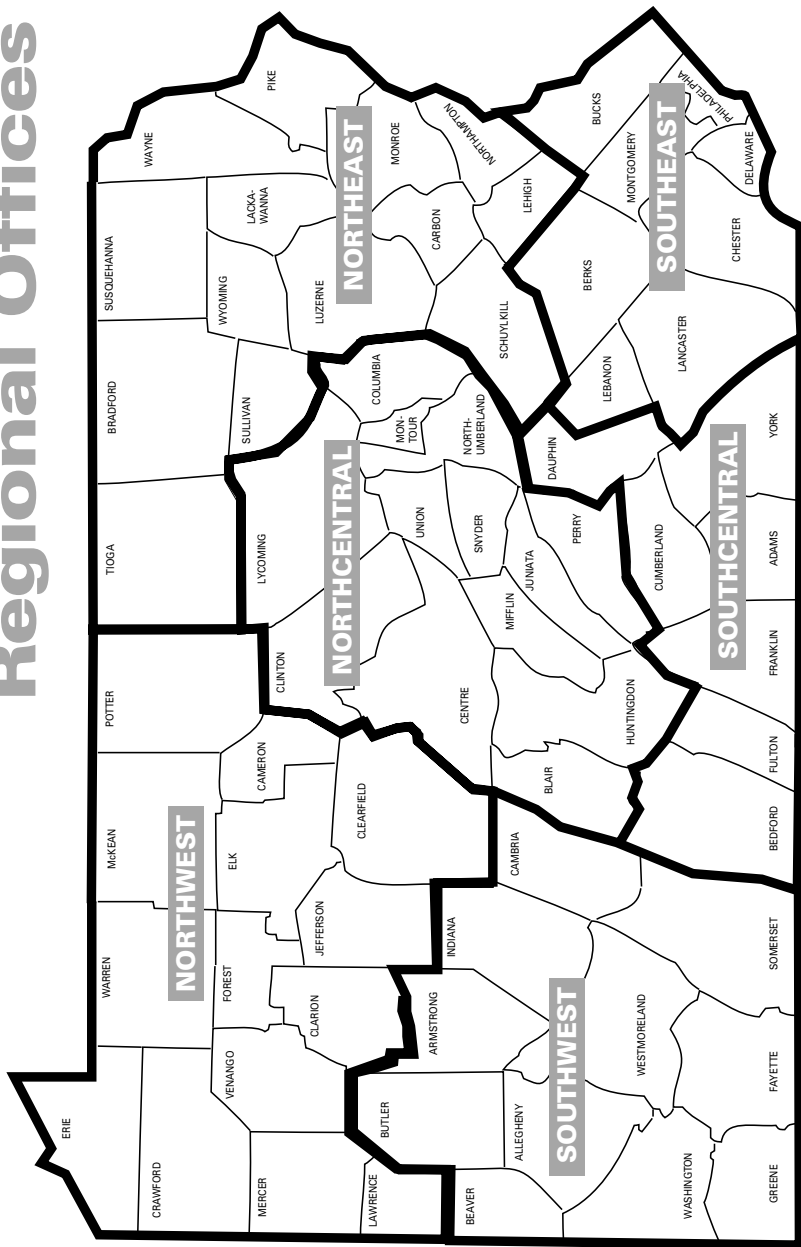
The goal of the Center is to enhance the existing planning curriculum by offering new courses to local government officials through established partnerships with the Pennsylvania State Association of Boroughs (PSAB) and the Pennsylvania State Association of Township Supervisors (PSATS). The Center is proud to partner with PSAB and PSATS and draw on their understanding and experience in planning and growth issues to develop, promote and conduct new courses.

The courses offered by PSAB are directed primarily at economic development and downtown revitalization efforts as alternatives to sprawl. The courses PSATS offers focus on best practices and conservation. The primary audience for education and training programs is local government officials, however, other groups such as professional planners, municipal solicitors, elected officials and citizens, in general can benefit from these enhanced planning programs.

A community or individual desiring information on planning or planning assistance, either financial or technical, should contact the appropriate Department of Community and Economic Development Regional Office in their area. Some of the issues that the Department's staff can provide assistance on are:

- Community planning and comprehensive plans;
- Zoning;
- Subdivision and land development;
- National Flood Insurance and Floodplain Management;
- Other planning related areas such as PRD, historic districts, mobile home parks, sign control, etc. and
- Procedural questions involving the Municipalities Planning Code.

Governor's Center for Local Government Services Regional Offices



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William D. Gamble
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Keith C. Robb
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