

Local Land Use Planning and Controls in Pennsylvania



This guide describes the basic elements of land use planning and regulation available to municipal and county governments under the Pennsylvania Municipalities Planning Code.

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In Pennsylvania, the General Assembly has largely delegated to local government (including counties) the power to plan and regulate land use. Much of this power is granted through the [Pennsylvania Municipalities Planning Code](#) (MPC), but several other state statutes also provide local governments with land use controls including but not limited to the:

- Pennsylvania Sewage Facilities Planning Act (Act 537 of 1966, 35 P.S. § 750.1, et seq.)
- Pennsylvania Storm Water Management Act (Act 167 of 1978 P.L. 864, 32 P.S. § 680.1, et seq.)
- Pennsylvania Flood Plain Management Act (Act 166 of 1978 P.L. 851, No. 166, 32 P.S. § 679.101, et seq.)

This guide focuses on the power provided by the MPC. It reviews the use of planning agencies, comprehensive plans, and land use ordinances by local government units. (The term “local government units” refers to counties, cities, townships, boroughs, towns, and other municipalities.)

For in-depth information, see the [planning publications](#) produced by the [Governor’s Center for Local Government Services](#) as well as the following [ConservationTools.org](#) library topics:

- [Land Use Ordinances and Development Standards](#)
- [Land Use Planning and Community Visioning](#)

Municipalities Planning Code

The [Municipalities Planning Code](#) (Act 247 of 1968, P.L. 805, as reenacted and amended, 53 P.S. § 10101, et seq.), enacted in 1968 and amended numerous times since, gives local government units exclusive authority—and considerable leeway—to plan and regulate land use. The MPC does not require local governments to plan or zone, but does require each county to adopt a comprehensive plan.

The MPC provides a uniform framework for planning and establishing land use laws for all of Pennsylvania’s municipalities and counties with the exception of Philadelphia and Pittsburgh.

Most of the MPC’s provisions are devoted to procedural matters, such as guaranteeing that public notice is given in order to increase citizen awareness of and participation in land use matters. If a person believes a local government has misused its planning powers, the MPC outlines the steps the aggrieved individual can follow to have their day in court.

No ancillary regulations accompany the MPC, but, at over 100 pages, it is lengthy. There is also a large body of case law regarding the MPC to consider when engaging in land use regulation.

The MPC does not assign a state agency to administer any of the land use powers in the event a unit of local government fails to exercise a delegated power. In other words, either the local government performs the function, or no-one does.

U.S. Supreme Court rulings have held that land use regulations are a legitimate use of a municipality’s police powers. However, for a municipality to successfully implement land use regulations, close attention to the details is crucial—from following the MPC’s procedural requirements to ensuring that every regulation serves to advance a valid public purpose.

Planning Agencies

The MPC provides local governments with the authority to establish by ordinance a planning agency. The governing body may create a planning commission, a planning department, or both; alternatively, it may form a planning committee made up solely of members of the governing body. An ordinance that creates both a planning commission and a planning department must specify the respective responsibilities of each.

Agency Types

Planning Commissions

According to the [2015 State Land Use and Growth Management Report](#), about two-thirds of Pennsylvania's municipalities have planning commissions.

A planning commission consists of three to nine members who must be residents of the municipality or county, including a prescribed number of both citizens and government officials. A planning commission member cannot serve on the zoning hearing board (which must be created if a municipality has enacted a zoning ordinance). The MPC does not provide for alternate members to serve on a planning commission. Commission members are appointed by the appointing authority (the mayor, commissioners, supervisors, or council, depending on the local government unit), subject to the approval of the governing body. The term of a planning commission member is four years.

For more information, see the handbook [Planning Commission in Pennsylvania](#) produced by the Governor's Center for Local Government Services

Planning Departments

Planning departments consist of hired staff who are employees of the local government unit.

Planning Committees

A planning committee is comprised entirely of members of the governing body. The MPC requires the engineer for the local government (or one appointed by the government) to serve as engineering advisor, and the solicitor (or one appointed by the government) to serve as legal advisor.

Agency Powers and Duties

Section 209.1 of the MPC lists the things planning agencies *shall* do at the request of governing bodies (e.g., prepare comprehensive plans) and things agencies *may* do at the request of governing bodies (e.g., administer subdivision and land development regulations). [See the full list of powers and duties here.](#)

Often, the powers a governing body delegates to the planning agency depends on the size of the government unit and the planning agency. For example, large municipalities and counties with full-time planning agency staff often delegate approval authority for subdivision and land development applications to the planning agency, whereas small municipalities with all-volunteer planning commissions usually don't delegate that authority.

Comprehensive Plans

Community planning is an organized approach to thinking about the potential futures of a community. A comprehensive plan is an output of the planning effort, providing a blueprint for future growth and a guide to the governing body for shaping land use ordinances and making other land use decisions.

While a plan lays the groundwork for developing zoning and other land use ordinances, it does not regulate land use. Plans depend on local land use ordinances to implement the concepts and recommendations set forth in them.

For more information, see the handbook [The Comprehensive Plan in Pennsylvania](#) provided by the Governor's Center for Local Government Services and the library topic [Land Use Planning and Community Visioning](#).

When Is a Plan Required?

There are three situations in which the MPC requires a local government to adopt a comprehensive plan:

- If a governing body enacts a transportation impact fee ordinance detailed in Article V-A
- If multiple municipalities collectively enact joint zoning controls
- If the governing body is a county

Plan Components

A plan should convey a clear strategy for various land uses, including residential, recreational, agricultural, commercial, and industrial, as well as the necessary infrastructure to serve developments. An MPC-compliant plan has three parts: community goals and objectives, technical background studies, and functional plans (which contain more detail).

MPC Section 301(a) requires each municipal, multi-municipal, and county comprehensive plan to have nine elements:

1. A statement of community development goals and objectives that chart the location, character, and timing of future development
2. A plan identifying the amount, intensity, character, and timing of land use
3. A plan to meet housing needs of present and future residents at all income levels
4. A transportation plan
5. A community facilities plan
6. A statement of the interrelationships among the various plan components, which estimates their environmental, fiscal, and social consequences
7. An outline of short- and long-range plan implementation strategies
8. A statement indicating that existing and proposed development is compatible with plans and development in contiguous municipalities and, in the case of a municipal comprehensive plan, the county comprehensive plan
9. A plan for the protection of natural and historic resources such as wetlands, woodlands, steep slopes, farmland, and floodplains

Adopting a Plan

Effective plans are not created in a vacuum; a successful comprehensive planning process involves citizen participation from the beginning. (The MPC requires that the planning agency hold at least one public meeting, scheduled pursuant to public notice, prior to forwarding a proposed plan to the governing body. The governing body must also hold at least one public hearing. If the proposed plan is substantially revised at any point, the governing body must hold another

public hearing following the public notice procedure set forth in the MPC.)

In addition to public feedback, the governing body must consider the comments of the county and contiguous municipalities, as well as the recommendations of the municipal planning agency.

After these opportunities for input, the governing body can adopt the plan with a majority vote. A governing body may choose to vote on the comprehensive plan document in its entirety, element by element, or piecemeal as each section is completed.

Plan Examples

See the [Comprehensive Plans library topic](#) at ConservationTools.org for examples of comprehensive plans from local government units across Pennsylvania.

Land Use Ordinances

The MPC empowers local governments to enact the following types of land use ordinances:

- Official map ordinance
- Subdivision and land development ordinance
- Zoning ordinance

A majority vote by the governing body is required to enact or adopt a land use ordinance. With proper notice to the public, required reviews, and adherence to the procedures prescribed in the MPC, a governing body can adopt, amend, or repeal a land use ordinance at any time.

Official Map

An official map shows the locations of planned future public lands and facilities such as streets, trails, parks, and open space. It expresses a local government's interest in acquiring these lands for public purposes sometime in the future and notifies developers and property owners of this interest. If a landowner seeks to build on or subdivide land noted on the official map, the local government has up to one year to acquire the land from the owner before the owner may freely build or subdivide.

Municipal base maps, existing or future land use maps, zoning maps, or any map in a comprehensive

plan do *not* constitute official maps, though these can be used to help identify areas for the official map.

For more information, see [The Official Map: A Handbook for Preserving and Providing Public Lands and Facilities](#).

Subdivision and Land Development Ordinance

Section 107 of the MPC defines a subdivision as:

[T]he division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling shall be exempted.

In Pennsylvania, [2,415 municipalities](#) (94%) have enacted subdivision and land development ordinances (SALDOs) or are covered by county ordinances. For more information, see the handbook [Subdivision and Land Development in Pennsylvania](#) provided by the Governor's Center for Local Government Services.

Components

Section 503 of the MPC states that a SALDO may include (but is not limited to) the following:

- Plan submission and processing requirements, including payment schedule for charging of review fees
 - Certification of the accuracy of plans
 - Layout standards
 - Uniform provisions for minimum setback lines and lot sizes based on availability of water and sewage facilities where there is no zoning
 - Design specifications
 - Standards for streets
 - Standards for other public improvements located on site
 - Provisions for phased developments
 - Provisions to encourage flexible and innovative layout and design
- Administrative procedures for granting waivers of modifications where literal compliance with mandatory standards or acceptable alternatives are impossible or unreasonable
 - Provisions to encourage the use of renewable energy systems and energy-efficient buildings
 - Provisions for public dedication of land for recreation purposes (see below for more information)

Administration

There are two aspects to the administration of the SALDO: procedures and standards. The MPC prescribes procedures that local governments or planning agencies must follow in processing subdivision and land development proposals, and officials are responsible for preparing and implementing reasonable design standards to achieve local development objectives.

Public Dedication

SALDO provisions may require developers to dedicate land to municipalities for public parks and recreation purposes. The MPC calls this “public dedication”; many land use professionals refer to it as “mandatory dedication.”

Public dedication is based on the concept of impact fees. Since development creates increased demand for government services and facilities, requiring developers to build or fund public amenities is a way to offset some of the impacts of new development.

The MPC requires that a government’s SALDO contain “definite standards” for determining the amount and location of land required to be dedicated. These standards must “bear a reasonable relationship to the use of the park and recreation facilities by future inhabitants of the development or subdivision.” Because the MPC does not define these phrases, municipalities have taken a variety of approaches to determine appropriate standards.

Municipalities may also provide the option for developers to choose from several alternatives to public dedication:

- Pay a fee to the municipality to be used for providing parks and recreation facilities accessible to the new development (known as fee-in-lieu of land dedication)

- Construct recreational facilities
- Privately reserve land within the subdivision for park and recreation purposes

For more information, see the guide [Public Dedication of Land and Fees-in-Lieu for Parks and Recreation: A Guide to Using Section 503\(11\) of the Pennsylvania Municipalities Planning Code](#).

Zoning Ordinance

A zoning ordinance divides all land within a municipality into districts and creates regulations that apply to the entire municipality as well as specifically to individual districts. Information in the comprehensive plan can form the basis for establishing zoning boundaries and creating specific districts. State law requires zoning ordinances to be consistent with municipal and county plans. In Pennsylvania, [1,739 municipalities](#) (68%) have zoning, either because they have enacted their own zoning ordinance (1,602) or are covered by a county zoning ordinance (137). The remaining 822 municipalities do not have zoning.

For more information, see the handbook [Zoning](#) provided by the Governor's Center for Local Government Services.

Planning vs. Zoning

Though the terms “planning” and “zoning” are often used interchangeably, they have different meanings. Planning looks years and decades into the future, whereas zoning implements elements of a plan in the present.

Administration

Once a zoning ordinance is enacted, neither the planning agency nor the governing body are directly involved in its day-to-day administration. The MPC requires the creation of two separate entities—a zoning officer and a zoning hearing board—for this purpose.

Language

The text of a zoning ordinance contains numerous regulations. Some of these apply equally to every area within the municipality, while others vary from zone to zone. Control over land use is the most important regulation in the ordinance. All land within the municipality is divided into various districts, with

different types of land uses permitted within each district. For example, specific districts are usually created for residential, agricultural, commercial, and industrial uses.

Alternative Zoning-Related Approaches

In recent years, planners and local governments have developed a variety of alternatives to replace or supplement conventional zoning practices. Some examples of alternative techniques authorized by the MPC include:

- [Density incentives](#)
- [Clustering](#)
- [Conservation by design](#)
- [Lot averaging](#)
- [Traditional neighborhood development](#)
- [Transfer of development rights](#)

The most recent version of this guide and related resources can be found at <http://conservationtools.org/guides/58>

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