In June 2000, the Pennsylvania legislature passed and Governor Tom Ridge signed into law “Growing Smarter” amendments to the Municipalities Planning Code (MPC), the law governing the land use authority and responsibilities of counties and local governments. Article XI, entitled “Intergovernmental Cooperative Planning and Implementation Agreements,” gives new powers and incentives to Pennsylvania’s 2,567 local governments to use intergovernmental cooperative agreements to develop and implement multi-municipal land use plans with their neighbors.

The most significant features of the new provisions:

- enable cooperating municipalities to designate growth areas in and around cities, boroughs, and villages where public infrastructure will be provided, and rural resource areas where rural uses will be preferred and infrastructure will not be provided with public funds. Section 1103(1)(2) and (3);
- give cooperating municipalities the ability to distribute all uses in reasonable geographic areas of the plan. Section 1103(c)(4);
- give the cooperating municipalities authority to carry out their plan using their own individually adopted ordinances, without joint zoning, so long as those ordinances are generally consistent with the adopted multi-municipal plan. Section 1105(a)(1); and

Growing Smarter resulted from a bipartisan legislative initiative over many years to improve land use policies in Pennsylvania through amendments to the MPC. Many of the amendments that passed, especially the multi-municipal provisions, were recommendations of the 21st Century Environment Commission.

In 1997 Governor Ridge created the 21st Century Environment Commission, whose 1998 report identified land use as the most pressing environmental priority facing the Commonwealth in the next century. In response, the Governor issued Executive Order 1999-1, which established the following policy goals to guide Commonwealth agencies in making decisions that impact the use of land in Pennsylvania:

1. Soundly planned growth is in the best long term interest of the Commonwealth and should be encouraged at all levels of government.

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provide incentives in Sections 1105 and 1106, including:

- priority consideration in state funding programs of all kinds;
- required consideration of the plan and implementing ordinances by state agencies in making permitting and funding decisions;
- legal advantage in curative amendments challenges if all uses are accommodated in reasonable geographic areas of the plan;
- the availability of special tools that can be used across municipal boundaries—transfer of development rights, sharing taxes or revenues and fees, and specific plans for commercial and industrial development.

The ability to distinguish between growth areas where public infrastructure will be provided and rural areas where it will not is a major new power. It gives direction and legal authority to cooperating municipalities and the courts to recognize that every municipality that chooses to plan and zone does not have to become urbanized, as prior law, through interpretation of the requirement that each municipality provide for all categories of use, seemed to dictate.

The new multi-municipal provisions are not mandates, but options. If chosen, they require a lot of effort and commitment from municipal officials. However, they enable counties and local governments to plan together on issues that need to be looked at regionally—like infrastructure, growth and rural resource areas—but to retain local control over implementation and local land use issues, through their own governing and advisory bodies.
What is Land Use and Why is Land Use Planning Important?

Land use is about where and how human activities are conducted upon the land. The choices and decisions local governments make through planning and regulation, using the powers given to them in the MPC, have powerful consequences for the economic, social, and environmental health of their own communities, the communities in their region, and the state as a whole.

The goal of comprehensive land use planning is to provide for the whole variety of human needs—for housing, jobs, transportation, community facilities, utility infrastructure, agriculture and rural uses, recreation, and the conservation of natural and heritage resources—in a coordinated and integrated way that promotes the welfare and well-being of the community. The comprehensive plan is then implemented by enacting subdivision, zoning, and other ordinances and by taking other actions, such as acquisition of open space or rights-of-way for roads and utilities, that are consistent with the plan and will carry it out. A capital improvement plan assures that the plan will be implemented with fiscally sound investments of public funds.

Good planning is a process that involves interested residents and businesses in a municipality or area of municipalities in shaping the future of their community. Public participation is essential to good planning. People want to know what the plans for their neighborhoods and communities are, where growth is going to go, whether resources they value will be preserved, and how development will affect their lives.

Once a thorough planning and public-participation process has resulted in the adoption of a strong comprehensive plan, it is important that municipal ordinances and actions be generally consistent with the plan.

On the importance of planning and design:

“While good design can mean more tourists, increased jobs, a better tax base, increased property values, and a better quality of life, bad design or no design can lead to polarization and citizen opposition to new development. Without doubt, there would be far less opposition to new developments, of all types, if builders, developers, and public officials paid more attention to the appearance, design, and compatibility of the new development with the existing natural and architectural character of our communities.”


Unlike a zoning or subdivision ordinance, a plan is not a law, but an advisory guide or framework for action.

Pennsylvania’s land use statute is unusual in providing that no action of a governing body can be challenged on the ground that it is inconsistent with a plan. Section 303(c). (See sidebar.) The MPC now requires general consistency between plans and ordinances and between county and local plans. The provision preventing challenges based on inconsistency with the comprehensive plan remains in the law. However, there are new reasons and incentives for municipalities to have a process for determining that their ordinances and proposed changes to them are generally consistent with their plans and with the county plan.

How Multi-Municipal Planning and Implementation Can Address Some of Pennsylvania’s Major Challenges

Sprawl. The momentum for land use reform has been building over many years, but only recently has “sprawl” and the need to do something about it captured the public’s attention. People in Pennsylvania and elsewhere (especially in metropolitan areas) are experiencing traffic congestion, decline of cities and towns, increased taxes in both urban and suburban communities, increasing social and economic segregation of communities, and loss of agricultural lands and open space resulting from the ever-outward expansion of scattered new development.  

There is increasing recognition that land use decisions are fundamental to the economic and social health of cities, towns, and villages; the conservation of rural lands and uses; the preservation of natural, heritage, and fiscal resources; and the quality of life people in communities enjoy. But land use decisions are a complicated mix of forces—from individual family and business decisions to government regulatory, tax, and spending policies. MPC amendments alone cannot address all these issues, but

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they can empower municipalities with new tools to build better communities that will attract and keep people.

Organization and Demographics. Pennsylvania’s diversity and governance structure make land use solutions especially challenging. Ours is both a very urban state with over 1,000 urban municipalities, many in relative decline, and a very rural state with one of the largest rural populations in the nation. It is also a state with very little real growth—just over 1% population growth in the 20 years between 1970 and 1990 and 3.4% in the 1990s—yet one of the highest rates of land consumption per capita in the country.² We are not so much growing as spreading our population around the countryside at significant cost to taxpayers and to the economic viability of our cities, boroughs, and older developed areas, where half of our 12 million people live. In part, an increase in households accounts for this phenomenon—despite very low population growth, over 1,369,648 new homes were built between 1970 and 2000, mostly in suburban and rural places.

Pennsylvania has 2,567 local municipalities—56 cities, 962 boroughs, 1,548 first and second class townships, and one incorporated town. In addition, there are state agencies permitting and funding particular facilities and infrastructure, 67 counties, 501 school districts, and thousands of authorities and special districts—some 5,000 entities with pieces of responsibility for land use decisions. Sometimes these bodies and agencies make decisions that are inconsistent with decisions of other agencies or with local land use plans and regulation.

² For example, according to the USDA’s corrected figures (December 2000) for the 1997 National Resources Inventory, Pennsylvania is ranked 5th in the nation for change in acreage of total non-federal land developed from 1992 to 1997—only Texas, Georgia, Florida, and California rank higher. The states ahead of us have significant population growth, which Pennsylvania has not experienced.
The primary problem for Pennsylvania is not so much the number of functional units, but the lack of coordinating requirements or enabling mechanisms for achieving coordination and consistency among state agency actions, county and local government actions, and the actions of special purpose authorities and districts. The Inter-Agency Task Force established by Governor Ridge’s administration to review and coordinate the impact of state agency actions on land use actions is an important first step at the state level.

Multi-municipal comprehensive plans developed on a cooperative basis with public participation can overcome the negative aspects of multiple entities with different land use responsibilities by providing the framework for consistent action and implementation by all levels of government—local, county, and state—and by public and private entities operating in the area of a plan. This approach also has the advantage of being a bottom-up, democratic planning process involving people and communities that can engage and respect both public and private interests.

What is in this Manual?

The purpose of this manual is to provide helpful information to local and county officials and interested citizens on how to use the new MPC tools. The powers granted in Article XI are broadly stated and intentionally flexible. Their effectiveness depends on municipalities using them well, following the requirements of the MPC and case law for accommodating their fair share of growth in a multi-municipal context, while using the
enhanced powers given to conserve resources. Using a thorough and effective public process, sound planning among cooperating municipalities can achieve these goals in ways that benefit all participants.

This manual is organized to provide basic information and considerations in the numbered sections of the text with sidebars used for various purposes: to quote applicable statutory language; to point out or discuss issues that have a bearing on action called for in the text; to give examples of actions suggested in the text; and to refer to useful publications for further information. Longer discussions of issues, examples, sample agreements, and other documents are included in the appendices to the relevant chapters.

The Power is in Your Hands

While state and federal laws and policies have major impacts on land use, it is local and county officials who have the immense and important job of doing land use planning and regulation. The new law enhances their authority by enabling them to plan together on a larger scale for the benefit of each community in a planning area. This approach can save money on planning—an extensive and expensive undertaking for each local government acting alone. More importantly, it enables the participants to make sustainable land use choices for the planning area that do not chew up the landscape with an endless repetition of subdivisions, strip malls, storage facilities, and industrial parks.

Pennsylvania has extraordinary assets—historic and affordable cities, towns, and rural communities; a magnificent countryside of productive farmland, forested mountains, hills and valleys, lakes, and over 83,000 miles of rivers and streams; a temperate climate and sufficient water to produce a great variety of vegetation. Beyond the critical value of these rural and natural resources for flora and fauna, they are important to people—for environmental health and varied recreational opportunities.

Resources:
Planning publications available from the Governor’s Center for Local Government Services:
- Department of Community and Economic Development’s Planning Series 2001: #1 Local Land Use Controls in PA, #2 The Planning Commission in PA, #3 The Comprehensive Plan in PA, #4 Zoning, #5 The Zoning Hearing Board, #6 Special Exceptions, Conditional Uses and Variances, #7 Subdivision and Land Development Ordinance in PA, #8 The Zoning Officer, #9 Reducing Land Use Barriers to Affordable Housing, #10 Technical Information on Flood Plain Management.
Visit www.planning.org.
Smart Growth Network, Getting to Smart Growth: 100 Policies for Implementation, International City/County Management Association.
With these exceptional assets, Pennsylvania should be a place of choice for residents, businesses, and tourists alike. Instead, despite our outstanding educational institutions, economic development has been hard to attract and young people are leaving for employment elsewhere. Our increasingly elderly population (second oldest in the nation) and minority population (15% statewide) live primarily in our over 1,000 urban communities.

Young people and businesses are attracted to places with vibrant cities and towns with character and accessible “green” resources that offer recreation and a good quality of life. Pennsylvania, with its many cities, boroughs, and villages, has communities with that potential in abundance, but our policies work against them. Development in Pennsylvania is now happening mostly in “greenfields,” where it may be more profitable to build in the short run, but more detrimental to the long term health of communities. With strong land use plans that are well implemented, Pennsylvania’s municipalities could provide certainty and predictability to developers about where development is wanted and needed, and harness their creativity, energy, and investment in ways that allow for new growth, but also stimulate economic development in our existing cities, towns, and villages.

Pennsylvania’s vital industrial past has faded and been replaced by a new age of manufacturing, service, and technology businesses. Tourism, a major industry in the state, depends on keeping our cities and towns healthy and attractive and building on our rural and heritage assets, not engulfing them in sprawling development. Our environment, thanks to federal and state laws, has improved enormously since the turn of the century when most of Pennsylvania’s forests had been cut down and streams and rivers ran with pollution from many uncontrolled sources. There is more to do, and local governments can do some of that job with the enhanced power to plan and zone for the protection of natural and historic resources.

Most importantly, the power to shape the economic and environmental health and quality of life in our cities, towns, and rural communities rests...