

# Growth and Development

**P**ennsylvania townships continue to grow faster in population than any other type of municipal government in Pennsylvania. With 95 percent of the state's land area, townships have more land available for new growth and development. In part, the growth is emanating from the urban areas, where citizens are migrating outward into suburban and rural townships.

The phenomenal residential growth experienced by townships in the last 40 years has created formidable challenges for township governments and their current residents in meeting the demands of new residents for paved roads, sewage systems, police and fire protection, recreation, and many other services.

Studies have consistently shown that residential growth does not pay for itself in the generation of new local tax revenues. In most cases, the cost of new growth results in higher taxes to pay for services and facilities to serve a growing population.

Contrary to popular opinion, township officials cannot stop growth and development nor should they.

PSATS will continue to work with the legislature to address land use issues.

## Local control

Critical to the future ability of townships to manage growth is the retention of municipal control of planning, zoning, subdivision, and other land use decisions. Such decisions cannot and should not be made by the county, state, or federal governments, nor should these levels of government be given

the authority to veto local land use decisions.

By distancing land use decisions from the people who are directly affected, the citizens of the commonwealth will lose their voice in determining the course of future growth and development in their own communities.

PSATS opposes any legislation that would remove, reduce, or inhibit existing municipal subdivision, land use, and zoning controls or pre-empt municipal authority to make local land use decisions.

Land development policies must balance the rights of the community and the legitimate interests of developers and other commercial and industrial interests and not sacrifice the rights of residents and local governments to benefit special interests.

## Fair-share zoning

Under the Municipalities Planning Code, each municipality must zone for every conceivable use within its borders. Acts 67 and 68 of 2000 created a measure of relief from this requirement for municipalities that choose to participate in a multimunicipal comprehensive plan. Participating municipalities are relieved of their "fair-share zoning" requirement to provide for every type of land use within their borders as long

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◀ Critical to the future ability of townships to manage growth is the retention of control of planning, zoning, subdivision, and other land use decisions. In fact, PSATS believes that these decisions cannot — and should not — be made or vetoed by the county, state, or federal governments.

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as the use is adequately provided for within the area of the multimunicipal plan.

However, it should not stop here. PSATS maintains that all municipalities should be able to benefit from this concept if a use is already adequately provided for within a reasonable area. Once a particular land use has reached the level provided for in a municipality's comprehensive plan, the municipality should have the authority to limit further development of that type of use. Otherwise, the municipal comprehensive plan has no meaning.

Further, the MPC should be amended to recognize agricultural zoning as a legitimate zoning classification in Pennsylvania.

## Incentives for cooperation and consistency

PSATS supports voluntary participation in multimunicipal comprehensive plans. Further, PSATS strongly supports the continuation of the general consistency requirements between local and county comprehensive plans and between municipal comprehensive plans and all other local land use ordinances.

The Association supports the use of positive incentives to encourage and promote joint planning and zoning provided it is voluntary. A municipality should not be penalized by the withholding of unrelated state funding on the basis that it

does not participate in a multimunicipal land use arrangement or does not have generally consistent land use ordinances.

However, the Association opposes legislation that would place increased emphasis on the comprehensive plan relative to the zoning ordinance or that would require a municipality to make findings of fact that its ordinances are generally consistent with its comprehensive plan before the municipality could take action on land uses.

## Concurrency

In some states, local governments have the authority to control the timing of property development and population growth — known as concurrency — to ensure that the necessary public facilities and services needed to serve new residents are constructed and made available simultaneously with the impact of new development.

Pennsylvania local governments do not have this critical tool and, all too often, new development is allowed to occur despite the lack of adequate infrastructure and services to accommodate the new residents. The result is traffic gridlock, overburdened sewage systems, and water contamination problems.

Stopping new growth is not the answer, but local officials must have the ability to plan any improvements to infrastructure to serve new development in accordance with their financial capacity to pay for them.

## Impact fees

The state's Impact Fee Law (*Act 209 of 1990, as amended*) imposes prohibitive costs on township residents for extensive studies required to justify the imposition of an impact fee. Instead, a municipality should be allowed to use its existing comprehensive plans and maps to satisfy the requirement under the law to prepare a transpor-



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tation capital improvement plan.

Impact fees should be able to be used for the following:

- 1) construction, acquisition, and expansion of municipal facilities not identified in the capital improvements plan;
- 2) repair, operation, and maintenance of existing or new capital improvements;
- 3) upgrading, updating, expanding, or replacing capital improvements that serve existing land uses to comply with stricter safety, efficiency, environmental, and regulatory standards; and
- 4) preparation of the land use assumptions plan and the capital improvements plan, which are required for the adoption of a transportation impact fee ordinance.

Planners and other experts have been saying that infrastructure needs should not be an afterthought to new development and that needed improvements should precede new development. Choices must be made.

Either the township must be allowed to require new development to concur with its timetable for infrastructure improvements in accordance with its financial capabilities or developers must be willing to help finance these improvements through direct contributions or impact fees.

Fair and flexible legislation is needed to authorize municipalities to require compensation from developers when new development will adversely affect existing off-site public facilities. Development projects should not be approved unless the infrastructure improvements needed to serve the residents are provided for.

### Compliance with local zoning

The commonwealth and all its agencies and political subdivisions must recognize and abide by township land use requirements and all local zoning and land use ordinances, without exception. In addition, state agencies should be prohibited from issuing permits or licenses to applicants who are not in compliance with local ordinances. PennDOT must involve municipalities early in its highway occupancy approval process to avoid a situation where a municipality would be faced with signing the HOP as a co-permittee.

Also, utilities should be required to comply with all local zoning and land use regulations and participate in infrastructure planning. State entities should not waive any permits,

bonds, or development plans required by local land use regulations; instead, these requirements should only be waived by the governing body after the appropriate hearing or procedures.

### Curative amendments

PSATS supports changes to fully restore fairness and equity to the curative amendment process. These changes should include a requirement for the courts to consider the suitability of an applicant's site before granting site-specific relief; an option to allow the municipality to accept a landowner's curative amendment or adopt an alternative amendment to cure the defect; and a mandatory waiting period before additional substantive challenges may be filed.

### Takings

The U.S. Constitution prohibits government from taking or seizing private property without just compensation. Private property rights activists would like to apply this provision to all government restrictions on the use of private property, including legitimate zoning and environmental regulations. For the most part, the courts have supported governmental restrictions that have a reasonable bearing on the public good.

PSATS opposes legislation to require local government to reimburse property owners for any perceived financial loss in the use of their property when exercising valid public health, welfare, and police powers granted to them by the state or federal governments.

Furthermore, PSATS supports federal legislation to require developers and landowners to exhaust all local and state administrative remedies before bringing a takings claim against a municipality in federal court.

### Planning commission

Municipalities should not be required to submit subdivision plans to the county planning agency for review if a township has its own planning commission.

### Collocation and coordination of infrastructure

PSATS supports the collocation and coordination, where appropriate, of utilities, natural gas lines, cable and broadband, telecommunications, sewer, water, and other infrastructure to reduce the proliferation of lines, ensure compliance with best

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practices, and minimize surface disruptions. The location of these lines should be coordinated with local officials for planning and emergency response purposes.

## Pipelines

PSATS supports the creation of a regulatory environment for siting pipelines not currently administered by the Federal Energy Regulatory Commission or the Pennsylvania Public Utility Commission. This should include a notification framework that would require pipeline companies to provide written notice to municipalities, counties, easement-holding non-government entities, and property owners where pipeline activities are planned. Such written notice must be provided to these entities before submissions are made to a regulatory agency for review or approval.

PSATS supports the Local Government Workgroup recommendation to the governor's Pipeline Infrastructure Task Force that would require industry participants to foster cooperation, collaboration, and coordination with municipalities early and often in the pipeline development process and strongly urge the governor and DEP to prioritize this important local collaborative effort as a "top tier initiative" from the task force report.

PSATS urges the commonwealth to establish a communications process between state agencies to 1) collect and disseminate information on the planning, siting, construction, operation, maintenance, management, inspection, safety, and

emergency response procedures for pipelines; and 2) coordinate communications about pipeline activities with federal, state, and local government agencies, regulatory authorities, pipeline companies, and the public.

## Cable

PSATS opposes state and federal legislation that would eliminate a township's capacity to negotiate with any cable or telecommunications provider, usurp a township's authority to protect and maintain its rights of way, or eliminate items currently subject to franchise fees.

## Wireless Facilities

PSATS opposes state and federal legislation that would strip municipalities of their legal authority to regulate wireless facilities both within and outside the public rights of way, exempt these facilities from municipal land use and rights of way regulations, limit a municipality's ability to negotiate and collect reasonable fees for collocation on municipal infrastructure, or grant utility status or the use of eminent domain to such facilities. ❖



PSATS supports the Local Government Workgroup recommendation to Gov. Tom Wolf's Pipeline Infrastructure Task Force that would require industry participants to foster cooperation, collaboration, and coordination with townships early and often in the pipeline development process.



**PENNSYLVANIA STATE ASSOCIATION OF TOWNSHIP SUPERVISORS**

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