
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2515 Session of
2024

INTRODUCED BY PROKOPIAK, KINSEY, HILL-EVANS, KHAN, GIRAL,
SIEGEL, MADSEN, SANCHEZ, PROBST, BRENNAN, BOYD, DONAHUE,
SCHLOSSBERG, BOROWSKI, O'MARA, DALEY AND CEPEDA-FREYTIZ,
JULY 30, 2024

REFERRED TO COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT,
JULY 30, 2024

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, providing for Smart Growth Zoning and
3 Housing Program; and establishing the Smart Growth Zoning
4 District Fund.

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

7 Section 1. Title 53 of the Pennsylvania Consolidated
8 Statutes is amended by adding a chapter to read:

9 CHAPTER 63

10 SMART GROWTH ZONING AND HOUSING PROGRAM

11 Sec.

12 6301. Definitions.

13 6302. Smart Growth Zoning and Housing Program.

14 6303. Submission to department.

15 6304. Minimum requirements.

16 6305. Certificate of compliance.

17 6306. Payments.

1 6307. Design standards.

2 6308. Approval of projects.

3 6309. Administration.

4 6310. Repayment.

5 § 6301. Definitions.

6 The following words and phrases when used in this chapter
7 shall have the meanings given to them in this section unless the
8 context clearly indicates otherwise:

9 "Approved smart growth zoning district." A smart growth
10 zoning district that has been adopted by a municipality and
11 approved by the department in accordance with this chapter and
12 the guidelines of the department, so as to be eligible for the
13 receipt of financial and other incentives.

14 "Attainable housing." Housing attainable to and occupied by
15 individuals and families whose annual income is equal to or less
16 than 120% of the areawide median income as determined by the
17 United States Department of Housing and Urban Development.

18 "Density bonus payment." A one-time payment to a
19 municipality from the Smart Growth Zoning District Fund or other
20 money authorized by the General Assembly for each housing unit
21 of new construction that is created in a smart growth zoning
22 district.

23 "Department." The Department of Community and Economic
24 Development of the Commonwealth.

25 "Developable land area." An area within an roved smart
26 growth zoning district that can be feasibly developed into
27 residential or mixed-use development determined in accordance
28 with guidelines of the department. The term does not include:

29 (1) Land area that is already substantially developed,
30 including existing parks and dedicated, perpetual open space

1 within a substantially developed portion.

2 (2) Open space designated by the municipality as
3 provided in section 6304 (relating to minimum requirements).

4 (3) Areas exceeding one-half acre of contiguous land
5 that are unsuitable for development because of topographic
6 features or for environmental reasons, such as wetlands.

7 "Duplex housing." A residential building with two dwelling
8 units separated by a horizontal or vertical wall.

9 "Dwelling unit." A single unit providing complete
10 independent living facilities for one or more individuals,
11 including permanent facilities for cooking, eating, living,
12 sanitation and sleeping.

13 "Eligible location." An area that, by virtue of the area's
14 infrastructure, transportation access, existing underutilized
15 facilities or location, makes the area a highly suitable
16 location for residential or mixed-use smart growth zoning
17 districts, including, without limitation:

18 (1) Areas near transit stations, including rapid
19 transit, commuter rail and bus and ferry terminals.

20 (2) Areas of concentrated development, including town
21 and city centers and other existing commercial districts.

22 "Housing production summary." A detailed summary of the
23 municipality's:

24 (1) Attainable housing production history.

25 (2) Housing needs and housing demand assessment.

26 (3) Analysis of development constraints and capacity.

27 (4) Current housing goals and strategy for achieving
28 those goals.

29 (5) Proposed locations for attainable housing
30 production.

1 "Mixed-use development." A development containing a mix of
2 residential uses and nonresidential uses, including, without
3 limitation, commercial, institutional, industrial or other uses,
4 all conceived, planned and integrated to create vibrant,
5 workable, livable and attractive neighborhoods.

6 "Municipality." A city, borough, incorporated town or
7 township or home rule municipality.

8 "New construction." Construction of new housing units, the
9 substantial rehabilitation of existing buildings or the
10 conversion to residential use of existing buildings to create
11 additional housing units, to the extent those units could not
12 have been constructed or converted without the smart growth
13 zoning district.

14 "Program." The Smart Growth Zoning and Housing Program
15 established under section 6302 (relating to Smart Growth Zoning
16 and Housing Program).

17 "Project." A proposed residential or mixed-use development
18 within a smart growth zoning district.

19 "Smart growth zoning district." A zoning district adopted by
20 a municipality under this chapter that replaces or is
21 superimposed over one or more zoning districts in an eligible
22 location, in accordance with section 6304.

23 "Triplex housing." A residential building with three
24 dwelling units separated by a horizontal or vertical wall.
25 § 6302. Smart Growth Zoning and Housing Program.

26 (a) Establishment.--The Smart Growth Zoning and Housing
27 Program is established within the department for the purpose of
28 distributing money to a municipality which has adopted by
29 ordinance an approved smart growth zoning district.

30 (b) Creation of district.--By ordinance, a municipality may

1 adopt a smart growth zoning district in an eligible location and
2 may include adjacent areas that are served by existing
3 infrastructure and utilities and that have safe pedestrian
4 access to at least one destination of frequent pedestrian use,
5 such as schools, civic facilities, places of commercial or
6 business use, places of employment, recreation or transit
7 stations. In a smart growth zoning district, a municipality
8 shall zone for primary residential use as of right and may also
9 permit business, commercial or other uses consistent with
10 primary residential use. A smart growth zoning district
11 ordinance shall be adopted by a majority vote of the governing
12 body of the municipality.

13 (c) Duties of department.--The department shall establish
14 guidelines necessary to implement this chapter.

15 § 6303. Submission to department.

16 (a) Application.--The department shall develop and prescribe
17 a method for a governing body of a municipality to submit to the
18 department the necessary materials for a determination of
19 approval for the program. The application shall:

20 (1) Identify and describe the boundaries of the smart
21 growth zoning district.

22 (2) Identify and describe the developable land area
23 within the smart growth zoning district.

24 (3) Identify and describe other residential development
25 opportunities for infill housing and the residential reuse of
26 existing buildings and underutilized buildings within already
27 developed areas.

28 (4) Include a housing production summary, which shall
29 include an estimate of the projected number of units of new
30 construction that could be built in the smart growth zoning

1 district.

2 (5) Include a copy of the smart growth zoning district
3 ordinance.

4 (6) By narrative and exhibits, establish the elements
5 under section 6304 (relating to minimum requirements).

6 (b) Determination.--

7 (1) The department shall approve an application for the
8 program if the smart growth zoning district meets the
9 requirements under section 6304. If approved, the smart
10 growth zoning district shall be eligible for payments and
11 incentives under section 6306 (relating to payments).

12 (2) If the department denies the application, the
13 department shall inform the applicant of the deficiencies in
14 the application. A governing body of a municipality may
15 reapply for approval after addressing any deficiencies in a
16 prior application.

17 (3) If the department does not make a determination on a
18 complete application within 60 days of receipt, the
19 application shall be deemed approved.

20 (c) Revocation.--The department may revoke approval if the
21 municipality fails to meet the minimum requirements for a smart
22 growth zoning district provided under section 6304.

23 § 6304. Minimum requirements.

24 (a) General rule.--A smart growth zoning district shall
25 satisfy the following minimum requirements:

26 (1) Each smart growth zoning district shall be located
27 in an eligible location.

28 (2) The zoning for each smart growth zoning district
29 shall provide for residential use to permit a mix of housing
30 for families, individuals, persons with special needs and the

1 elderly.

2 (3) Housing density in a smart growth zoning district
3 shall be at least 20 units per acre for multifamily housing
4 on the developable land area, eight units per acre for
5 single-family homes on the developable land area and 12 units
6 per acre for duplex housing and triplex housing on the
7 developable land area.

8 (4) The ordinance for each smart growth zoning district
9 shall provide that not less than 20% of the residential units
10 constructed in projects of more than 12 units shall be
11 attainable housing and shall contain mechanisms to ensure
12 that not less than 20% of the total residential units
13 constructed in each smart growth zoning district shall be
14 attainable housing.

15 (5) A smart growth zoning district shall permit infill
16 housing on existing vacant lots and shall allow the provision
17 of additional housing units in existing buildings, consistent
18 with neighborhood building and use patterns, building codes
19 and fire and safety codes.

20 (6) A smart growth zoning district shall not be subject
21 to limitation of the issuance of building permits for
22 residential uses or a local moratorium on the issuance of
23 such permits.

24 (7) A smart growth zoning district shall not impose
25 restrictions on age or any other occupancy restrictions on
26 the district as a whole or any portion thereof or project
27 therein. Applicants may pursue the development of specific
28 projects within a smart growth zoning district that are
29 exclusively for the elderly, the disabled or for assisted
30 living. The department shall adopt guidelines limiting the

1 percentage of units in the district that qualify the
2 municipality for density bonus payments under section 6306
3 (relating to payments) that may be subject to restrictions
4 that limit occupancy exclusively for the elderly, the
5 disabled or for assisted living. Not less than 25% of the
6 housing units in a project that limits occupancy exclusively
7 for the elderly, the disabled or for assisted living within a
8 smart growth zoning district shall be attainable housing.

9 (8) Housing in a smart growth zoning district shall
10 comply with Federal, State and local fair housing laws.

11 (9) A smart growth zoning district may not exceed 15% of
12 the total land area in the municipality. Upon request, the
13 department may approve a larger land area if the approval
14 serves the goals and objectives of this chapter.

15 (10) The aggregate land area of all approved smart
16 growth zoning districts in the municipality may not exceed
17 25% of the total land area in the municipality. The
18 department may approve a larger combined land area if the
19 department determines that the approval serves the goals and
20 objectives of this chapter.

21 (11) Housing density in any smart growth zoning district
22 shall not overburden infrastructure as it exists or may be
23 practicably upgraded in light of anticipated density and
24 other uses to be retained in the district.

25 (12) A smart growth zoning district ordinance shall
26 define the manner of review by the municipality in accordance
27 with section 6308 (relating to approval of projects) and
28 shall specify the procedure for review in accordance with
29 guidelines.

30 (b) Open space.--A smart growth zoning district ordinance

1 may modify or eliminate the municipality's dimensional standards
2 in order to support desired densities, mix of uses and physical
3 character. The standards that are subject to modification or
4 waiver may include height, setbacks, lot coverage, parking
5 ratios and locations and roadway design standards. Modified
6 requirements may be applied as of right throughout all or a
7 portion of the smart growth zoning district, or on a project-
8 specific basis through the smart growth zoning district plan
9 review process as provided in the ordinance. A municipality may
10 designate certain areas within a smart growth zoning district as
11 dedicated perpetual open space as defined in section 2(4) of the
12 act of January 19, 1968 (1967 P.L.992, No.442), entitled "An act
13 authorizing the Commonwealth of Pennsylvania and the local
14 government units thereof to preserve, acquire or hold land for
15 open space uses." The amount of open space shall not be included
16 as a developable land area within the smart growth zoning
17 district. Open space may include an amount of land equal to up
18 to 10% of what would otherwise be the developable land area if
19 the developable land area would be less than 50 acres and 20% of
20 what would otherwise be the developable land area if the
21 developable land area would be 50 acres or more.

22 (c) Mixed use.--The smart growth zoning district ordinance
23 may provide for mixed-use development subject to any limitations
24 that may be imposed by guidelines of the department.

25 (d) Historic district.--A smart growth zoning district may
26 encompass an existing historic district. A municipality, with
27 the approval of the department, may establish a historic
28 district in an approved smart growth zoning district in
29 accordance with the act of June 13, 1961 (P.L.282, No 167),
30 entitled "An act authorizing counties, cities, boroughs,

1 incorporated towns and townships to create historic districts
2 within their geographic boundaries; providing for the
3 appointment of Boards of Historical Architectural Review;
4 empowering governing bodies of political subdivisions to protect
5 the distinctive historical character of these districts and to
6 regulate the erection, reconstruction, alteration, restoration,
7 demolition or razing of buildings within the historic
8 districts," as long as the establishment of the historic
9 district meets the requirements for a historic district and does
10 not render the municipality noncompliant with this chapter, as
11 determined by the department. The historic districts may be
12 coterminous or noncoterminous with the smart growth zoning
13 district. Within any historic district, the requirements of the
14 historic district may apply to existing and proposed buildings.

15 (e) Municipal requirements.--A municipality may require more
16 attainable housing than required by this chapter, both in the
17 percentage of units that must be attainable housing and in the
18 levels of income for which the attainable housing must be
19 accessible, provided that the thresholds may not unduly restrict
20 opportunities for development.

21 (f) Density requirement.--With respect to a municipality
22 with a population of fewer than 10,000, as determined by the
23 most recent Federal decennial census, for hardship shown, the
24 department may, in accordance with guidelines adopted under this
25 chapter, approve zoning for a smart growth zoning district with
26 lower densities than provided in this chapter if the
27 municipality satisfies the other requirements under this
28 section. Approval shall not be withdrawn solely because, in a
29 future census, the population of the municipality exceeds
30 10,000.

1 (g) Amendment or repeal of ordinance.--Any amendment or
2 repeal of a zoning ordinance affecting an approved smart growth
3 zoning district shall require the municipality to make the
4 payment required under section 6310(b) (relating to repayment).
5 Each amendment or repeal shall be submitted to the department
6 with an evaluation of the effect on the number of projected
7 units that will remain developable, if any, in relation to the
8 number of units that have been built and the number of units
9 that determined any corresponding zoning incentive payment paid
10 to the municipality.

11 (h) Authority.--Nothing in this chapter shall affect a
12 municipality's authority to amend its ordinances.

13 § 6305. Certificate of compliance.

14 On or before October 1 of each year after the year of
15 approval of a smart growth zoning district by the department,
16 the department shall send a smart growth zoning district
17 certificate of compliance to each municipality with an approved
18 district. In order to receive a certificate, the municipality
19 shall verify within the time specified by the department that:

20 (1) The municipality has adopted an approved smart
21 growth zoning district ordinance.

22 (2) The certification has not been revoked by the
23 department.

24 (3) The smart growth zoning district is being developed
25 in a manner that reasonably complies with the applicable
26 minimum requirements in section 6304 (relating to minimum
27 requirements).

28 (4) The municipality has not unreasonably denied plans
29 for projects or has only denied plans for projects in a
30 manner consistent with its smart growth zoning district

1 ordinance and this chapter.

2 § 6306. Payments.

3 (a) Establishment of fund.--The Smart Growth Zoning District
4 Fund is established within the State Treasury to provide funding
5 for the program. The General Assembly may appropriate money to
6 the Smart Growth Zoning District Fund from the General Fund for
7 the purpose of awarding incentives and bonus payments through
8 the program.

9 (b) General rule.--Each municipality with an approved smart
10 growth zoning district shall be entitled to payments. The
11 Commonwealth shall pay from the Smart Growth Zoning District
12 Fund, or other money authorized by the General Assembly, a
13 zoning incentive payment to municipalities with an approved
14 smart growth zoning district. The payments shall be made
15 according to the following schedule, subject to available money:

<u>Projected Units of New</u>	<u>Payment</u>
<u>Construction</u>	
<u>Up to 20</u>	<u>\$10,000</u>
<u>21 to 100</u>	<u>\$75,000</u>
<u>101 to 200</u>	<u>\$200,000</u>
<u>201 to 500</u>	<u>\$350,000</u>
<u>501 or more</u>	<u>\$600,000</u>

23 (b.1) Payment upon approval.--Subject to any conditions
24 imposed by the department as a condition of approving a smart
25 growth zoning district, the zoning incentive payment shall be
26 payable upon confirmation of approval of the smart growth zoning
27 district by the department. The projected number of units shall
28 be based upon the zoning adopted in the smart growth zoning
29 district.

30 (c) Bonus payment.--The department shall pay from the Smart

1 Growth Zoning District Fund or other money authorized by the
2 General Assembly a one-time density bonus payment to each
3 municipality with an approved smart growth zoning district. The
4 payment shall be \$3,000 for each housing unit of new
5 construction created in the smart growth zoning district. The
6 amount due shall be paid on a unit-by-unit basis in accordance
7 with department guidelines, upon submission by a municipality of
8 proof of issuance of a building permit for a particular housing
9 unit or units within the district.

10 (d) Preference.--The department, the Department of
11 Environmental Protection and the Department of Transportation
12 shall, when awarding discretionary money, use a methodology of
13 awarding money that favors municipalities with approved smart
14 growth zoning districts and other approved zoning policies or
15 initiatives that encourage increased attainable housing
16 production in this Commonwealth, including inclusionary zoning.
17 § 6307. Design standards.

18 (a) Adoption.--A municipality may adopt, in accordance with
19 program guidelines, design standards applicable to projects
20 undergoing review by the municipality to ensure that the
21 physical character of development within the smart growth zoning
22 district is complementary to adjacent buildings and structures.
23 The standards shall provide for high-density quality development
24 consistent with the character of building types, streetscapes
25 and other municipality features traditionally found in densely
26 settled areas of the municipality or in the region of the
27 municipality.

28 (b) Restrictions.--A design standard shall not be adopted if
29 it adds unreasonable costs to residential or mixed-use
30 developments. A design standard shall not unreasonably impair

1 the economic feasibility of proposed projects. The department
2 may disapprove a request for a smart growth zoning district on
3 account of a design standard adding such unreasonable costs or
4 unreasonably impairing such feasibility.

5 § 6308. Approval of projects.

6 (a) Municipality approval.--A municipality may incorporate
7 provisions within the smart growth zoning district ordinance
8 that prescribe contents of an application for approval of a
9 project. The ordinance may require the applicant to pay for
10 reasonable consulting fees to provide peer review of the
11 applications for the benefit of the municipality, which may be
12 used only for expenses associated with the review of the
13 development application by outside consultants and any surplus
14 remaining after the completion of the review, including any
15 interest accrued, shall be returned to the applicant.

16 (b) Zoning.--An application to a municipality for approval
17 under a smart growth zoning district ordinance shall be governed
18 by the applicable zoning provisions in effect at the time of the
19 submission, while the plan is being processed, pending any
20 appeal and for three years after approval. If an application is
21 denied, the zoning provisions in effect at the time of the
22 application shall continue in effect with respect to any further
23 application filed within two years after the date of the denial
24 except as the applicant may otherwise choose.

25 (c) Duties of municipalities.--An application for approval
26 under this section shall be filed by the applicant with the
27 municipal clerk and a copy of the application, including the
28 date of filing certified by the municipal clerk, shall be filed
29 with the municipality. The municipality shall hold a public
30 hearing for which proper notice has been given. The decision of

1 the municipality shall be made, and a written notice of the
2 decision filed with the municipal clerk, within 120 days of the
3 receipt of the application by the municipal clerk. The required
4 time limits for the action may be extended by written agreement
5 between the applicant and the municipality. Failure of the
6 municipality to take action within the 120-day period or
7 extended time, if applicable, shall be deemed to be an approval
8 of the plan.

9 (d) Additional duty.--The municipality shall issue to the
10 applicant a copy of its decision containing the name and address
11 of the owner, identifying the land affected, and the plans that
12 were the subject of the decision, and certifying that a copy of
13 the decision has been filed with the municipal clerk and that
14 all plans referred to in the decision are on file with the
15 municipality. If 20 days have elapsed after the decision has
16 been filed in the office of the municipal clerk without an
17 appeal having been filed or if an appeal, having been filed, is
18 dismissed or denied, the municipal clerk shall so certify on a
19 copy of the decision. If the plan is approved by reason of the
20 failure of the municipality to timely act, the clerk shall make
21 the certification on a copy of the application.

22 (e) Conditions.--The project shall be approved by the
23 municipality subject only to the following conditions, if
24 necessary:

25 (1) to ensure substantial compliance of the proposed
26 project with the requirements of the smart growth zoning
27 district ordinance; or

28 (2) to mitigate any extraordinary adverse impacts of the
29 project on nearby properties.

30 (f) Denial.--An application may be denied only on the

1 grounds that:

2 (1) the project does not meet the conditions and
3 requirements under the smart growth zoning district
4 ordinance;

5 (2) the applicant failed to submit information and fees
6 required by the ordinance and necessary for an adequate and
7 timely review of the design of the project or potential
8 project impacts; or

9 (3) it is not possible to adequately mitigate
10 extraordinary adverse project impacts on nearby properties by
11 means of suitable conditions.

12 (g) Appeals.--The court of common pleas in the county shall
13 hear an appeal of a decision under this section by a party who
14 is aggrieved by a decision. An appeal may be brought within 20
15 days after the decision has been filed in the office of the
16 municipal clerk. Notice of the appeal, with a copy of the
17 complaint, shall be given to a municipal clerk so as to be
18 received within 20 days. Review shall be based on the record of
19 information and plans presented to the municipality.

20 (h) Run with the land.--A project approval shall remain
21 valid and shall run with the land indefinitely provided that
22 construction has commenced within two years after the decision
23 is issued, which time shall be extended by the time required to
24 adjudicate an appeal from the approval and if the project
25 proponent is actively pursuing other required permits for the
26 project or there is other good cause for the failure to commence
27 construction, or as may be provided in an approval for a
28 multiphase project.

29 § 6309. Administration.

30 The department shall be responsible for the administration,

1 review and reporting on the program as provided in this chapter.
2 The department shall undertake or cause to be undertaken an
3 annual review and the preparation of a report on the program may
4 require data to be provided by municipalities with smart growth
5 zoning districts. The report shall:

6 (1) Be prepared on the basis of the data and made
7 available to the general public and submitted to the General
8 Assembly annually, not later than November 15 of each year,
9 and shall cover the status of the program through the end of
10 the prior fiscal year.

11 (2) Identify and describe the status of municipalities
12 that are actively seeking program approval.

13 (3) Identify approved smart growth zoning districts and
14 the amounts and anticipated timing of one-time density bonus
15 payments during the prior and current fiscal year.

16 (4) Summarize the amount of land areas zoned for
17 particular types of projects in both proposed and approved
18 districts, the number of projects being reviewed by
19 municipalities under section 6308 (relating to approval of
20 projects), including the number and type of proposed
21 residential units, the number of building permits issued, the
22 number of completed housing units and their type, and set out
23 the one-time density bonus payments made to each
24 municipality.

25 (5) For the then-current and the immediately succeeding
26 fiscal years, make estimates for the:

27 (i) Number and size of proposed new districts.

28 (ii) Potential number of residential units to be
29 allowed in new districts.

30 (iii) Anticipated construction activity.

1 § 6310. Repayment.

2 (a) General rule.--If, within three years, no construction
3 of an approved project has been started within the smart growth
4 zoning district, the department shall require the municipalities
5 to repay to the department all money paid to the municipality
6 under this chapter for a smart growth zoning district. The three
7 years shall commence on the date of the payment of the zoning
8 incentive payment for the smart growth zoning district and may
9 be extended by the department for good cause in accordance with
10 the department's guidelines. All money repaid to the department
11 under this section shall be credited to the funding source from
12 which the payment originated.

13 (b) Time.--Within 60 days of enacting an amendment or repeal
14 of an ordinance affecting an approved smart growth zoning
15 district in accordance with section 6304(g) (relating to minimum
16 requirements), the municipality shall repay to the department
17 any portion of the zoning incentive payment received in excess
18 of the zoning incentive payment that would have been payable
19 based on the sum of the number of units that have been built and
20 the number of units, if any, that will remain developable under
21 the smart growth zoning district. The department may include any
22 units that are developable in one or more adopted smart growth
23 zoning districts for which no zoning incentive payment has been
24 paid but for which the municipality is nonetheless eligible if
25 the associated units would have the effect of replacing some or
26 all of the units that will no longer be developable as a result
27 of the proposed amendment or repeal. All money repaid to the
28 department under this section shall be credited to the funding
29 source from which the payment originated.

30 Section 2. This act shall take effect in one year.