Land Use in Pennsylvania:  
An Analysis of Changes to Pennsylvania’s Municipalities Planning Code in 2000

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EXECUTIVE SUMMARY

SPRAWL AND ITS ROOTS IN PENNSYLVANIA

Sprawl is threatening our environment and quality of life in Pennsylvania. Inefficient and unplanned growth in the state is leading to the rapid destruction of open space and increasing auto-dependency. Fueled by harmful public subsidies, this development pattern threatens our environment and public health through the destruction of species habitat, the loss of farmland and increases in air and water pollution. It diminishes Pennsylvanians’ quality of life by increasing traffic, causing the abandonment of our cities and engendering a troubling loss of community throughout the state. Sprawl also wastes tax dollars by neglecting existing resources and forcing the construction of new infrastructure (schools and sewers) and the expansion of services (police and fire protection).

Land use advocates and policy-makers point to a number of causes for our sprawling development patterns. We have not made the necessary public investments to protect threatened open spaces; our crumbling and under-funded urban communities are driving citizens into the suburbs; and our tax structure has made developing in the city difficult and maintaining the viability of farm communities challenging at best.

PennEnvironment recommends a four-point platform for curbing sprawl in the state:

- Redirect growth into existing communities through a combination of stronger land use planning requirements, increased public participation, and reinvestment in cities.
- Expand transportation choices by increasing funding for rail, bus, bicycle, and pedestrian options. Oppose highway projects that encourage sprawl.
- Protect farms, forests, open space, and wetlands by purchasing land and development rights.
- End taxpayer subsidies for sprawl by requiring developers to pay for new roads, water and sewer infrastructure, and public services.

By the end of the 1990s, land use advocates and local officials agreed that the reform most needed to curb sprawl in Pennsylvania was a revision of the laws that govern land use and planning in the state. Pennsylvania’s Municipalities Planning Code (MPC) sets the legal rules by which townships plan for and govern development. It became clear that this law, originally passed in 1968, was not meeting the needs of those attempting to cope with modern development pressure. Township supervisors—struggling on the front lines in the battle to manage growth and preserve the character of their communities—simply did not have the tools they needed to prevent rampant destruction of open space. These supervisors and environmental advocates identified several shortcomings in the MPC, many of which persist today:

1. There has been a lack of cooperation between independent municipalities throughout Pennsylvania.

Individual townships have often made development decisions that were independent of—and not coordinated with—decisions made by neighboring townships. The result
has been destructive, sprawling land consumption rather than planned and controlled growth.

2. The laws in many counties and townships did not reflect the community’s vision for future growth.
Discrepancies between county and municipal growth plans have meant that neighboring townships weren’t using a shared vision to guide their decisions; inconsistencies between plans and zoning failed to implement good planning through enforceable law.

3. Special interests could override the land use decisions of local citizens.
Pennsylvania state law contained provisions that allowed developers to sue municipalities attempting to manage growth and maintain the character of their communities.

4. New development has forced many communities to raise taxes.
The MPC has not provided townships with the ability to adequately limit or control the costs that accompany new development.

5. The scope and purposes of planning and zoning have been severely limited.
In many cases, the MPC has not given townships the tools they needed to manage growth in their communities.

LEGISLATIVE DEBATE IN 1999-2000:
Land use advocates and policy makers in Harrisburg worked hard to craft MPC reforms that would address as many of these deficiencies as possible. In February 1999, Rep. David Steil (R-31) and Sen. James Gerlach (R-44) introduced legislation aimed at resolving problems with the MPC and giving municipalities more tools to manage growth.

Unfortunately, development-minded legislators have been successful in recent elections, largely due to the financial backing of pro-sprawl interests. These legislators effectively passed several weakening amendments throughout the legislative process. Many of the important tools contained in the original bills were not included in the final legislation, which eventually became law as Acts 67 and 68 of 2000. In addition, several provisions were added that catered to certain special interests looking to use this bill as a vehicle to expand future profits.

ENACTED LEGISLATION
In the end, Acts 67 and 68 took some steps forward for land use planning, but some larger steps back for Pennsylvania’s communities.

Steps Forward:
• The laws made cooperative planning easier and more extensive.
• The laws made important strides with regard to consistency. The most significant reforms came with respect to consistency between planning and zoning laws. Improving this consistency gives good planning the force of law.
• The laws allow townships to designate “growth areas,” “future growth areas,” and “rural resource areas.” This increases planners’ ability to direct growth appropriately.
Finally, the laws take a small step in requiring state agencies to at least “consider” local land use planning when making permitting decisions.

Most planners and observers say that the jury is still out on whether these reforms will prove meaningful and substantive. At this point, there has not been a measurable increase in formal cooperative planning agreements due to the new laws. However, it is too soon to know if cooperation will pick up.

Steps Back:
- There is a provision allowing timbering in every zoning district of every municipality in the Commonwealth.
- Municipalities are specifically forbidden to enact laws that go further than weak federal statutes to protect their residents from mining and factory farms.
- Impact fees were capped. Most significantly, municipalities are no longer allowed to charge developers for necessary off-site improvements.

RECOMMENDATIONS
After the drawn out battle that resulted in this land use legislation, some will feel that concerns about sprawl have now been addressed. However, it is critical that Pennsylvania lawmakers recognize that much more needs to be done to solve our sprawl problems.

We must go back and fix the problems that were created with the recent amendments to the Municipalities Planning Code. We must also push forward on other fronts.

1. Improve the MPC.
   PennEnvironment recommends the following improvements to the Pennsylvania Municipalities Planning Code in order to give communities the necessary tools to manage growth:
   - Remove loopholes and special exemptions for the timber, mining, corporate farming and building industries granted by Acts 67 and 68.
   - Provide more meaningful incentives for intergovernmental cooperation.
   - Require strict consistency between county and municipal comprehensive plans.
   - Reform the curative amendment process.
   - Allow communities to assess impact fees that represent all costs of development.
   - Require all state infrastructure decisions to be consistent with comprehensive plans—or provide specific justification for non-compliance.
   - Require all municipalities to plan—and provide sufficient resources.
   - Allow communities to designate strong growth boundaries.
   - Pass a strong concurrency provision that will improve quality of life.

2. Protect threatened open spaces by purchasing land or development rights.
3. Make our existing communities more livable.
4. Rationalize our transportation system.
5. Pass significant campaign finance reform laws in Pennsylvania.
Introduction

Throughout the late 1990s, urban and suburban sprawl became one of the most pressing political issues in Pennsylvania. Articles about land use—and specifically open space destruction—appeared on the front pages of many of the state’s leading newspapers. In December of 1998, the Governor’s 21st Century Environment Commission released a report calling inefficient land use the most pressing environmental problem in the Commonwealth.

During the 1999-2000 legislative session, sprawl became the leading issue in the Pennsylvania General Assembly. After years of hard work, land use advocates and policy-makers had finally built virtual consensus around the problem of inefficient land use in Pennsylvania. The public had been experiencing the consequences of runaway growth for over a decade. Educated by the findings of the 1998 Environment Commission report, decision-makers were finally recognizing the detrimental effects of sprawl.

This paper analyzes what happened when those advocates and elected officials that understood the seriousness of the land use problem worked to pass meaningful reform legislation through the state House and Senate. It is a story of good intentions and hard work butting up against an entrenched system and special interest power. In the end, this paper reveals a lot about the policy that eventually survived the system—and a little about the system itself.

First, we’ll discuss the extent and gravity of the problem of sprawling development patterns in Pennsylvania. The way that we use our land touches many aspects of our lives. The harm done by poor land use is not limited to environmental damage.

Next, we’ll examine how we got to this point. What is it about Pennsylvania law that has encouraged sprawl throughout the second half of the 20th century?

After this background, we examine what happened on the issue in Harrisburg during the 1999-2000 legislative session. We first look at the proposed solutions to the problems outlined by land use advocates. We then discuss the legislative process and how it affected the outcome. Finally, we examine the final product—the legislation that was eventually signed into law in June of 2000.

After wrapping up our discussion of what happened in Harrisburg, we turn to the future. We make recommendations for how we can improve upon the recent reforms and fix the damage that was done.
Part I: Sprawl threatens Pennsylvania’s unique character.

Pennsylvania is a state that is defined largely by its natural heritage. From its vast open spaces and rich, historic farmland to its scenic waterways, Pennsylvania’s environment is central to its identity and its residents’ way of life. Unfortunately, a disturbing pattern has developed in recent years—one that threatens the farmland, open spaces, forests, and waterways that protect our unique quality of life.

Between 1992 and 1997, Pennsylvania lost more than half a million acres of farmland, forest, and open space to development. This is more than 10 acres per hour—24 hours per day, 365 days per year. During this period, Pennsylvania converted land faster per person than most other states in the nation. Rampant open space destruction is occurring because land use in Pennsylvania is growing less efficient and more destructive every day. In Pennsylvania’s 10 largest metropolitan areas, population rose 13% between 1960 and 1990—and developed land shot up by 80%.

Southeastern Pennsylvania’s recent population shifts reinforce this picture. While the population of the metropolitan region remained steady, the city of Philadelphia lost four percent of its residents in the 1990s. Overall, the city’s population is down more than 25% from its peak in 1950. Yet the opposite trend occurred in suburban communities. All but one of the suburban counties in southeastern Pennsylvania gained residents in the 1990s. Some outer-ring townships have posted population increases well into the 70-90% range. More importantly, over 20,000 new housing permits were authorized in each of Bucks, Chester, and Montgomery counties between 1990 and 1998. At the same time, less than 5,000 were issued in Philadelphia.

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4 U.S. Census data. Available upon request at 301.457.2422. 1950 pop. was 2,071,605; 2000 pop. listed as 1,517,550.
6 Ibid.
All of this new development and destruction of open space has provided the illusion of booming growth in the Delaware Valley and throughout the state. However, the truth is that Pennsylvania is not truly growing, but merely spreading out. Despite our appetite for land, the Commonwealth ranked 48th in the nation in population growth.

Pennsylvania is consuming more land per person than almost any other state. This phenomenon of aggressive land development is known as “urban sprawl” or “suburban sprawl” and it has devastating consequences for Pennsylvania’s environment and its citizens’ quality of life.
Sprawl Damages the Environment and Threatens Public Health

Habitat Destruction
Habitat destruction is the greatest threat to wildlife in Pennsylvania. With over 50,000 species lost each year throughout the world, our current rate of species extinction is the greatest since the time of the dinosaurs 65 million years ago. Harvard biologist E.O. Wilson estimates that in the next 25 years, one in five species on the planet will become extinct, and that our current rate of extinction is 10,000 times that which is “normal” or “natural.”

Seventeen of the species listed under the federal Endangered Species Act (ESA) make their homes here in Pennsylvania; the state considers at least 1,000 species to be at risk of extinction. The aggressive consumption of open space that is typical of sprawling development causes the direct destruction of species’ habitat. With each new project, woodlands and open spaces are converted to subdivisions, commercial developments, roads and parking lots.

Sprawl in southeastern Pennsylvania also degrades water quality, and in turn threatens species within the Delaware Estuary. Wetlands in this region provide habitat for the bog turtle, the eastern tiger salamander, the coastal plain leopard frog, the New Jersey chorus frog, and the bald eagle. Each of these species is considered either threatened or endangered by the U.S. Fish and Wildlife Service and/or the state of Pennsylvania. Unfortunately, many wetlands are drained and filled to make room for new development. Others are paved over or dissected by highways.

Serpentine barrens serve as a good example of an extremely rare habitat area currently threatened by sprawl in Pennsylvania. Serpentine barrens are desert-like habitats that are characterized by thin soil and bare, light green rock that is extremely low in nutrients. One of the most fascinating features of this habitat is that it actually needs fire in order to prosper. Development not only destroys barrens habitat in conventional ways, but also prevents these necessary fires. Southeastern Pennsylvania includes a significant part of the State Line Serpentine Barrens, which is the largest occurrence of serpentine barrens habitat in the eastern United States. The barrens provides habitat for many threatened and endangered plant species, including the round-leafed fameflower and the extremely rare serpentine aster.

Loss of Farmland
Pennsylvania features some of the most productive farmland in the United States. Bucks and Chester counties in the southeast, Lancaster and York counties in south-central PA, and Westmoreland County in the west provide food for much of the mid-Atlantic region and sustain an historic farming culture that provides a glimpse into our nation’s past.

However, sprawling development threatens our state’s farmland and agricultural heritage. Between 1969 and 1992, at least 20% of the farmland in Pennsylvania was

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8 U.S. Fish and Wildlife Service web site: http://ecos.fws.gov/webpage_usa_lists.html?#PA
9 Pennsylvania Department of Conservation and Natural Resources web site: http://www.dcnr.state.pa.us/forestry/pndl/pndiweb.html
10 PennEnvironment’s Endangered Species Web Page
converted to other uses. The trend is even more significant surrounding the major metropolitan regions in the state. In the Delaware Valley—which includes some of the most productive agricultural land in the nation—37.7% of farmland was lost during that same period; in the Pittsburgh area, the loss was 25.9%.[12] Worse still, we’re losing farmland at faster and faster rates. National studies have confirmed that this farmland loss correlates with sprawl-style development.[13]

By destroying our historic farmland and paving over our state’s breadbasket, we are endangering not only our land, but a way of life. Pennsylvania’s agricultural land supports economies and communities that have sustained for hundreds of years.

**Air Pollution**

Sprawl also leads directly to increased air pollution. Low density suburbs located many miles from employment centers dramatically increase our dependence on automobiles—both for commuting and for performing daily tasks in our own communities. Automobiles are one of the leading sources of air pollution. They produce 31% of the nitrogen oxide and 34% of the volatile organic compounds in Pennsylvania’s air.[14] Although improved technology has produced cleaner cars, these gains have been negated by the sharp increase in vehicle-miles-traveled in the past 30 years.

Pennsylvanians drove nearly 20% more in 1999 than in 1990.[15] Due in part to this increased driving, Pennsylvania has the fourth-worst air quality in the nation; during the summer of 1999, the state experienced at least 500 violations of the EPA’s health-based smog standard.[16] This pollution has had a real impact on public health in Pennsylvania. In the summer smog seasons of 1998 and 1999, the state experienced 47 and 51 smog alert days, respectively, which increase incidents of asthma attacks and emergency room visits. A 1996 Natural Resources Defense Council report estimated that poor air quality is responsible for 5,000 premature deaths each year in Pennsylvania.[17]

**Water Pollution**

Sprawl leads to poor water quality as we pave over watersheds and destroy ecological zones such as forests and wetlands that perform natural cleansing functions. Normally, rainwater seeps into the ground, replenishing our aquifers and slowly filtering through soil and rock as it flows back into our rivers, streams, and lakes. When the ground is paved, this natural cycle is disrupted; rainwater becomes unfiltered runoff. As this runoff flows through the streets, it brings oil, anti-freeze, and other contaminants into our waterways. One study found that suburban residential development increases runoff pollution tenfold, and that suburban commercial development leads to up to 18 times the amount of pre-development runoff.[18]

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12 Ibid., 37
13 Ibid., 37
14 Ibid., 40
15 EPA’s Office of Air Quality Planning and Standards, AirData - NET Tier Report
Large storms cause this runoff to overload our waterways with many times the volume of water they usually carry. This increases the threat of flooding and erosion. During the past few summers, many communities throughout Pennsylvania have experienced flooding from local waterways overflowing. Improper drainage and the disturbance of local watersheds has caused the overflow of waterways like Darby Creek and Crum Creek in Bucks County.

Pennsylvania recently ranked worst in the nation for direct toxic chemical releases into its waterways. However, in spite of these high levels of “point-source” pollution, the “non-point source” pollution that results from runoff and erosion is quickly becoming the most significant threat to the Delaware River and other waterways in Pennsylvania. Much of this pollution is caused directly by sprawl.

**Sprawl Reduces the Quality of Life in Pennsylvania**

*Sprawl’s negative effects are not limited to the environment or public health. Development patterns have a tremendous impact on our communities and our way of life.*

**Crumbling Cities**

Pennsylvania’s cities, boroughs, town centers and older suburbs are suffering. Rampant suburban and fringe development has led to the abandonment of our existing urban communities. Population and resources have shifted out as wealthier citizens have left, leaving our cities with decreased tax bases and increased social problems. Thus the citizen exodus fueled by sprawl leaves our cities with rising problems and a shrinking budget.

![Philadelphia Population 1930-2000](chart)

(Source: U.S. Census)

Pennsylvania’s largest city is a pointed example of this problem. Philadelphia’s population is 27% smaller than its peak in 1950. As people have moved away, the tax

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20 EPA’s Toxic Release Inventory, available at [www.epa.gov/tri](http://www.epa.gov/tri)
22 U.S. Census data. Available upon request at 301.457.2422. 1950 pop. was 2,071,605; 2000 pop. listed as 1,517,550.
base has declined and property has gone unused. Since 1987, the number of vacant lots in the city has doubled to nearly 31,000. These vacant lots are a true reflection of blight and economic depression. They often become de facto dumpsites for contractors and residents; and they are persistent eyesores, lowering property values and degrading the self-image of the community. Vacant properties are also an economic liability to the city. They generate no tax revenue. Furthermore, if nothing is done to redevelop these properties, Philadelphia will spend nearly $50 million maintaining them over the next 20 years—and get nothing in return. 

Blight is such a major issue in Philadelphia that the city’s mayor, John Street, recently proposed issuing a $250 million bond as part of a $1.63 billion program to combat urban decay.

Although comparable statistics are difficult to obtain for Pittsburgh and other cities across the state, there is ample evidence that Philadelphia is not an isolated case. Pittsburgh lost nearly 10% of its population in the 1990s, and dozens of smaller cities like Coatesville and Reading have been suffering economic decline due to population shifts and a changing economy.

Many of these cities are former industrial strongholds. As our economy has shifted its base from heavy manufacturing to information and technology, thousands of industrial facilities have been abandoned, leaving behind environmentaly contaminated sites known as “brownfields.” In spite of our state’s successful Land Recycling Program, which has redeveloped at least 600 brownfields in the past five years, many more remain contaminated throughout the state. The cost of restoring these sites to acceptable environmental and public health standards remains a formidable barrier to redeveloping many urban communities.

Traffic

Sprawling development patterns make Pennsylvanians dependent upon automobiles for transportation. Low-density development does not lend itself easily to transit options. People are forced to drive longer and more often in order to get to work or to fulfill their daily needs. More roads and highways are built, but these lead to still more development and traffic. Traffic jams and longer commutes frustrate drivers—and keep them in their cars longer. This pattern, in turn, helps fuel our air pollution crisis.

Automobile travel has become dominant in Pennsylvania. In 1995, 79% of travel in Pennsylvania occurred by use of an automobile. Daily vehicle-miles-traveled in Pennsylvania (DVMT) has also risen steadily over the years. In 1999, Pennsylvanians drove an average of 281 million miles each day, a nearly 20% increase from 1990.

In spite of new roads, every year more drivers put more miles on their cars; the result is increased traffic and congestion. Statewide, traffic has increased well over 50% since 1979. The situation has been much worse in major metropolitan regions. The Texas Transportation Institute (TTI) recently studied congestion patterns in major U.S. cities from 1982 to 1999. Traffic delays in Pittsburgh and Philadelphia have risen steadily.
during this period. TTI found that freeways in Philadelphia were congested 65% of the time in 1999, up from 15% in 1982; congestion in Pittsburgh shot up from 5 to 55% during this period.\textsuperscript{29} The most obvious effects of these delays are irritation and wasted time. In fact, TTI estimates that congestion wasted over 117 million hours of Philadelphians’ time in 1999—more than double the 1982 figure.

However, traffic has less obvious costs as well. For example, travelers in Philadelphia and Pittsburgh wasted nearly 175 million gallons of fuel in 1999—again, well over twice the 1982 total.\textsuperscript{30} This wastes money and increases air pollution. TTI estimated the total annual costs of congestion. They found that citizens in Pennsylvania’s two largest cities have lost at least $20 billion due to traffic delays since 1982.\textsuperscript{31} In 1999, this translated to an average of $435 lost for every person in the Philadelphia region—almost triple the 1982 loss.\textsuperscript{32}

\textbf{Loss of Community}

A third negative social impact of sprawl is a troubling loss of community life. Land use advocate David Bollier explains:

\begin{quote}
In a nutshell, suburban patterns of commercial and residential development tend to isolate and alienate people; they destroy public spaces for interaction and the ability of local businesses to survive; and they can be unsurpassingly ugly.\textsuperscript{33}
\end{quote}

\textsuperscript{30} Ibid.
\textsuperscript{31} Ibid.
\textsuperscript{32} Ibid.
Bollier is touching on several points. First, the suburbs are often characterized by the absence of public space. Instead of the lively parks and squares that can be found in many urban centers, activity in low-density suburbs is focused on private spaces: in the backyard, around one’s own basketball hoop. This can create a socially isolated situation where neighbors barely know one another.

Also, with neighborhoods becoming more isolated and impersonal, there is no longer a place for the local business where the proprietor knows every customer by name. Home Depots replace local hardware stores and Wal-Marts replace just about everything else. This creates a very unattractive landscape dominated by strip malls, not community centers. Communities that once brimmed with unique character become homogenized by parking lots and fast food restaurants. Kennett Square, PA becomes Anywhere, USA.

**Sprawl Wastes Tax Dollars**

Sprawl does not just threaten our environment and quality of life; it is also a taxpayer ripoff. This pattern of development is rife with hidden costs and sustained by huge public subsidies—taxpayer money wasted in order to provide a crutch for an inefficient system.

**Subsidizing the Automobile**

A perfect example of the economic wastefulness of sprawl is the large scale—but vastly unrecognized—subsidization of automobile travel in the United States. Sprawling development forces residents to drive more. Low-density development patterns make trips to work and the store longer. Automobile travel, however, is an extremely expensive and inefficient way to get large numbers of people from one place to another. Every single day, U.S. taxpayers spend nearly $200 million subsidizing often unnecessary road projects.\(^{34}\) Urban planners estimate that in major cities, commuters that drive pay directly for only one quarter of the full cost of their commute, while taxpayers foot the rest of the bill.\(^{35}\) Our current development patterns are allowed to continue only because of massive public subsidies that prioritize inefficient auto travel over safer, cheaper, and cleaner public transit. In fact, the Pennsylvania Department of Transportation spends nearly 80% more money on highway projects than on public transit.\(^{36}\)

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34 Ibid., 8
35 Ibid., 9
36 PennDOT budget as told to author by Ed Myslewicz of PennDOT: $1.4 billion for mass transit; $2.5 billion for highways; $4.1 billion total budget.
There are other hidden costs of automobile use—one good example is air pollution. Automobiles are the leading non-industrial source of air pollution in the United States. Experts estimate that automobile pollution causes up to $93 billion in damage to the environment and public health in the United States each year.37 However, because these costs are difficult to measure and impact all community members, they are not conventionally recognized as costs of driving.

**Infrastructure and Services Costs**

The infrastructure required by new developments is not limited to roads. Dramatic population increases in many suburban and rural towns have necessitated new spending on many public services such as fire and police protection and education.

Numerous studies have found that residential development does not pay its own way. Rather, new suburban developments tend to leave communities with tax deficits due to the need for increased spending on infrastructure. Many of these shortfalls are caused by the high costs of educating children in new households. Many communities have been forced to build new schools to accommodate new pupils. For example, the Central Bucks School District in Bucks County has recently spent approximately $255 million on school construction because enrollment has nearly doubled in the past 10 years.39 A study conducted by a developer in Bucks County concluded that a proposed 169 home development would leave Solebury Township and the New Hope-Solebury School District with an annual tax deficit of more than $740,000.40

The cost of building these schools is not paid exclusively by parents of children who attend them. This cost is subsidized by all those in the surrounding community, and often by all Pennsylvania taxpayers. For the 1999-2000 fiscal year, the state of Pennsylvania spent at least $253 million reimbursing municipalities for construction and improvements to schools. While improving schools is in general a good thing, being wasteful with scarce and precious school improvement dollars is not.

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It is clear that the way that we use our land profoundly shapes many aspects of our lives. It affects the quality of the water we drink and the air we breathe; it determines the health and vitality of our communities; and it can cost or save us significant sums of money.

Efficient and intelligent land use must be a high priority for any community. Why, then, had the opposite occurred in Pennsylvania?
Part II: How have we come to this point?
Pennsylvania laws do not give municipalities the tools they need to manage growth in their communities.

As public concern around urban sprawl in Pennsylvania grew, advocates and policy makers began to investigate the causes of these problems. Questions arose, such as “Why is inefficient and unplanned development particularly problematic in Pennsylvania?” “How had we gotten ourselves to this point?” Experts identified several sources for our state’s land use problems. The state had not made the necessary public investments to protect threatened open spaces; our crumbling and under-funded urban communities were driving citizens into the suburbs; and our tax structure has made developing in the city difficult and maintaining the viability of farm communities challenging at best.

However, land use advocates and local officials agreed that the most pressing need was for a revision of the laws that govern land use and planning in the state. Pennsylvania’s Municipalities Planning Code (MPC) sets the legal rules by which townships plan for and govern development. It became clear that this law, originally passed in 1968, was not meeting the needs of those attempting to cope with modern development pressure. Township supervisors—struggling on the front lines in the battle to manage growth and preserve the character of their communities—simply did not have the tools they needed to prevent rampant destruction of open space. These supervisors and environmental advocates identified several shortcomings in the MPC, many of which persist today:

1. Lack of cooperation between independent municipalities.

*Individual townships often made development decisions independent of—and not coordinated with—decisions made by neighboring townships. The result has been destructive, sprawling land consumption rather than planned and controlled growth.*

Pennsylvania’s Commonwealth structure of government ensures that all land use decisions are made at the municipal level. Although regional and county planning organizations do exist, their work has amounted to little more than recommendations, because no actual authority is vested at these levels. This means that nearly all of Pennsylvania’s 2,568 municipalities have been making their own choices about where to put shopping centers and homes, which areas to protect as farmland and open space, and even where to put huge malls and stadiums. This piece-meal decision-making leads to a patchwork of random development, rather than planned, sensible growth patterns.

Furthermore, cooperation between townships has not been adequately encouraged—and in some cases not even permitted. Townships are allowed to use only planning tools that are specifically authorized by the MPC. Several types of innovative planning arrangements were not definitively authorized. Townships that chose to push the envelope and encourage creative planning were left vulnerable to expensive lawsuits and invalidation of their zoning laws because developers or others could challenge cooperative agreements as illegal.

Cooperative planning is hard work and can be difficult because of concerns about autonomy. In order to encourage township supervisors to put their concerns aside and
engage in this difficult and time-consuming process, proper incentives need to be in place. Although townships could receive some relief from developer lawsuits by cooperating, this was apparently not sufficient incentive to encourage extensive cooperation throughout the state.

Due to this uncertain legal footing and lack of incentives, cooperative and creative planning has been rare in Pennsylvania. Although statistics are not yet available on the extent of cooperative planning in the state—and there were certainly notable exceptions—communities that chose to plan for growth (which they were not required to do) largely planned alone.

The language in the MPC led to a situation in which individual townships made planning decisions that were not coordinated with their neighbors. With no regional perspective, the result has been random, unplanned growth. Political—not natural—boundaries have determined how we make use of our land.

2. The laws in many counties and townships did not reflect the community’s vision for future growth.

Discrepancies between county and municipal growth plans meant that neighboring townships have not been using a shared vision to guide their decisions; inconsistencies between plans and zoning meant that good planning was not enforced by law.

Municipal zoning laws are the fundamental rules for using land in any township. However, although only municipal zoning is backed by the force of law, planning for the use of our land occurs at many levels. Many townships choose to draft “municipal comprehensive plans.” These documents lay out a vision for how land within the township should be managed in the present and how growth and development should occur in the future. Comprehensive plans indicate where residential development should go, where new retail stores should be allowed, and what areas in the township should be preserved as farmland or open space. These plans are approved publicly and thus represent a common vision for land use.

Counties also draft their own comprehensive plans. These documents provide a larger perspective and demonstrate how growth in each of the county’s municipalities can best fit together. However, because both county and municipal plans were merely suggestions of how to best accommodate growth, inconsistencies often occurred. First, county and municipal plans were often inconsistent with each other. Land that was designated for an office park in the county plan may have been set aside for agriculture under the township plan. This means that everyone in the county was not on the same page; neighboring townships were not cooperatively working towards the most sound vision for the way the region should look in the future.

Next, neighboring municipalities that share geographic features often had plans that were not consistent with each other. So, if two townships shared waterfront property, one might designate its part for intensive industrial development, while the other might set aside its portion for a public beach. These two uses are obviously not compatible. These contradictions occurred because there was no incentive or mandate for townships and counties to work together when planning. Each pursued its individual priorities and goals without regard to surrounding communities.
In addition, there were often inconsistencies between a municipality’s plan and its own zoning. In other words, township officials may have agreed on how land should be managed and growth directed in their community, but the laws that actually govern land use (zoning) did not direct growth in that manner. A township may have intended to protect an area as farmland—labeling as such in their plan—but have failed to update their zoning to reflect this intention. This often occurred because funding and staff time are limited in most townships. With no requirement to make plans and zoning consistent, this was rarely prioritized. If a developer applied for a permit to build in this town, she would have to be granted approval if the zoning (not the plan) allows for the type of project she seeks to pursue.

This lack of consistency undermined the efforts of planners and restricted a community’s ability to effectively realize a coherent vision for growth and development within their town and region.

3. Special interests could often override the land use decisions of local citizens.

*Pennsylvania state law contained provisions that have allowed developers to sue municipalities attempting to manage growth and maintain the character of their communities.*

The state’s Municipalities Planning Code requires every township to allow for all types of residential land use. Townships needed to allow for a “fair share” of single family homes, trailer parks, and multi-family dwellings. This law was originally intended to level the playing field, and guarantee that Pennsylvanians of all income brackets could live in any Pennsylvania community. Yet by trying to be inclusive, state lawmakers left a legal loophole that developers have exploited regularly.

When citizens and their elected officials opposed a specific project in their community, developers could sue the township based upon this law. These developers alleged that a “fair share” of a type of land use has not been allocated in the township, and would seek what is known as a “curative amendment” to the zoning of the municipality. If the municipality refused to “cure” their zoning ordinance of the alleged flaw, the developer could go to court to seek relief and allow his/her project to proceed.

For example, a developer might allege that a township’s zoning is flawed because it does not provide for an adequate amount of townhouses. If the township does not agree, that developer could then sue to be given relief from this flaw which would allow the construction of 250 townhouses—even if the community doesn’t want more residential development or has designated the land for another use such as agriculture.

The notion that each township must allow for every single type of land use flies in the face of any regional planning perspective. While it is important to maintain overall equity across a region, neighboring townships do not necessarily each need every type of use.

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41 Although the MPC does not specifically require that all commercial uses be accommodated, the case law has indicated that the courts often interpret the law to include commercial uses. From pre-published notes, Joanne Denworth of 10,000 Friends of Pennsylvania.
to ensure overall fairness. All of Pennsylvania’s 2,568 municipalities do not need a sea of townhouses and a gated community. They certainly do not all need a strip mall.

The “every township, every use” rule affected townships in three major ways. First, developers would often win these “fair share” suits and were able to force developments upon local citizens. Pennsylvania is one of the only states in the nation that allows developers that win these lawsuits to build where they would like, rather than allowing the township or a neutral third party to guide the newly mandated growth in a manner that is consistent with the community’s overall growth plan. This means that many townships have been forced to accept growth that violates carefully constructed growth plans.

However, because there was no limit to the amount of challenges that developers could bring against local municipalities, winning these suits was often not necessary for achieving the developers’ ends. If a developer were to lose a “curative amendment” suit, he could simply file again until the township buckled under financial pressure. Many communities have spent hundreds of thousands of dollars fighting off curative amendment challenges. John Rice, solicitor for Bedminster and Plumstead townships in Bucks County, commented in the Philadelphia Inquirer that “part of the game plan of most of these developers who file these types of challenges is to bludgeon local governments into conceding because of the cost.”

Finally, there was no requirement that a developer actually build the specific project that formed the basis of her lawsuit. Developers could use threats to sue for one type of land use to bully townships into allowing an entirely different kind. For example, a developer may threaten to sue a township for the right to build trailer parks and use this probable victory as a bargaining chip to negotiate a luxury home development—which is what the builder really wanted to erect in the first place. Heritage Conservancy of Bucks County has documented at least seven instances of this tactic being used in the past 20 years.

In fact, one of the earliest successful curative amendment cases involved this type of “sue and switch.” In the late 1970s, a developer called Kravitz sued Whitemarsh Township in Montgomery County for the right to build a mobile home park. As a result of the suit, Whitemarsh was forced to amend its ordinance in September, 1979. However, instead of building mobile homes, Kravitz constructed Andora Woods, which consists of 263 townhouses on 44 acres.

These provisions of Pennsylvania’s Municipalities Planning Code heavily favored developers and not Pennsylvania residents; they have led to developers destroying countless tracts of open space over the vocal objections of local citizens. Examples of this phenomenon are numerous. In the past 10 years, the population of Plumstead Township has increased by 65%. This has largely resulted from “curative amendment” settlements with developers that cost the township $500,000 in legal fees. Twelve hundred houses in Plumstead have been built on land zoned for open space. Nearby Bedminster Township spends more money battling builders than fighting fires.

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44 Andora Nurseries vs. Whitemarsh Township; reference # 76-09348
45 Mastrull and Halper (March 12, 2000).
4. New development has resulted in substantial property tax increases.

Another shortcoming of the MPC was that it did not provide townships with the ability to adequately limit or control the costs that accompany new development. Development in many outer suburbs was occurring at such a rapid rate that communities were struggling to keep up with the increased infrastructure needs. Townships were allowed to charge developers “impact fees” to help cover the costs of some of the new infrastructure required by their projects. However, because not all costs were eligible for fees—including the costs of new schools, the most expensive impact of development—these fees were inadequate. The only recourse for many school districts has been to raise taxes on its residents to pay for excessive development.

Bucks County provides a good example of this phenomenon. Central and Upper Bucks County have been at the forefront of development pressure over the last decade. New developments mean many more children to educate. However, because the new residents’ taxes do not cover this extra cost—and because townships could not charge developers impact fees covering education costs—the Central Bucks School District has been forced to raise its tax rate more than 62% since 1990.\(^{46}\) This means that a family whose property is assessed at $100,000 has seen their school taxes increase from $755 to $1225 in just over 10 years.

5. The scope and purposes of planning and zoning have been severely limited.

In many cases, the MPC did not give townships the tools they needed to manage growth in their communities.

Municipalities are allowed to use only tools and techniques specifically authorized by the MPC and other related state statutes. Unfortunately, this law did not allow for creative planning and zoning in Pennsylvania. Comprehensive plans were limited in their ability to properly manage and direct growth because they had not been authorized to designate areas that were appropriate to remain rural or open space.

Traditional Neighborhood Development (TND) is a planning technique that seeks to capture the spirit of traditional urban or semi-urban communities. TNDs foster community interaction through a pedestrian and transit friendly environment featuring sidewalks and town centers. They involve zoning that allows for mixed commercial and residential uses—storefronts with apartments on top—and conservation of open space outside of the town center. Unfortunately, creative planning and zoning programs such as Traditional Neighborhood Development had not been specifically authorized by the MPC. Townships were therefore reluctant to make use of these techniques because of the potential for lawsuits by those seeking to contradict these plans.

Sometimes good planning would be thwarted because other entities in the state were not required to respect the authority of municipal planning. The Pennsylvania Department of Environmental Protection and the Public Utilities Commission make many

\(^{46}\) Millage rates have increased from 171.6 mils in 1989-1990 to 278.44 mils in 2000-2001 as reported by Linda Kulp, Tax Secretary, Central Bucks School District.
decisions (granting sewage permits, placing utilities) that profoundly affect how development will proceed. These and other state agencies were granting permits and making other decisions with land use implications without considering whether these decisions were consistent with the land use plans of the state, county, or municipality; and these decisions have often undermined local planners’ vision for growth.

A perfect example of this phenomenon is the case of Cornog Quarry in Wallace Township, Chester County. Philadelphia Suburban Water Company (PSW) applied for a permit to withdraw four million gallons of water each day from the East Branch of the Brandywine Creek and process it in the quarry. There was no immediate need for additional water supplies in the region. PSW’s application stated that the purpose of the additional capacity was to serve new development in East and West Brandywine townships.

This development strictly contradicts local planning by these townships and Chester County’s award winning comprehensive plan, Landscapes. The permit was opposed by the townships and the county.

East Brandywine Township Planning Commissioner Sandy Moser commented that “the Cornog Quarry application issues are indisputable. There is no water shortage for the designated townships listed on the application in the foreseeable future. However, the water company has stated in the Cornog application that there is a future water shortage and therefore must have the four million gallon a day withdrawal approved.”

In spite of these factors, DEP originally approved the permit.
Part III: Proposed Solutions

Land use advocates and policy-makers in Harrisburg worked hard to craft MPC reforms that would address as many of these deficiencies as possible. In February 1999, Rep. David Steil (R-31, Bucks County) and Sen. James Gerlach (R-44, Chester County) introduced legislation aimed at resolving problems with the MPC and giving municipalities more tools to manage growth. House Bills 13,14,15 and Senate Bill 300 were the result of years of hard work by these legislators, who had reached out to the various constituencies that would be affected by any changes in community planning. These bills, in their original forms, offered the following solutions:

1. Intergovernmental cooperation (HB13,14; SB300)

These bills encouraged cooperation and regional planning. They provided appropriate incentives for cooperation, and they authorized creative cooperative programs.

Both the House and Senate bills explicitly authorized intergovernmental cooperation. This re-affirmed townships’ ability to enter into planning agreements with each other. These agreements, known as “multi-municipal comprehensive plans,” allow neighboring communities to come together, agree on a vision for growth in their region, and create a cooperative plan to implement this vision. This type of cooperative planning encourages a more regional perspective and allows communities to base their planning more heavily on geographic and ecological realities, rather than artificial political boundaries.

Although this type of planning was already clearly authorized in the MPC, it required communities to form a joint planning commission. Because overcoming mutual suspicion and the desire to retain local authority has proven to be extremely difficult in Pennsylvania, this requirement has put a significant obstacle in the way of cooperative planning. Forming a formal joint planning commission is a level of cooperation for which many neighboring communities are not yet prepared. The main benefit of this new intergovernmental provision, then, was to remove this barrier and enable neighboring communities to cooperate without the perception that they are giving up any of their autonomy.

House Bills 13 and 14 provided important incentives for cooperative planning. House Bill 14 required that state decisions regarding funding for infrastructure and sewage facilities be consistent with multi-municipal plans. In other words, the state could not fund projects that conflict with these local plans. Both bills allowed municipalities to share tax revenue—an important facilitator of this type of cooperation—and gave townships that enter into multi-municipal plans priority for state grants related to planning, economic development, housing, PENNETV (state infrastructure investment), transportation, recreation, as well as open space and farmland preservation. Because these grant programs handed out a significant sum of money, this provision provided a powerful incentive for cooperation.

The most highly touted provision of both House and Senate bills was one that granted townships that entered into multi-municipal agreements some degree of protection from “curative amendment” suits. When townships elect to cooperate and enter into these

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agreements, the bills directed the courts to consider the range of land uses allowed across the entire region of the multi-municipal plan—and not just each individual municipality—when ruling on whether a “fair share” of each use is provided. So, if three townships form a multi-municipal unit, and one has a large townhouse development, the other two would not be forced to accommodate one as well.

However, a close look at the MPC reveals that this protection was already clearly granted to municipalities that chose to plan cooperatively. Section 1006-A states that:

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

So, this section of the proposed legislation merely re-affirmed an important—but existing—provision in the MPC.

All three bills specifically authorized different municipalities to cooperate in implementing Transfer of Development Rights (TDR) programs. TDR is an innovative technique used to direct growth to “appropriate” places while conserving ecologically and/or culturally important areas. Development rights that are purchased in an area that a community wishes to preserve as farmland, open space, or historically or culturally important are “transferred” to an area where development is deemed more appropriate. Previously, both areas had to be in the same municipality, which reduced the opportunities to use this innovative technique. These bills allowed development rights purchased in one municipality to be “transferred” across municipal lines and used in another township, providing more flexibility for neighboring communities that wish to cooperate.

It should be noted that cooperative planning can go only so far without a clear definition of what is a “fair share” or a “reasonable range” of uses across one community or a multi-municipal region. In fact, Plumstead Township supervisor Betsy Helsel believes that without a clear definition of “reasonable range” that will put some limit on the township’s obligation to accommodate new development, more cooperation will not help her community at all.

“Increasing the land mass of a zoning area…without addressing the ‘fair share’ issue opens the region up for challenges,” said Helsel. “Simply put, the developer will contend that you have a larger area and that you now have a larger responsibility to meet your ‘fair share’ of the housing needs. Whether they are successful or not, huge amounts of taxpayer monies will be lost defending regional plans.”

2. Consistency (HB13,14; SB300)

Planners and advocates agreed that promoting consistency between zoning and planning, and between county and municipal plans, would result in more efficient, intelligent growth patterns. These bills sought to improve consistency in several ways and overall, they offered many significant improvements. They took a large step forward in requiring zoning to be consistent with planning; and they provided appropriate incentives and legal protections for consistent planning. Yet these bills could have been improved by requiring strict consistency between counties and neighboring municipalities.

Consistency Among Varying Planning Levels

These bills took a modest step forward in promoting consistency between county and municipal plans. House Bill 13 required comprehensive plans to include a statement that the “existing and proposed development of the municipality is consistent with the existing and proposed development plans in contiguous municipalities, with the objectives and plans of the regional planning agency, with the county policy plan, and with the state policy plan.”

Requiring this statement of consistency is not quite the same as actually requiring consistency. Enforcement of this provision would likely focus on whether the statement exists in the plan, rather than whether the statement is accurate. Furthermore, county “policy plans” are defined more broadly than comprehensive plans. It could be possible for a municipal plan to be consistent with the broad goals of a policy plan, but not with a specific county comprehensive plan. Therefore, this bill did not require strict consistency among various plans. However, it was a good step because making a statement that plans are consistent when they obviously are not would jeopardize the integrity of the plan and the planning agency itself.

House Bill 14 required municipalities that enter into an intergovernmental cooperative agreement with a county to “establish the process that the county and participating municipalities will use to achieve consistency” between the county plan, municipal plans, and zoning ordinances. Participating municipalities are required to achieve consistency in zoning regulations within two years. The end result is that municipalities wishing to receive the benefits of cooperating with counties and neighboring communities—such as legal protections and increased funding for planning—must achieve consistency across planning levels and update their zoning laws.

Consistency Between Planning and Zoning

Perhaps the most important measure of consistency is whether comprehensive plans are merely suggestive documents or actually implemented by the zoning ordinances in a given municipality. Both the House and Senate bills addressed this issue.

House Bill 13 stated that “municipal zoning…shall fully implement the municipal comprehensive plan or, where none exists, the municipal statement of community development objectives and the county policy plan.” Senate Bill 300 required municipalities to certify to the county that their zoning ordinances are consistent with their municipal plan—or, if none exists, with the county plan—within one year.

Both HB13 and SB300 state that if a municipality changes its zoning in a way that is not consistent with its comprehensive plan, that township must amend its plan. This is an
important provision because revisions of comprehensive plans require public comment. This ensures that township supervisors and the community at large recognize that they are changing their vision for land use by enacting a particular zoning change.

SB300 also attacked the major problem with planning—its voluntary nature. For 30 years, planning has been undermined by a clause in the MPC that read:

Notwithstanding any other provision of this act, no action by the governing body of a municipality shall be invalid nor shall the same be subject to challenge or appeal on the basis that such action is inconsistent with, or fails to comply with, the provision of the comprehensive plan.\(^\text{49}\)

In other words, plans do not have the force of law—they are merely suggestions. No matter how much effort is put into laying out a vision for future development and gaining consensus in the community, the plan would be useless if zoning laws did not reflect this vision.

In the original version of SB300, Senator Gerlach changed this clause, saying that no action could be declared invalid because it did not comply with the plan “provided that zoning ordinances…adopted by municipalities shall be generally consistent with the municipal or multi-municipal comprehensive plan.” This new clause meant that zoning must be consistent with planning—or else zoning could be declared invalid. This made planning more than a suggestion.

**Legal Protection**

Both House and Senate bills afforded municipalities with consistent plans and zoning some degree of legal protection. This provided a powerful incentive for communities to create plans with a regional perspective and to update their zoning laws.

HB13 stated that if a municipal plan is consistent with the county plan, the courts should consider the availability of uses over the course of the entire county when deliberating on “fair share” curative amendment suits. This provision ensured that communities willing to cooperate with the county-wide vision for growth management would not likely be forced by the courts to accept unplanned and inordinate development. SB300 directed the court to consider the consistency of a zoning ordinance with the municipal, multi-municipal, and county plans when a challenge to the validity of the ordinance is brought forth.

**Priority for State Grants**

Both HB13 and SB300 gave priority for state planning grants to municipalities that agree to enact municipal or multi-municipal plans that are consistent with county comprehensive plans, and that agree to enact zoning ordinances consistent with their plans.

**3. Concurrency/Adequate Public Facilities (HB13)**

*House Bill 13 contained a provision that would require adequate infrastructure to be available to support development before any new project could be approved. This*

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provision, while not a good tool to prevent development altogether, would spare communities some of the symptoms of rapid growth.

Concurrency—also known as Adequate Public Facilities (APF)—is a condition placed in the law that requires that the infrastructure necessary to sustain development—roads, sewers, schools, etc.—must be available at the time that the proposed development takes place.

Ramapo, New York was the first town to enact a concurrency statute in 1966, which was upheld in the landmark court case *Golden v. Planning Board of Town of Ramapo* in 1972. It has been a controversial growth management technique ever since, providing varying experiences for states and municipalities that have chosen to adopt concurrency provisions. Most statutes work by setting thresholds for what is considered “adequate” for facilities (air and water quality, children per classroom in schools, traffic congestion, etc.)—and not permitting growth that would cause provision of facilities to fall below this threshold.

A well thought-out and implemented concurrency provision can provide communities with much-needed relief from some of the worst aspects of rapid development. Essentially, it can buy some time for municipalities to play catch up and relieve some of the stress on their overburdened public facilities. Concurrency may ease traffic and overcrowding in schools by ensuring that new developments may not go up until a community is able to provide adequate transportation and education for its current citizens.

However, many communities have found that concurrency statutes have not provided the growth management solutions they were seeking—and some have found the measures to have unintended consequences. In some states, concurrency has hampered development in urban areas because these are the places that experience the most congestion and pollution (which often exceed enacted thresholds). Instead, growth has actually been directed to rural zones because the costs of providing necessary infrastructure in these areas is substantially lower. This has been a problem in Florida, where lawmakers are now enacting exemptions to concurrency requirements to encourage urban infill.

Other communities have run into problems by setting threshold requirements for goods or facilities that are not entirely within the community’s control. For example, a particular township does not control traffic conditions on state highways and cannot truly control air quality in its region. Ramapo, N.Y. faced this difficulty in its premier concurrency effort.

Finally, many communities have failed to match concurrency provisions with a strong growth plan and commitment to supply facilities in a timely manner where appropriate. This has sometimes led to legitimate frustration from builders who are unreasonably restricted from developing and have no accurate way of determining where and when development will be allowed to proceed. More often, however, this failure to plan results in the lack of enforcement of concurrency provisions. In many cases, exceptions overwhelmed the rule, effectively negating any value of the original concurrency provision.

It is important to recognize concurrency for what it is and what it is not. Concurrency is a policy tool that may improve quality of life during a community growth spurt. By carefully
mapping out appropriate growth zones and not letting growth outpace infrastructure, communities can be spared the nightmare of excessive traffic and overcrowded schools that often accompanies rapid growth. Concurrency is not, however, an effective tool for planning or stopping growth. In order for concurrency provisions to be effective, they must be accompanied by a strong growth management plan.

House Bill 13 contained a section stating that “it is the intent of the General Assembly that public facilities and services [including education]…shall be available concurrent with the impacts of such development.” The concurrency clause did provide exceptions for downtown areas, urban infill and high-density areas, which would help avoid Florida’s troubles. The section did not, however, provide any specific thresholds for “adequacy” of public facilities. It left this determination up to the “local government.” While this is the correct sentiment, failing to provide more specific guidelines or thresholds leaves these municipalities vulnerable to lawsuits from builders who may challenge individual definitions of adequacy.

A strong concurrency provision is a helpful tool for municipalities. The language in HB13 was a good start; but in order to avoid expensive court battles for local townships the provision would need to be amended to include more specific thresholds of adequacy.

4. Growth Boundaries (HB14)

Growth boundaries are rings drawn around a developed area, outside of which development is either not planned, discouraged, or not permitted altogether. Steil’s original HB14 included a clause that would allow a municipality to delineate a growth boundary, an important and effective tool.

Many communities across the United States have used growth boundaries to reign in unplanned growth and stop sprawl. When used effectively, growth boundaries can be an excellent public policy tool to direct growth in a manner that is compact, efficient and sensible. Most importantly, by refusing to provide any services in areas outside the boundary, communities can ensure that any developer who wants to circumvent its vision for growth must pay his/her own way.

However, growth boundaries are a highly controversial growth management technique. They have been blamed for increasing housing costs and traffic congestion within the boundary and diminishing property values outside the line. These claims are often exaggerations; and when they do have merit, they are the result of poor implementation of the growth boundary, not a necessary consequence of the boundary itself.

Because boundaries necessarily limit the land available for housing, one might assume that this would raise housing costs. This, however, is not necessarily the case. First, this would only be the case if the demand for housing in the region is rising. In regions like Philadelphia and Pittsburgh, where population is shrinking or remaining relatively steady, this is not a significant factor.

Next, savings from planned development may overcome increases in housing costs. Higher density development within the boundary is the goal of most growth boundaries. Compact, efficient development saves money on infrastructure and allows community services to reach more people and thus cost less per person. In compact communities, public transit can be used to combat traffic problems that might otherwise arise from
high-density development. In fact, 10,000 Friends of Pennsylvania found, in their study, Costs of Sprawl, that compact forms of growth can save up to 8% on housing costs.50

Finally, nearly all growth boundaries are intended to be flexible, not set in stone. If there is a demonstrated need for more housing or commercial development, these boundaries can be extended. The purpose of the boundary is not to restrict growth, but to direct it in the most efficient manner.

Most often, problems associated with growth boundaries actually result from ineffective or inflexible implementation of the policy—including a failure to increase housing density within the boundary.

The Fannie Mae Foundation has found that while “developers and citizens are justifiably concerned that urban containment policies could slow growth and cause house prices to rise sharply...these policies should not have that effect. While inflexible growth constraints can cause artificial land scarcities and reduce affordable housing, emerging [urban growth boundary] models are characterized by flexibility intended to prevent, or at least mitigate, market distortions.”51

While it is true that housing costs and traffic have increased in cities like Portland, Oregon that use growth boundaries, prices and congestion in many other cities without them, such as Salt Lake City, have seen greater increases. Furthermore, sprawl itself is actually one of the biggest enemies of affordable housing. The majority of new developments springing up on the suburban fringes of various metropolitan areas consist of “McMansions,” or luxury townhouses, not moderate or low-cost housing.

A huge development boom has not brought increasing affordability in Pennsylvania. A 1990 Delaware Valley Regional Planning Commission (DVRPC) study found that in 81% of southeastern Pennsylvania’s municipalities, persons of median income could not afford market rate housing. Recent construction has not improved affordability. A 1999 Chester County 2020 Trust report found that in Chester County, located just west of Philadelphia, “new construction in the County is generally much more expensive than even the top bracket of moderate-income households can afford.”54

Rep. Steil’s original HB14 included a clause that would allow a municipality to “delineate a growth boundary or boundaries” around designated growth areas to separate them from zones not deemed appropriate for growth. Significantly, the bill simply gives municipalities the option to use boundaries (Oregon’s law mandates boundaries in each community). This is an important and effective tool for Pennsylvania municipalities.

51 “What Does Smart Growth Mean for Housing?” Housing Facts and Findings, Vol. 1, No. 3. Fall 1999, p.4. As found on 10,000 Friends of Pennsylvania web site: www.10000friends.org
53 10,000 Friends of Pennsylvania: www.10000friends.org
5. Expanding the Power and Scope of Planning (HB14; SB300)

House Bill 14 and Senate Bill 300 expanded the power and scope of growth planning significantly. They provided municipalities with new planning tools and directed state agencies to respect community planning.

The original bills took significant steps to increase the power and scope of planning and zoning in Pennsylvania. SB300 required comprehensive plans to include a plan “for the protection of natural and cultural resources,” to identify “growth and limited growth areas as they pertain to existing or planned infrastructure,” to identify current or proposed land uses of “regional impact and significance,” and to identify “plans for agricultural and historic and cultural preservation.” It should be noted that the plan to protect natural resources was weakened by a directive to not exceed federal environmental standards.

HB14 directed plans to identify “growth areas” for development within 20 years, “future growth areas” where future development is planned, and designate “rural resource areas” that are intended to remain rural. Importantly, this clause contained a statement that within these rural resource areas, “services are not provided or planned for except in villages.” This means that government would not aide in the construction of roads, sewers, schools, and other infrastructure in areas intended to remain rural—except in a compact village that would minimize land development.

HB14 required sewage permits and other state agency decisions to be consistent with county or multi-municipal plans. This significant provision would prevent good local planning from being thwarted by outside decision-makers. Granting sewage permits, placing facilities, or extending services (such as water) in areas not meant for growth can undermine the intentions of planners.

Both the House and Senate bills specifically authorized Traditional Neighborhood Development (TND), and in House Bill 15, Rep. Steil authorized a creative transfer-of-development-rights program called common base zoning.

In addition, House Bill 14 gave a municipality the right to adopt a “specific plan for the systematic implementation of a county or multi-municipal comprehensive plan for any part of the area covered by the plan.” This plan is then given the force of law, as no “development plan or plan for any subdivision or development of land shall be approved unless [it is] consistent with the adopted specific plan.”
Part IV: Pennsylvania’s anti-sprawl bills were weakened throughout the legislative process.

The set of bills originally introduced in February 1999 contained many useful and effective solutions to our current sprawl problems. Although they certainly could have gone further, they provided municipalities with a set of new and useful tools for managing growth in their communities.

*In their original forms, House Bills 13 and 14 and Senate Bill 300 contained provisions:*  

- Encouraging townships to plan together with their neighbors;  
- Increasing consistency between county and municipal plans and between plans and zoning, which rationalized the planning process;  
- Providing relief from many of the symptoms of runaway development that threaten the quality of life in rapidly growing communities;  
- Providing a critical way to direct growth into existing communities and preserve open space; and  
- Expanding the power and scope of planning, which allowed communities to more effectively protect historic, cultural, and natural areas.

Unfortunately, many of the important tools contained in this original legislation were not included in the final versions of HB14 and SB300, which eventually became law as Acts 67 and 68 of 2000. Throughout the legislative process, several weakening amendments were approved. These amendments both removed important growth management tools and added provisions catered to certain special interests looking to use these bills as a vehicle to expand future profits.

In Pennsylvania, it is very difficult to link specific organizations to lobbying efforts surrounding specific legislation or amendments. The state lacks adequate “open records” laws that make legislative correspondence public record. Most campaign finance data is not easily available on the Internet in searchable format. This makes tracking campaign contributions a cumbersome and time-consuming task.

In spite of these shortcomings in state law, it remains clear that special interest money played a significant role in weakening Rep. Steil’s and Sen. Gerlach’s bills. In less than two complete recent election cycles (January 1997-April 2000), interests that benefit from development (homebuilders, realtors, carpenters, etc.) contributed at least $2.3 million to parties and elected officials in Pennsylvania through political action committees (PACs). PACs for the timber, mining, and agricultural industries—which won significant concessions in the final legislation—contributed at least $140,000 to state political parties and candidates for state House and Senate in 1999 and 2000 alone. These PAC contributions, however, are just the tip of the iceberg when it comes to wielding political influence in the state capitol. Many individuals associated with these industries make large contributions to candidates in their own names.

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55 See Appendix A  
56 Ibid. Note: These are likely underestimates; only contributions to individuals who could be easily confirmed as candidates for state House or Senate offices were included.
Gov. Tom Ridge played a significant role in shaping the growth legislation that would eventually pass, and contributions to his campaign provide a good example of this phenomenon. The building industry contributed at least $855,000 to the governor's reelection efforts between 1995 and 1998.57 Many of these dollars came from large contributions made by owners or employees of construction or development firms. In fact, statehouse researchers were able to identify 18 firms whose employees contributed more than $10,000—including three whose employees contributed at least $40,000.58 These individual and PAC contributions by no means guarantee special favors from elected officials. They do, however, ensure that legislators friendly to the development industry are more likely to get elected; and they make officeholders think twice before opposing the interests of those that helped them win their seat.

57 See Appendix B
58 Ibid.
Part V: Resulting legislation
The end result of the legislative process was the passage—and signing by Governor Ridge—of Acts 67 and 68 in June of 2000. Act 67 was the final version of HB14 and Act 68, of SB300. Some provisions of HB13 were included and HB15 was dropped. The solutions offered are as follows:

1. Intergovernmental cooperation
The final acts made cooperative planning easier, but came up short on additional incentives for cooperation.

These acts made cooperative planning easier and more extensive. Act 67 specifically authorizes intergovernmental cooperation (without the need for a joint planning commission), multi-municipal Transfer of Development Rights, and tax revenue sharing.

However, Act 67 comes up short when it comes to providing additional incentives for cooperative planning. Planners and land use advocates agree that regional planning is more rational and leads to more efficient land use than piece-meal planning at the township level. However, instead of providing the strongest incentives possible for this type of planning (other than mandating it, which would require a change in the Pennsylvania constitution), this legislation was weakened. Originally, HB14 clearly stated that municipalities that choose to plan cooperatively should be given priority for a variety of state grants. The final version omits this important incentive.

Protections from developer suits provide an incentive for cooperative planning for townships that are already facing these expensive challenges. However, without grant priority, there is little impetus for more rural communities to look into the future and create regional plans that will help prevent difficulties down the road.

2. Consistency
Acts 67 and 68 made important strides on the subject of consistency. However they were substantially weaker than the original bills, particularly with regard to consistency between neighboring municipal plans and counties and in providing incentives for consistency.

Consistency Between Different Municipal Plans and County Plans
On the issue of consistency between county and municipal plans, and plans of neighboring townships, the wording in Act 68 is ambiguous. The act requires each comprehensive plan to include a statement that the plan is “compatible” with plans only in “contiguous portions” of neighboring municipalities, or a statement that “buffers” have been provided between land uses that are not compatible. In the original version of HB13, comprehensive plans were required to be consistent with the entire plan of a neighboring municipality. The final version reduced consistency requirements. In addition, the word “compatible” makes its first appearance here and is not defined in the “definitions” section of the act, leaving it open to interpretation and possible legal challenges.

The act requires a statement that the plan is “generally consistent with the objectives and plans of the county comprehensive plan.” Being consistent with the “objectives and plans” of the county plan may or may not be interpreted as being consistent with the plan
itself. Once again, there has been a change in language which leaves the law further open to interpretation and makes it more difficult to enforce.

**Consistency Between Plans and Zoning**

These acts are stronger on the subject of consistency between municipal plans and zoning. Act 67 requires townships entering into cooperative agreements with the county or other townships to “establish the process” by which each municipality will achieve consistency between its plan and zoning. The act provides a two year time frame in which to achieve this consistency.

Act 68 states that zoning should “generally implement the municipal and multi-municipal comprehensive plan” and that “zoning ordinances adopted by municipalities shall be generally consistent with the municipal or multi-municipal comprehensive plan.” Importantly, it also requires any municipality that amends its zoning in a manner that is not consistent with its plan to “concurrently” amend its plan. This is important because it will force supervisors to think long and hard before changing zoning to allow a use considered inappropriate by the plan.

However, the term “generally consistent” is not defined in the Act, and is therefore vague and open to interpretation. Furthermore, the act does not actually require individual townships to construct a comprehensive plan, nor does it provide a process or a timeframe for municipalities to make their zoning consistent.

These acts also fail to address the essentially voluntary nature of planning. Senator Gerlach’s original bill asserted that acts of a municipality may be declared invalid if zoning does not implement the comprehensive plan. This gave added weight to the planning process and provided for clear enforcement of the clause stating that zoning should implement planning. Gerlach’s original language, however, was removed from the final version.

**Incentives for Consistency**

Act 68 does provide some incentive for a township to adopt fully consistent planning and zoning. It states that priority for state planning grants should go to municipalities which agree to “adopt comprehensive plans generally consistent with the county comprehensive plan and which agree to enact a new zoning ordinance or amendment which would fully implement the municipal comprehensive plan.” However, it goes on to state that no more than 25% of the total available planning funds “shall be disbursed under priority status.” This is unnecessarily weak. The state should not be providing planning funds to townships that refuse to plan in a manner that is consistent with their regional vision.

3. The Scope and Power of Planning

*Acts 67 and 68 expanded townships’ ability to manage growth in some cases, but restricted it in others.*

The prime purpose of Acts 67 and 68 was to give communities more tools and authority to manage growth. The legislation accomplished this in some cases by expanding the scope and power of the municipal planning process.
Act 67 expanded the scope of municipal comprehensive plans by allowing them to designate “growth areas,” “future growth areas,” and “rural resource areas”—zones where growth is considered to be inappropriate—as well as plan for conservation of “natural, scenic, historic and aesthetic resources.” This gives townships the power to carefully designate important resources that should be conserved and ensure that future growth respects these resources.

Act 68 requires counties to prepare plans and requires both counties and municipalities to review and update their plans every ten years. This increases the role of planning and ensures that plans remain relevant. Act 68 also extends the purpose of zoning to allow for the protection of environmental and historic areas.

Act 67 gives the county the ability to facilitate dispute resolution among municipalities and authorizes a township to create a “specific plan” for the implementation of the comprehensive plan in a region of the planning area. These clauses remained largely the same as in the original legislation; the powers they grant are helpful to county and municipal planners.

**Designating Rural Zones**

However, the expansion of planning power in this legislation is often quite limited. A good example is that municipalities are not authorized to designated zones where no public resources will be provided.

Act 68 contains a clause authorizing plans to “identify those areas where growth and development will occur so that a full range of public infrastructure services...can be adequately planned and provided as needed to accommodate growth.” The Act 67 provision allowing townships to designate “rural resource areas” where growth is not appropriate should complement this power. The original version of HB14 stated clearly that “publicly financed infrastructure services may not be provided or planned for” in these areas.

However, the final version weakened that language, stating that “infrastructure extensions or improvements are not intended to be publicly financed by municipalities” in these zones. The result of this weakened language is that the final legislation clearly allows municipalities to designate where growth WILL go, but does not empower these communities to designate areas that will not accommodate additional development.

Furthermore, both original and final legislation limited the application of these rural zones to public infrastructure. Developer provided infrastructure could negate the concept of designated growth and non-growth areas.

**State Agencies**

These acts are also limited in directing state agencies to recognize local planning efforts. Both acts say that state agencies “shall consider and may rely upon” comprehensive plans when considering permitting for infrastructure extensions. This is a step forward since agencies previously acted without reference to the consequences for planning. In fact, Philadelphia Suburban Water Company’s permit to withdraw water from Brandywine Creek has been sent back to DEP which is now reviewing it based upon Acts 67 and 68.
However, the language is very ambiguous. It does not require agencies to respect planning, merely to “consider” it. Ultimately, DEP is free to grant PSW its permit in spite of its impact on local planning efforts.

In addition to this weakness with respect to state agencies generally, a direct exception is carved out for the Pennsylvania Public Utility Commission (PUC). Municipalities are not authorized to regulate water withdrawal and the PUC is not required to respect municipal planning when deciding where to place or extend facilities. This is a significant loophole that has serious implications for cases like Cornog Quarry. The legislation should have given a clearer directive to all state agencies to respect municipal planning.

Ms. Moser says that "the Cornog Quarry application…is being watched closely by municipalities across the state and with good reason. Should DEP turn down the water companies application, Acts 67 and 68 will be seen as an effective tool for municipalities in their land-use planning process.”

Along the same lines, Act 67 asserts that state agencies “shall consider and may give priority consideration” to projects that are consistent with county or municipal plans when providing technical assistance. These agencies should be required to give priority to projects that are in accordance with the community’s vision for proper growth.

Act 68 specifically authorizes Traditional Neighborhood Development, but neither act addresses Rep. Steil’s creative common base zoning program which uses the concept of transferable development rights to encourage compact development and preserve open space.

**Limiting Powers**

There are several aspects of this legislation that actively limit communities’ ability to manage growth. The use of zoning to protect farmland is a good example. The Municipalities Planning Code gave municipalities the power to protect agriculture through the use of zoning. However, Act 68 restricts the use of zoning to protection of only “prime” agricultural land. The state currently defines “prime” agricultural land as class I, II and III soils. Adding this one word qualifier takes away the ability of townships to use zoning to protect approximately 1.2 million acres of farmland across the state that is clearly usable, but not designated as prime.59

**Special Interest Provisions**

In addition, there were several provisions added to the final legislation that have nothing to do with the original intent of these bills. Many of these are direct give-aways to special interests that place unnecessary limits on the power of municipalities to manage growth.

The timber, corporate agribusiness, mining, and land development industries were the most direct beneficiaries of unnecessary clauses tacked on to Act 68. These provisions were all put into the final act over the vocal opposition of PennEnvironment and groups such as the Sierra Club and the Chesapeake Bay Foundation.

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59 The Pennsylvania Department of Agriculture’s Natural Resources Conservation Department estimates that Pennsylvania contains 1.196 million acres of class IV cropland and pastureland. Figures provided by Edgar A. White, soil scientist.
Forestry
The timber industry was the recipient of the most significant added provision in this legislation. The MPC already contained a clause that stated that “zoning ordinances may not unreasonably restrict forestry activities.” Act 68 amended that section, adding a clause stating that “forestry activities, including, but not limited to, timber harvesting, shall be a permitted use by right in all zoning districts in every municipality.” This law means that there is no place in the Commonwealth where townships may legally exclude timbering activities.

Even more blatant is a clause in the new law asserting that any action taken to protect, preserve, and conserve natural resources “shall not be for the purposes of precluding access for forestry.” A township, presumably, may preserve its forests as long as it doesn’t prevent timber companies from cutting down its trees.

Corporate Farming
One of the purposes of this legislation should be to preserve family farming as an economically viable way of life in Pennsylvania. Pennsylvania features some of the most productive farmland in the country; and family farming is an historically important and an environmentally sustainable lifestyle. Huge corporate farms, however, present a significant threat to public health and the environment as well as Pennsylvania’s family farm tradition.

Act 68 lays the groundwork for loosely regulated corporate farming in Pennsylvania by providing unnecessary protection to these operations. Most of these protections come in the form of directions to municipalities not to exceed federal regulations on farms “regardless of whether any agricultural operation within the area to be affected by the plan is a concentrated animal operation as defined under the act.” The act also amends the section governing municipal water plans, adding a section that “recognizes” that “commercial agriculture production may impact water supply sources.” Essentially, this new law prevents local citizens from enforcing strong regulations on local factory farms and excuses their inevitable pollution of water supplies.

In the past 15 years, the number of hog farms in the United States has been reduced from 600,000 to 157,000—and yet we are producing the same number of hogs.60 Huge “factory” farms concentrate thousands of animals—and the waste they produce—on small parcels of land.

The concentration of livestock is a problem because they produce an enormous amount of waste. The North Carolina Environmental Defense Fund estimates that hogs in North Carolina produce more waste in one year than the people in Charlotte—the state’s largest city—produce in 60 years.61 This waste threatens our environment, specifically our waterways through spills and runoff.

With many states such as North Carolina and Nebraska passing strong laws to regulate these farms, Pennsylvania is a logical target for expansion by factory farming facilities. Pennsylvania is only now developing a permitting program for factory farm pollution—

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61 North Carolina PIRG’s website: www.ncpirg.org
existing regulations are largely voluntary.\footnote{Ibid.} A Natural Resources Defense Council report stated that recently Governor Ridge has “laid out the welcome mat for very large hog facilities and the number of hogs in the state is growing.”\footnote{Ibid.}

In fact, a U.S. Senate report confirmed that factory farms had been setting up in Pennsylvania between 1987 and 1997, even as livestock numbers dropped.\footnote{“Factory Farms: Disaster in Progress?” \textit{Sunday News}, Lancaster, PA. October 10, 1999, A-1.} By the year 2000, the state had 976 factory farms that raised dairy cows, beef cattle, gestating sows, finishing pigs, layers, and broilers.\footnote{“Manage ‘Factory Farms’ to Protect Farmers and Water.” \textit{Lancaster New Era}. May 1, 2000.}

Family farming is an important part of our state’s heritage. It is less environmentally damaging and contributes more to local communities than corporate farming.\footnote{Ibid.: Virginia study showed that adding the same 5000 sows through 10 independent farms rather than one factory farming operation produced 13 more jobs and a 37% larger increase in per-capita income in the community.} Unfortunately, Act 68 is threatening this institution and paving the way for the same consolidation of agriculture that is occurring in other states.

**Mining**

The mining industry received many of the same specific exceptions granted to corporate farming operations. Municipalities are not permitted to regulate mining beyond the scope of federal law and water plans are required to recognize that mining will inevitably pollute water resources. In addition, a clause was added mandating that zoning ordinances “provide for the reasonable development of minerals in each municipality.” This mandate is more fully specified in an additional clause stating that “each municipality shall provide for reasonable coal mining activities in its zoning ordinance.”

**Building**

The development industry was given several handouts in this legislation. New development brings added public costs. More people require more roads, more schools, and larger sewage capacity. It is common practice in Pennsylvania and in other states for builders to compensate municipalities for some of these costs by paying what is known as an “impact fee.” Several clauses of Act 68, however, limit the ability of townships to charge “impact fees” to developers.

First, the new law changes the formula for determining the impact fee for road improvements. Previously, the number of trips taken on public roads that result from the new development was used to determine the fee. In the new formula, only “peak-hour” trips are included in the calculation. This lowers the trip-input and therefore reduces the fee developers are required to pay. This is unreasonable because peak hour trips are not the only trips that put stress on roadways and impose upkeep costs on municipalities. The new formula mistakenly assumes that trips not taken during rush hour are “free” trips that do not need to be accounted for.

The law also states that no more than 50% of the cost of improvements to a state highway may be included as part of an impact fee. This seems arbitrary since in many
cases new development may be the only reason for the need to expand or “improve” a road, regardless of whether it qualifies as a state highway.

In addition to caps on impact fees, this legislation placed other restrictions on communities’ ability to be compensated for the costs of development. One significant example is that townships are no longer able to require developers to make road improvements that are not directly connected to the building site. Given that certain uses surely put stress on roadways not directly at or adjacent to the property, this is an unreasonable restriction. For example, a large residential development will add thousands of cars to local roads. Many of these roads may not be directly adjacent to the housing complex.

The provisions added for the timber, corporate farming, mining, and building industries all limit rather than expand the powers of the township officials struggling to preserve their communities. All of these industries benefit from a clause in Act 68 that specifically prevents municipalities from enacting regulations stricter than state or federal law. Townships that would like to go further to protect their citizens from threats to their environment, their health, and their quality of life are prevented from doing so by a law that was meant to empower them.

Thomas Linzey, an attorney with the Community Environmental Legal Defense Fund who has extensive experience with corporate farming, says that:

factory farm corporations operating in the Commonwealth were able to insert various provisions into the sprawl legislation which eliminated restrictions on their operations. The use of this public legislation to advance private interests at the expense of local governments and communities across the Commonwealth, was a disgrace to the legislative process. The process also enabled the legislature to gut the ability of Township governments to protect their communities and natural environment by adopting ordinances and zoning for the protection and preservation of those assets.

Furthermore, the Pennsylvania Department of Environmental Protection comments on its website that:

Acts 67 and 68 affect local government’s zoning authority to regulate certain activities or resources such as mineral extraction, agricultural operations, allocation of water resources and forestry in several ways. First, Act 68 preserves preexisting state preemption of local regulation of certain activities. Second, in those areas of local regulation not preempted, Act 68 establishes that comprehensive plans shall be consistent with and may not exceed requirements established under certain identified state environmental statutes currently regulating these activities or resources. Finally, for mineral extraction Acts 67 and 68 provides that zoning ordinances shall provide for reasonable developments of minerals in each municipality. Thus, the authority of local government to regulate in these areas under the MPC is limited which will significantly reduce DEP’s obligation to consider and rely upon comprehensive plans and zoning ordinances in these areas…

67 Act 68 states that townships may no longer require off-site road improvements as a requisite for approving a “conditional use” of a property.

68 www.dep.state.pa.us
Hence, the DEP has recognized that these new laws have significantly limited the authority of local communities to regulate extractive industries and corporate agriculture. This is an unacceptable result of a legislative process that was initiated to give these municipalities the tools they need to control the fate of their communities.
The verdict on Acts 67 and 68

In the end, Acts 67 and 68 took some steps forward for land use planning, but larger steps back for Pennsylvania’s communities.

**Steps Forward:**

- The laws made important strides with regard to consistency. The most significant reforms came with respect to consistency between planning and zoning laws. Improving this consistency gives good planning the force of law.
- The laws allow townships to designate “growth areas,” “future growth areas,” and “rural resource areas.” This increases planners’ ability to direct growth appropriately.
- Finally, the laws take a small step in at least requiring state agencies to “consider” local land use planning when making permitting decisions.

Most planners and observers are saying that the jury is still out on whether these reforms will prove meaningful and substantive. A main purpose of the laws was to encourage cooperative planning among neighboring municipalities. Several communities are currently undertaking initiatives to craft cooperative plans and supporting ordinances. Because these projects take up to two to three years to complete, it is likely too soon to tell if cooperation will increase measurably.

Furthermore, it is difficult to tell whether the increase in cooperative planning efforts is due to substantive legal changes brought about by Acts 67 and 68 or to the publicity that accompanied the enactment of these laws. The year-long, high profile battle to pass these laws—hailed as “landmark land use reforms”—in the General Assembly and the final enactment focused the attention of many state and local officials on the concept of cooperative planning. Given that the legal changes that relate to intergovernmental cooperation were actually quite minor, it is plausible that this attention was actually a more significant cause of current multi-municipal planning efforts.

**Steps Back:**

- Timbering is allowed in every zoning district of every municipality in the Commonwealth.
- Municipalities are specifically forbidden to enact laws that go further than weak federal statues to protect their residents from mining and factory farms.
- The building industry was given caps on impact fees.

Although it’s too early to predict the full impact of these damaging provisions, their impact has already played out in Pennsylvania’s communities. The forestry provision is a good example. Heritage Building Group owns some property in Plumstead Township, Bucks County that is adjacent to the Delaware River and a high quality stream called the Paunacussing. The property is zoned for resource protection, largely because of its importance to these waterways.

Heritage applied for a special exception to be permitted to conduct timbering activities on their 300-acre property. Both Plumstead and neighboring Solebury Townships opposed
this action. Literally the day after Act 68 went into affect, Heritage filed a petition for a curative amendment to be allowed to begin cutting trees on the property. It is only because Plumstead officials had the foresight to file what is known as a self-cure and fix their ordinance the night before that prevented Heritage from being granted permission to practice unregulated forestry on this sloped and sensitive property. As of July 2001, this case is still unresolved.

On balance, it seems that the small gains made for land use planning were not worth the significant special interest provisions added on to this legislation.
Part VI: Where do we go from here?

After the drawn out battle that resulted in this land use legislation, some will feel that concerns about sprawl have now been addressed. However, it is critical that Pennsylvania lawmakers recognize that much more needs to be done to solve our sprawl problems—and to fix our legislative process.

It is essential that we go back and fix the problems that were created with the newly amended Municipalities Planning Code. We must also be pushing forward on other fronts.

Improve the MPC.

*PennEnvironment recommends the following improvements to the Pennsylvania Municipalities Planning Code in order to give communities the necessary tools to manage growth:*

- **Remove loopholes and special exemptions granted by Acts 67 and 68.** Remove special protections for the timber, corporate farming, mining, and building industries.

- **Provide more meaningful incentives for intergovernmental cooperation.** Regional planning is a rational way of directing growth. Places that are experiencing the most severe growth pressure and have the greatest need for planning assistance can usually benefit most from cooperation. Therefore, priority for many state planning grants and assistance should be given to those municipalities who wish to enter into multi-municipal plans. So as not to prevent others from obtaining the resources for planning, 50% of total funds should be distributed on this priority basis.

- **Require strict consistency between county and municipal comprehensive plans.** Until the same vision is shared within all levels of planning, the whole growth management process will be inefficient. Municipal plans should be required to be consistent with county plans. This would create a system in which regional goals are adequately addressed and neighboring municipalities would be adhering to the same basic vision. This would *not* unreasonably restrict the authority of individual municipalities or hold them hostage to the county, because counties are required to accept amendments proposed by two or more municipalities.

- **Reform the curative amendment process.** Given that the “fair share” clause is here to stay, there are four ways in which we can level the playing field between developers and municipalities.
  
  a) **Define “reasonable range” and “fair share.”** This will give municipalities a concrete standard by which to measure their ordinances, and not leave them at the whim of the courts. The definition of “reasonable range” of housing opportunities should be based upon consistency with community character and should not be the same for all 2,568 of Pennsylvania’s municipalities. Further, this definition must separate the concept of “affordability” from that of “density.” Currently, provisions that are meant to ensure affordable housing simply grant builders the ability to build at higher
density with out any assurance that these units will be truly affordable to moderate or low income families.

b) *Limit the number of times a party can sue for the same “cure.”* If a developer loses a curative amendment lawsuit, (s)he should not be able to bring the same suit again and again, burdening townships with prohibitive legal costs.

c) *Eliminate site-specific relief.* Currently, when a developer wins a “curative amendment” suit, (s)he is awarded what is known as site specific relief. That means that the developer may build where (s)he chooses. This often results in development that is not in accordance with a community’s comprehensive plan. If a township’s zoning is truly flawed, elected officials should be given the opportunity to cure this flaw in a manner that is consistent with the overall vision of the community. Only if the township refuses to respond should developers or an impartial third party determine where the disputed use should be accommodated.

d) *Ensure that developers must build what they sue to build.* There have been several cases in which developers use a victory or a probable victory in a curative case based upon one use (trailer parks) to force a community to allow them to build something that is more desirable to that town and the developer (expensive homes). Communities are forced to accept what they see as the lesser of two evils. If developers are forced to build what they sue to build, this would eliminate their ability to use undesirable uses as a bargaining tool.

- **Allow communities to assess impact fees that represent all costs of development.**

  Currently, Pennsylvania municipalities are able to assess impact fees for some costs of development, such as roads and sewage. However, the costs of schools and education are not currently included in impact fees. Given that these are usually the most significant costs associated with development, developers should help pay for school costs.

- **Require ALL state infrastructure decisions to be consistent with comprehensive plans—or provide specific justification for non-compliance.**

  State decisions should never undermine good community planning. State agencies should not just consider community growth plans, but should use them as a primary factor in making permitting, approval, and locating decisions. State agencies should have to provide a specific justification for approving a project that is not consistent with a comprehensive plan.

- **Require all municipalities to plan—and provide sufficient resources.**

  Recognizing that land is a critical and limited resource, all municipalities should be required to create a comprehensive plan. This plan should include public disclosures about the economic and environmental effects of proposed growth and development. In order to require this, the state must make a commitment to give communities the resources necessary to carry out this directive.

- **Allow communities to designate strong growth boundaries.**

  Growth boundaries can be an important tool to preserve open space and redirect growth into existing communities. They can encourage compact, sensible development and discourage sprawling patterns that lead to excessive open space destruction.
• **Pass a strong concurrency provision that will improve quality of life.**
Although concurrency will not ultimately limit destruction of open space, it can significantly improve conditions during a growth spurt. A strong provision must set specific thresholds for adequacy of public facilities and contain exceptions for urban and other areas where high density is desirable.

**Protect threatened open spaces by purchasing land or development rights.**
One of the most successful techniques for protecting open space has been to purchase it outright, or to secure development rights to properties. By purchasing land, communities or private conservancies can hold it in trust and protect it from development. Agricultural easements have proven to be an effective method of conserving prime agricultural land in Pennsylvania. Easements allow government institutions, non-profits, and individuals to purchase development rights to farms, permanently preserving Pennsylvania farmland and providing financial relief that enables farmers to maintain their land and lifestyle.

We must make a larger commitment of public funds to protect threatened open spaces in Pennsylvania. Governor Ridge’s Growing Greener program provides a limited amount of money for this purpose, but it is not nearly sufficient.

During the debate around Growing Greener in 1999, the Heritage 21 Alliance—a coalition of 24 environmental groups, land trusts, recreational, planning, community, agricultural, and heritage organizations—documented $386 million in needed funds for the Department of Conservation and Natural Resources and the Department of Agriculture for the preservation of habitat, open space, and farmland. Yet, the Governor’s program authorized only $127.4 million for this purpose. As Growing Greener funding is revisited over the next couple of years, it is critical that funding for these programs is increased at least to the identified level of need.

**Make our existing communities more livable.**
In order to curb open space destruction in the suburbs and encourage citizens to choose to live in already developed areas, we must make our urban communities more livable. This means they must be safe, clean, and aesthetically pleasing; they must provide good educational and recreational opportunities; and they must be affordable and provide cheap and easy transportation options. The following principles will help bring about more livable communities:

• Growth should make use of existing infrastructure wherever possible.
• Growth should be transit and pedestrian friendly.
• Growth should pay its own way—there should be no public subsidies for development.

69 [http://sites.state.pa.us/PA_Exec/Fish_Boat/ggh21.htm](http://sites.state.pa.us/PA_Exec/Fish_Boat/ggh21.htm)
70 $100 million was granted to the Department of Agriculture over 5 years and $27.4 million was added to the Community Conservation Partnership Grant, administered by the DCNR.
• Because property conditions affect the surrounding community, property owners must take responsibility for the upkeep of their real estate and prevent deterioration and blight.
• Government should make redevelopment as easy as possible without sacrificing safety or public health.

These principles can be achieved through three types of reforms at the state level. First, we must increase investment in our distressed urban communities. Many blighted communities suffer from a lack of available capital because of the high risk associated with local investment. The state must build on successful programs such as Keystone Opportunity Zones and create innovative initiatives such as a mortgage guarantee corporation. This institution would mitigate risk for private investment in underdeveloped communities.

Next, we must make it easier for non-profits and private companies to redevelop neighborhoods. Community rehabilitation is often delayed because it is difficult to transfer property from absent or delinquent owners to those invested in the community. Many non-profit community development corporations are eager to take over and redevelop properties. However, there is often a problem with transferring title to these properties from the current owners; many municipalities are having trouble tracking down owners of properties that are tax-delinquent or in violation of building codes. Pennsylvania should require property owners to keep name/phone/address current with municipal officials and allow courts to name non-profit groups as receivers of delinquent properties.

Finally, the state must crack down on the minority of landlords that control many properties that are tax-delinquent and/or in violation of building codes. These owners, by neglecting their property, are contributing to the blight of entire communities. Currently there is no system of tracking those who own multiple sub-standard properties and municipalities are not able to deny permits to these owners. Pennsylvania should computerize property ownership records, keep a registry of delinquent properties and give municipalities the power to deny permits to those that own property that is tax delinquent or in violation of building codes.

Rationalize our transportation system.
Sprawling development is a natural result of our current transportation system. Our highway and automobile dependence has led to low-density development patterns that consume excessive amounts of open space.

Studies and experience have long shown that building more road capacity does not solve congestion problems. Here in Pennsylvania, we built nearly 3,000 miles of roads between 1990 and 1999, but traffic and congestion only got worse during that period. Increases in vehicle miles traveled far outpaced increased capacity—and patterns suggest that it always will. Furthermore, building more roads will only continue to degrade air quality and lead to the destruction of more and more open space.

With this in mind, we must move beyond our current auto-dependant transportation system in order to meet our state’s transportation needs and encourage planned growth throughout the coming century. Transportation policy must adhere to the following principles:

- Transportation policy should not encourage sprawling development patterns.
- Pennsylvanians should have viable transportation options; they should not be forced to drive.
- Transportation should be efficient and conserve energy.
- Transportation should be economically efficient.

Specifically, the Pennsylvania Department of Transportation must change its budget formula in favor of more spending on alternatives to driving. PennDOT must spend at least 50% of its budget on transit. Studies have repeatedly shown that building more highways—and expanding existing roads—does not solve traffic problems.\(^72\) Highway-dominated policies do waste millions in tax dollars, harm the environment, threaten public health by encouraging more driving, and spur sprawling development. As long as PennDOT continues to spend nearly 65% of its transit budget on highway uses, Pennsylvanians will not have realistic transit options that move people and goods efficiently and preserve the environment.\(^73\)

Furthermore, we must recognize that transportation and land use are inextricably linked—and plan for them accordingly. PennDOT should be required to consider and respect community planning when designing transportation projects. Transit Oriented Development (TOD) should be explored through partnerships between land use and transportation planners. TOD is compact, pedestrian friendly development centered on access to public transit.

**Pass significant campaign finance reform laws in Pennsylvania.**

Weakened legislation and special interest provisions would not be the natural result of a legislative process that is accountable to average Pennsylvanians.

Currently, Pennsylvania has virtually no significant campaign finance laws. Corporations are banned from contributing directly to candidates and candidates must disclose the sources of their funding. Other than that, big money reigns free. There is no limit to the amount of money that an individual can contribute to any candidate for state-level office. A wealthy CEO can contribute $1 million to a gubernatorial candidate; or she could decide to finance the entire campaign of a state legislator. Furthermore, a corporation can lavish a political party with similarly unlimited contributions.

The essential problem with our current campaign finance system is that the legislature does not reflect the values and priorities of average Pennsylvanians. Our legislators are bound by the wishes of the wealthy elites and corporate contributors that put them in


\(^{73}\) PennDOT FY00-01 spending as reported by Ed Myslewicz of PennDOT (from governor’s budget office). $1.4 billion on public transit; $2.5 billion on highways.
office rather than the needs of the general public. The end result is a distorted democracy—and distorted outcomes such as Acts 67 and 68.

We must make sure that ordinary citizens—and not wealthy individuals and special interests—are responsible for determining who is elected to office in the state. There is a set of simple solutions that will empower ordinary citizens and free Pennsylvania’s political process from the grip of large contributors:

- We must set strict contribution limits at a level that most Americans can afford—$100. In a democracy based on the concept of one person, one vote, having more money should not give anyone more influence over our political process;
- We must apply the same strict contribution limits that candidates face to parties and other groups engaged in electioneering activities;
- We must set campaign spending limits that will keep down the cost of campaigns and prevent wealthy candidates from buying political office;
- We must provide candidates with free mailings and free media exposure on TV and radio to further reduce the cost of running a political campaign—and therefore reduce candidates’ dependence upon money;
- We must ensure that politicians listen to those they are supposed to represent by requiring them to raise all or most of their money from within their district. No more than 25% of total receipts should come from outside a candidate’s district.

By enacting these simple common-sense reforms, we can foster a truly representative democracy and put power back where it belongs—in the hands (and votes) of the people.
Conclusion

So, what can be learned from the high drama that played out in the Pennsylvania General Assembly throughout the 1999-2000 session?

First of all, it is important to recognize all of the hard work put into the effort to pass meaningful growth management legislation by legislators and advocacy groups alike. In addition to Representative Steil and Senator Gerlach, many legislative champions emerged who fought for stronger provisions. Senator Waugh in particular should be commended for introducing an important strengthening amendment to SB300. 10,000 Friends of Pennsylvania headed up a formidable coalition of advocacy groups and citizens organizations that kept sprawl on the agenda in Harrisburg. Other groups, such as the Sierra Club, fought hard against the special interest provisions that were attached to the final legislation.

Next, we learned an important lesson about our legislative process in Pennsylvania. Because of our current campaign finance system, special interests have undue influence on this process. Because of the dominant role of money in electing our public officials, powerful lobbies such as homebuilders, and timber, corporate agriculture, and mining interests were able to secure their own provisions in legislation meant to grant more tools to communities struggling with rampant development. Many of these provisions actually weakened the authority of the same communities the bills were intended to help.

In the end, what was gained from all of the effort and hype surrounding this “landmark” legislation?

The substantive legal improvements were relatively minor. Previous powers were reaffirmed and made somewhat easier to use; consistency was encouraged; and some additional planning tools were authorized. A year after the passage of Acts 67 and 68, there is little concrete evidence that more and better cooperative planning is occurring throughout Pennsylvania. This does not mean that it won’t occur—it is probably too early to definitively judge the effects of the new laws. It is possible that new cooperation will ensue not because of substantive legal changes, but simply because of all the attention that planning is now getting because of the massive effort to update our MPC.

However, the price of this attention seems to have been the opening of a Pandora’s box of sorts. The negative provisions added by special interests, on balance, outweigh the good that was done—either substantively or through publicity.

It seems, then, that this process provided a small gain for those who are exclusively focused on stopping sprawl in the state. However, Pennsylvanians and the state’s environment on the whole lost more then was gained. It also seems clear that unless we reduce the influence of special interests on our legislative process in Pennsylvania, this scenario is likely to be repeated in the future.
## Development PACs

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Memo

To:  Representative Greg Vitali  
From: Mary Conk, Research Analyst  
CC:  Vickie Keller  
Date:  8/29/01  
Re:  Real Estate and Construction Associated Contributions to Governor Ridge’s Campaign

Real Estate and Construction Associated 1994 Election Contribution Totals

1993 Total Contribution $62,267.82  
1994 Total Contribution $579,759.82  
1993 & 1994 combined $642,027.64

Throughout 1993 and 1994, contributions began to trickle in from businesses and individuals related to construction and real estate. During the 1994 election cycle, the majority of contributions came from those businesses and individuals in the construction field, but there were still some weighty investments from the other fields. Most of the companies and individuals that gave during this year gave again during the 1998 election cycle. However, there are some exceptions to this rule. Groups such as The Barness Organization and the Universal City Housing Company only gave during the 1994 election cycle. What is even more interesting is to look at the giving cycle; whether contributions were given in a one time payment, or once every reporting period, or even at one time by several different employees. All of this contributes to the interesting nature of these contributions.
Contributors over $10,000.00 to Governor Ridge’s Campaign

1993 through 1994

1. A. Ross Myers  Contractor  $10,000.00
2. Baldwin Brothers, Inc.  Developer  $13,900.00
3. CCI Construction Company, Inc  Construction  $22,700.00
4. Dick Corporation  Construction  $21,000.00
5. Jingoli Construction  Construction  $22,600.00
6. PA Committee for Affordable Housing  PAC  $26,500.00
7. PA Realtors PAC  PAC  $10,000.00
8. Popple Construction  Construction  $10,000.00
9. Ronald S. Mintz  Developer  $20,000.00
10. Silvi Concrete/ Silvi Realty  Developer  $14,000.00
11. The Barness Organization  Construction  $52,000.00
12. Toll Brothers, Inc.  Developer  $25,000.00
13. Tony DePaul & Son  Developer  $20,000.00
14. Universal City Housing Company  Construction  $21,000.00
15. Walter H. Weaber & Sons, Inc.  Construction  $10,000.00

Real Estate and Construction Associated 1998 Election Contribution Totals

1995 Total Contribution  $123,875.00
1996 Total Contribution  $172,350.00
1997 Total Contribution  $193,250.00
1998 Total Contribution  $365,754.00
In the 1998 election cycle, there is more money being given. This is simply due to the fact that it is a campaign for an incumbent governor. The amount of companies and individuals giving is larger, though the actual sums are in the same area. However, some groups even decreased their contributions. For example, Citizens for Affordable Housing, the homebuilders PAC, gave over $5,000 more in the 1994 cycle than in the 1998 cycle. This could be for any number of reasons. However, once again, it is interesting to note those that are giving large amounts of money to the Governor’s campaign for the second cycle in a row. This time, there are larger contributions coming out of the developer category. While the construction associated contributions remain strong, they are now being rivaled by the developer contributions.

**Contributors over $10,000.00 to Governor Ridge’s Campaign**

*1995 through 1998*

1. A. Ross Myers  
   *Contractor* $23,000.00

2. Crown American Realty Trust  
   *Real Estate* $25,093.49

   *Irregular Payment* 2/27/98 $5,193.49

3. Delta Development Group  
   *Developer* $15,775.49

4. Don Soffer  
   *Developer* $10,000.00

5. Forest City Properties  
   *Developer* $22,000.00

6. Mericle Commercial Real Estate Service  
   *Real Estate* $21,500.00

7. PA Committee for Affordable Housing  
   *PAC* $20,800.00

8. Pennrose Properties  
   *Developer* $13,500.00

9. Pennsylvania Realtors PAC  
   *PAC* $20,000.00

10. Raymond H. Carr Real Estate  
    *Real Estate* $40,000.00

11. Reynolds Construction Management  
    *Construction* $22,300.00

12. Ronald S. Mintz  
    *Developer* $31,000.00

13. Silvi Concrete/ Silvi Realty  
    *Real Estate* $24,250.00

14. Toll Brothers, Inc.  
    *Developer* $23,000.00

15. Tony DePaul & Son  
    *Contractor* $44,000.00

16. The Vartan Building/ Vartan Enterprises  
    *Developer* $12,970.56

   *Irregular Payment* 3/31/98 $816.56
17. Twin City Construction  
   Construction  $10,000.00

18. C & M Home Builders  
   Developer  $50,000.00

   Mr. Ronald S. Mintz, Two contributions in 1998 only.

19. DFC Partners  
   Real Estate  $34,000.00

Methodology

When looking through the individual campaign reports filed by Governor Tom Ridge from 1993 to 1998, the selection process for recorded contributions was clear. In order to count as a contribution from the real estate or construction backgrounds, the contribution had to be over $250. These records were taken from he contributions from Political Action Committees or they were drawn from the individual contributions over $250. Individuals were singled out by what they put down as their occupation, individual research into businesses and the actual name of the company, sometimes listed within the name. If their occupation was listed as developer, construction, contractor, or real estate, their contribution was recorded down. These were all added together to obtain the yearly totals.

This summary page provides a listing of those companies or individuals that contributed more than $10,000 within each election cycle. They are not the sole numbers going into the yearly totals. There is a more complete listing available at your request. The companies and individuals listed were the largest contributors to the Governor’s campaign.
| Provisions       | Original Bills (House Bill 13, 14; Senate Bill 300)                                                                                                                                                                                                 | Acts 67-68                                                                                                                                                                                                                                                                                                                                 :
|------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------:
| **Cooperation**  | - explicitly authorizes intergovernmental cooperation through the multi-municipal comprehensive plans as well as tax revenue sharing (without the need for a joint planning commission)   | - authorizes intergovernmental cooperation (without the need for a joint planning commission, multi-municipal Transfer of Development Rights, and tax revenue sharing.                                                                                                                                                                                                                      |    |
|                  | - gives townships that enter into a multi-municipal plan priority for state grants                                                                                                                                                     | - removes the clause that gave townships that enter into a multi-municipal plan priority for state grants                                                                                                                                                                                                                                                                                   |    |
|                  | - requires that state decisions regarding funding for infrastructure and sewage facilities be consistent with the multi-municipal plans                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                           |    |
|                  | - allows development rights purchased in one municipality to be “transferred” across municipal lines and used in another township                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                           |    |
| **Consistency**  | **Consistency Between Varying Planning Levels:**                                                                                                                                                                                           | **Consistency Between Different Municipal Plans and County Plans:**                                                                                                                                                                                                                                                                |    |
|                  | - requires statement of consistence with the “existing and proposed development plans in contiguous municipalities, with the objectives and plans of the regional planning agency, with the county and State policy plan”   | - requires comprehensive plans to state that they are “compatible” with plans in “contiguous portions” of neighboring municipalities, and that “buffers” have been provided between land uses that are not compatible                                                                                                                               |    |
|                  | - requires municipalities to “establish the process that the county and participating municipalities will use to achieve consistency”                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                           |    |
|                  | **Consistency Between Plans and Zoning:**                                                                                                                                                                                             | **Consistency Between Plans and Zoning:**                                                                                                                                                                                                                                                                                                        |    |
|                  | - requires municipalities that enter into an intergovernmental cooperative agreement with a county to “establish a process” for consistency                                                                                               | - requires municipalities that enter into an intergovernmental cooperative agreement with a county to “establish a process” for consistency                                                                                                                                                                                    |    |
|                  | - requires zoning to “fully implement” the municipal/multi-municipal comprehensive plan                                                                                                                                                | - requires zones to “generally implement” the municipal/multi-municipal comprehensive plan and be “generally consistent” with those plans                                                                                                                                                                                                   |    |
|                  | - requires municipalities to certify to the county that their zoning ordinances are consistent with their municipal plan or the county plan, within one year                                                                                        | - provides a two year time frame in which to achieve “generally implemented” consistency                                                                                                                                                                                                                                             |    |
|                  | - asserts the act of a municipality may be declared invalid if zoning does not implement the comprehensive plan.                                                                                                                           | - removes the clause that asserts that an act of a municipality may be declared invalid if zoning does not implement the comprehensive plan                                                                                                                                                                                   |    |
|                  | **Incentives for Consistency:**                                                                                                                                                                                                        | **Incentives for Consistency:**                                                                                                                                                                                                                                                                                                      |    |
|                  | - gives priority for state planning grants to municipalities that agree to enact municipal or multi-municipal plans that are consistent with county comprehensive plans and which agree to enact zoning ordinances consistent with their plans | - states that priority for state planning grants should go to municipalities which agree to adopt comprehensive plans consistent with the county comprehensive plan and which agree to enact a new zoning ordinance consistent with their plans, but requires that no more than 25% of the total available planning funds is to be disbursed under priority status |    |
|                  | - affords municipalities with consistent plans and zoning legal protection                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                           |    |
| **Concurrency**  | - requires public facilities and services (including education) to be available concurrent with the impact of new developments                                                                                                          | - No provision                                                                                                                                                                                                                                                                                                                                                                          |    |
| **Growth Boundaries** | - allows a municipality to “delineate a growth boundary or boundaries” around designated growth areas to separate them from zones not deemed appropriate for growth                                                      | - No provision                                                                                                                                                                                                                                                                                                                                                                          |    |
| **Corporate Farming** | - No provision - directs the municipalities not to exceed federal regulations on farms regardless of whether any agricultural operation to be affected by the plan is a "concentrated animal operation" - amends the governing of municipal water plans, and requires the recognition of the fact that "commercial agriculture production may impact water supply sources" |
| **Mining** | - No provision - mandates that each municipality shall provide for reasonable coal mining activities in its zoning ordinance - requires water plans to recognize that mining will inevitably pollute water resources - prevents each municipality from regulating mining beyond the scope of the federal law |
| **Impact Fee Caps** | - No provision - states that no more than 50% of the cost of improvements to a state highway may be included as part of an impact fee - changes the formula for determining the impact fee for road improvements - limits the ability of townships to charge "impact fees" to developers |