

Becoming More Sprawl Resistant by Promoting Mixed-Used Development in the Tri-County Area.

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I. Introduction

This narrative will address how the Tri-County Regional Planning Commission (TCRPC) can help Dauphin, Cumberland, and Perry county become more sprawl resistant. This paper will give a background on the problems caused by urban sprawl, the ways it affects the TCRPC budget and its municipalities, and how the current model ordinance can be improved by adding a new section based on what other municipalities are doing to promote smart growth along with its benefits.

The genesis of urban sprawl can be traced back to post World War II. The United States implemented a federal policy, incentivizing families to obtain mortgages, which led to an increased demand for single-family homes.¹ This demand ultimately encouraged suburban growth and outward expansion. In conjunction with single-family homes, the role of the automobile further encouraged urban sprawl.² Once transportation became more affordable along with the expansion of highways, these changes made it more easier to leave cities for the outskirts.³ As a result, people fled from higher populated areas to less populated areas.

In Pennsylvania, urban sprawl has become a threat to the environment, economy, and community. According to a report by Pennsylvania 21st Century Environment Commission, sprawl is responsible for wasted open land and damages habitats and its

¹ Morgan E. Rog, *Highway to the Danger Zone: Urban Sprawl, Land Use, and The Environment*, 22, THE GEORGETOWN INT'L ENVTL L. REV. 707-713 (2009) (discussing the history and issues of sprawl).

² *Id.*

³ *Id.*

natural diversity. It also strains governmental funds to build roads and other public uses.⁴ In addition to the environmental and economic adverse effects, sprawl induced areas have created a barrier for diverse communities. Because there is more access to highways and automobiles, in addition to the demand of oversized single-family homes, this indirectly caused what is known as “White Flight.”⁵

White flight is a migration phenomenon of white people typically ranging from middle to upper class, moving away from urban neighborhoods and into the suburbs.⁶ A recent study examined the 50 most populous metropolitan areas in the country, including Pittsburgh, see a prevailing trend that links to wealthier, white residents leaving diversifying neighborhoods.⁷ Likewise, because there are less affordable housing options in the closest suburbs, people tend to move further away in hopes that housing will be less expensive.

For the tri-county region in particular, sprawl is problematic because it is difficult to appropriate funds for transportation and construction projects. Controlling sprawl induced areas would help avoiding building too far out and allow the county to spend public funds efficiently.⁸ Sprawl similarly contributes to inefficient land use, since the non-contiguous, low-density development makes it difficult to provide services and access daily needs, while increasing the cost of development itself, as well as service

⁴ *Report of the Pennsylvania 21st Century Environment Commission*, (1998), <https://pecpa.org/wp-content/uploads/21st-Century-Environment-Commission-Report.pdf>.

⁵ Rog *supra* at note 1.

⁶ Greta Kaul, *White flight didn't disappear — it just moved to the suburbs*, MinnPost, (March 21, 2018), <https://www.minnpost.com/politics-policy/2018/03/white-flight-didn-t-disappear-it-just-moved-suburbs/>.

⁷ Toni Lisi, *New white flight and suburban displacement: Study looks beyond gentrification in the Pittsburgh region*, PublicSource, (June 12, 2019), <https://www.publicsource.org/new-white-flight-and-suburban-displacement-study-looks-beyond-gentrification-in-the-pittsburgh-region/>.

⁸ Personal Interview with Jerry Duke, AICP, Dauphin County Planning Coordinator for Tri-County Regional Planning Commission (Sep. 9, 2020) (discussed scope of urban sprawl problem and how it impacts TCRPC).

provision and maintenance of the supporting physical infrastructure.⁹ Sprawl also affects the local economy of farmers because the more expansion occurs, the less farmland is available to purchase. Finally, urban sprawl contributes to the “victim” for reuse in Tri-County Regional Growth Plan.¹⁰ This issue comes from the practice of municipal regulations and market forces to encourage development of “cheaper” (in the short term) land in less densely populated areas, discouraging the use or reuse of land within areas of existing services and infrastructure.¹¹

Sprawl does not just affect the tri-county area but also affects other states and cities. Some states have moved in the direction of limiting single-family housing. Some states have even passed laws to prevent urban sprawl moving into farmland. These laws were also drafted with the impact of climate change and racial discrimination caused by sprawl. In Pennsylvania, municipalities use the following elements to address urban sprawl and increase housing density:

- Infill development. The construction of new housing units on scattered sites, vacant lots, within a community.
- Accessory Dwelling Units. The creation of separate housing units within single family homes or on the lot (rental option).
- Mixed-Use Development. The practice of allowing more than one use in a building or set of buildings.
- Adaptive Reuse. The practice of rehabbing old building and reselling it.¹²

⁹ *Id.*

¹⁰ Tri-County Regional Planning Commission, *Regional Management Plan 2040 Update*, 2017, <https://static1.squarespace.com/static/56dc3f9cb654f9876576bab7/t/59f0cf942278e7a844c1c502/150895402229/2040RGMPFullFINALWEB.pdf> (last visited on Nov. 17, 2020).

¹¹ *Id.*

¹² Centre County, PA, *Inclusionary Housing Executive Summary*, http://centrecountypa.gov/DocumentCenter/View/419/inclusionary_housing_executive_summary?bidId=.

These key elements help design a community where it is compact, walkable, and creates less sprawl.

The new model ordinance proposed, also known as “Town Mixed-Use Model Ordinance,” promotes the sustainability trifecta (environment, economy and social) in several ways. In terms of the environment, it decreases the amount of greenhouse gas emissions and increases land use for mixed-use development. Lowering the amount of gas emission consequently improves the air quality.¹³ This ordinance has the ability to also promote economic opportunities to create job growth and help public funding for transportation and highways.¹⁴ Another benefit is the social equity piece. This ordinance allows more flexibility to create mixed-use development such as: affordable housing, granny houses, tiny houses, open spaces etc. in areas that has been restricted to only commercial use. This in turn fosters diversity, inclusion, accessibility, and healthy neighborhoods.

This narrative will first address the sprawl problems in the tri-county area. Second, this paper will examine the current local ordinances that do not adequately provide municipalities with the flexibility to promote mixed-use development to control urban sprawl. Third, this paper will also examine how other municipalities address urban sprawl. And finally, share the recommendation for a new section added to the model zoning ordinance for the tri-county region, provide best practices and possible funding options.

II. The Economic, Environmental and Social Consequences of Sprawl in the Tri-County Region

This section of the paper will address the problems of sprawl and how it affects the Tri-County Regional Planning Commission and the three counties. More specifically, it will take a

¹³ Rog *supra* at note 1.

¹⁴ Todd Litman, *Analysis of Public Policies That Unintentionally Encourage and Subsidize Urban Sprawl*, Victoria Transport Policy Institute, (March 2015).

look at how the current model ordinance does not adequately control urban sprawl. Between governmental factors and lack of flexibility in the current model ordinance, this creates outward expansion and lack of understanding of the associated costs of sprawl.

A. How Urban Sprawl Affects Municipalities in the Tri-County Regional Planning Commission Area

Uncontrolled urban sprawl poses an issue for the Tri-County Regional Planning Commission (TCRPC) directly because the more outward expansion that occurs, the less control of allocation of funds the TCRPC has to devote to the multiple municipalities. The TCRPC receives funding from the federal government and has to distribute for transportation costs across the municipalities. The further the sprawl goes, the more requests for funding construction projects.¹⁵

Outward expansion increases costs for construction and operation to build infrastructures in municipalities. According to research “construction cost for roads, utilities and schools can be up to 25% lower” if municipalities focused on smart growth planning.¹⁶ Sprawl becomes costly because there are no existing infrastructures for schools, housing, and transportation.¹⁷

Newly developed communities in the tri-county area typically have to build or improve roads to serve new expansion. The funding for these projects can be costly and a burden to taxpayers. Municipalities are encouraged to consider Transportation Impact Fees which will help identify the cost of transportation projects and allocate the costs.¹⁸ However, the Transportation

¹⁵ Personal Interview with Jerry Duke, AICP, Dauphin County Planning Coordinator for Tri-County Regional Planning Commission (Sep. 29, 2020) (reconfirmed how sprawl affects TCRCP budget).

¹⁶ Michael Samuels and Donald Elliot, *The Costs of Sprawl in Pennsylvania*, Clarion Associates, 6-9 (January 2000).

<http://10000friends.org/sites/10000friends.org/files/costs%20of%20sprawl%20full%20report%20January%202000.pdf>.

¹⁷ *Id.*

¹⁸ Tri-County Regional Planning Commission Website, *Impact Fees*, <https://www.tcrpc-pa.org/impact-fees> (last visited Sep. 28, 2020).

Impact Fees only apply to new project developments. If it is not a new project, then it will come out of the general fund if it is just an improvement. Studies reveal that many municipalities find “the cost of developing impact fees are either too high, or not worth the return.”¹⁹ The process of assessing the impact fees includes, convening a Transportation Impact Fee Advisory Committee (TIFAC) which must include members of the development industry to guide the process.²⁰ In addition to that, a Land Use Assumption study must be conducted to determine the potential build out of the area in question.²¹ Also, a Roadway Sufficiency Analysis (RSA) and Capital Improvements Plan (CIP) study must also be conducted.²² PennDOT estimates that the costs of these studies and plans could range from \$50,000 to \$65,000.²³ To avoid the high costs, it is important the municipalities have better planning tools to offset sprawl.²⁴ The 2040 Tri-County Regional Commission Planning Growth Plan recommends developing communities to be more strategic with coordinating land use and transportation planning.²⁵ It is imperative for municipalities to provide a link for transportation where people already live and work, shop, and play. This will help reduce the costs of transportation and construction projects and allow the Tri-County Regional Planning Commission to apportion funding.

As for the three counties: Dauphin, Cumberland, and Perry, sprawl affects each county in various ways. Sprawl costs Dauphin county a lot of money, due to cost of services and also reduction and loss of natural system services like water supply, flood mitigation, erosion

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ Tri-County Regional Planning Commission *supra* at note 11.

management.²⁶ Sprawl affects the water and air quality, pollination, and natural resources.²⁷ Suburban sprawl in Dauphin county has been destroying forests, farms and open spaces. There is a need to preserve agricultural land in Dauphin county.²⁸ The county has a Farmland Preservation Program, the board helps preserve open spaces by buying conservation easements.²⁹ This ensures farmers to get their fair value for their land because farming is an essential part of the local economy.³⁰ Sprawl is not only costing Dauphin county money but also the valuable natural resources that money cannot buy.

In Cumberland county the focus for targeting sprawl is based on housing and transportation matters. A projected population study revealed the county would need approximately 23,365 additional dwelling units and out of that total, approximately 4,200 low-income dwelling units will need to be constructed.³¹ These new residences are recommended to be concentrated in an area where public services already exists.³² Cumberland county's housing plan has a goal to control residential sprawl with smart growth techniques and provide affordable housing to its residents.³³

Providing affordable housing is not just a Cumberland county problem but a tri-county problem. In the tri-county area, virtually the entire region is "unaffordable" because the combined housing cost (housing and transportation) exceeds the median income of household

²⁶ Dauphin County Return on Environment Study, *The Economic Value of Protecting, Restoring and Expanding Nature's Financial Benefits*, 2016, <https://kittatinnyridge.org/wp-content/uploads/2015/04/FINAL-DRAFT-DAUPHIN-COUNTY-April-2.pdf> (last visited Nov. 17, 2020).

²⁷ *Id.*

²⁸ Dauphin County Pennsylvania, *Dauphin County Commissioners preserve almost 95-acre Washington Township farm*, 2018, https://www.dauphincounty.org/news_detail_T14_R75.php (last visited Nov. 20, 2020).

²⁹ *Id.*

³⁰ *Id.*

³¹ Cumberland County Comprehensive Plan, Chapter 1, 2003, https://www.ccpa.net/DocumentCenter/View/7173/Ch1_ExecutiveSummary?bidId= (last visited Nov. 20, 2020).

³² *Id.*

³³ See *supra* at note 29.

income.³⁴ The tri-county is trying to lower the combined housing costs to less than 45% of the household income so people can have enough money to live in affordable housing.³⁵

In terms of transportation, Cumberland county wants to discourage sprawl development because expansion of roads is usually postponed and congested.³⁶ The county wants to improve and link existing transportation systems to land-use planning.³⁷ This means promoting all forms of transportation, commuter rail-services, bicycle and pedestrian paths, and possible greenway plans.³⁸ Sprawl makes these different modes of transportation became more difficult when everything is so spread out. Another small point to make is Cumberland county enacted provisions of Act 235 of 2004 to support the Clean and Green program in order to reduce sprawl.³⁹ Because at one point the county was giving preferential tax treatment to qualifying properties, which in turn created developmental sprawl.⁴⁰ The act was adopted in 2006 to discourage this kind of sprawl.⁴¹

For Perry county, the objective behind controlling sprawl is to protect agricultural lands and open space. One of the biggest goals for Perry county is to maintain its rural character.⁴² As of current urban sprawl is not a frequent problem in the county, but it would have a high level of impact to the agrarian culture.⁴³ Should urban sprawl increase in frequency, it would affect the economic development and natural resources. Any future land use plans and zoning ordinances

³⁴ Tri-County Regional Planning Commission *supra* at note 11

³⁵ *Id.*

³⁶ See *supra* at note 29.

³⁷ *Id.*

³⁸ *Id.*

³⁹ 2004 Act 235, 2004, <https://www.legis.state.pa.us/cfdocs/legis/li/uconsCheck.cfm?yr=2004&sessInd=0&act=235>

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² Perry County, PA, *Perry County Comprehensive Plan*, 2015, <https://static1.squarespace.com/static/56dc3f9cb654f9876576bab7/t/57559fd48a65e2cb6419f4ec/1465229268750/2015PerryCoCompPlanCh6.pdf>

⁴³ *Id.*

should be primed for agricultural land protection.⁴⁴ Farmers already have to battle the effects of climate change and what it does to crops. In addition to that, farmers will have to compete with urban sprawl because the more the outward expansion occurs, less land becomes available to purchase.⁴⁵ This will inevitably result in farmers having to move farther away which leads to the problem of transporting food over long distances.⁴⁶ The longer the distances to transport food means increased greenhouse gas emissions. This is why it is important that urban sprawl continues to remain under control in Perry county.

B. Why Existing Ordinances Do Not Adequately Address Sprawl

1. Each Municipality in the Tri-County Area Governs Itself

One of the primary reasons the outward expansion occurs, is because each municipality in the tri-county region governs itself. Sprawl in Pennsylvania can be attributed to the governmental structure of its local municipalities. “Pennsylvania has 2561 separate municipalities—autonomous masters of their own taxation, land use plans and zoning, infrastructure, and services.”⁴⁷ Each municipality governs itself along with its own taxing authority. Because taxes are typically lower in rural areas, this encourages people to move further away which leads to sprawl. Taxes are lower in these areas because there are less services compared to existing infrastructures (police department, fire department, etc.).⁴⁸

Although each municipality can use the Pennsylvania Municipalities Planning Code (PMPC)

⁴⁴ See *supra* note at 37.

⁴⁵ Megan Ray Nichols, *How Does Urban Sprawl Affect Agriculture?*, Sep. 20, 2018, <https://themoderatevoice.com/how-does-urban-sprawl-affect-agriculture/#:~:text=The%20larger%20the%20demand%20on,transport%20food%20over%20long%20distances>. (last visited Nov 26, 2020).

⁴⁶ *Id.*

⁴⁷ James M. McElfish Jr., *New Paths in Existing Law: Opportunities for Pennsylvania to Avoid Sprawl*, 16 Widener L.J., 853, 854-862, 2007 (discussing the governmental factors that encourages sprawl).

⁴⁸ *Id.*

as a guidepost to designate “targeted growth areas” as part of their comprehensive plans, the municipalities still have the discretion to implement parts of the code.⁴⁹ Many comprehensive plans are not reviewed and updated. Most of the plans do not reflect current principles or elements necessary to address sprawl.⁵⁰ When these comprehensive plans are not updated or reassessed, there is a lag in response on how to address the current needs or trends in a municipality.

2. Lack of Flexibility for Mixed-Use Development

Since the Tri-County Model Zoning Ordinance acts a guidepost for Dauphin, Cumberland, and Perry county, flexibility for mixed-use development should be encouraged more to increase housing density. Citing to Article 10 in the “R-2 Medium Density Residential Zoning District” there is no permitted use for accessory dwellings.⁵¹ Additionally, in Article 11 in the “R-3 High Density Residential Zoning District” accessory use or structures are not permitted.⁵² This lack of flexibility for accessory uses causes an issue for mixed-development land use.

The Tri-County Regional Growth Plan has a goal to provide an adequate range and mix of housing options.⁵³ It is important to look at the daily needs to see how the land can be used efficiently.⁵⁴ For example, this can happen by building tiny or granny houses for essential

⁴⁹ Ronald T. Bailey, *Outlawing Sprawl*, Presentation, Pennsylvania Chapter American Planning Association, (Oct. 6, 2009), https://planningpa.org/presentations09/53_Outlawing_Sprawl.pdf.

⁵⁰ McElfish *supra* at note 22.

⁵¹ Tri-County Regional Planning Commission, *Tri-County Regional Planning Commission Model Zoning Ordinance*.

<https://static1.squarespace.com/static/56dc3f9cb654f9876576bab7/t/5756f0e3746fb921225739a3/1465315557401/ModelZoningOrdinance.pdf>

⁵² *Id.*

⁵³ Tri-County Regional Growth Plan see *supra* at note 10.

⁵⁴ *Id.*

workers, especially during the pandemic. Now more than ever, flexibility of housing and mixed-use development, and even redevelopment should be evaluated.

Due to the lack of flexibility the tri-county's model ordinance, this allows other municipalities to draft their ordinances in a similar manner. For example, Derry township in Dauphin county also does not allow tiny houses or granny flats under its Residential Uses Zoning Districts.⁵⁵ Furthermore, there are no permitted uses for a second-floor apartments on commercial properties.⁵⁶ Another prime example is the zoning ordinance for Mechanicsburg in Cumberland county. Citing to its Authorized Land Uses in residential areas, there are no permitted accessory dwelling uses.⁵⁷ This becomes a dilemma because a tiny house is legally considered an Accessory Dwelling Unit (ADU).⁵⁸ Zoning laws and building codes, for the most part, are requiring a minimum square footage for new-construction homes, and the progress to reduce that square footage is slow.⁵⁹ If there is no progress towards these ADU's, there will be no progress in reducing sprawl because of the restrictions imposed on the current ordinances.

C. How Other Municipalities Addressed Urban Sprawl

Sprawl is not just a local problem for the tri-county area but a national one. This section of the paper will look at what other states have done to prevent urban sprawl. More specifically what other municipalities in Pennsylvania have done to combat sprawl by including variety of mixed uses in residential and non-residential zoning districts.

⁵⁵ Zoning Ordinance for Township of Derry, Dauphin County, PA, https://www.derrytownship.org/wp-content/uploads/2019/12/Zoning_Ord_2019_adopted_12.3.19.pdf.

⁵⁶ *Id.*

⁵⁷ Borough of Mechanicsburg, Zoning Ordinance, 2014, <https://www.mechanicsburgborough.org/wp-content/uploads/2019/06/Chapter-27A-Table-2-Authorized-Land-Uses.pdf>.

⁵⁸ Emily Nonko, Tiny house zoning regulations: What you need to know, Sep. 22, 2016, <https://archive.curbed.com/2016/9/22/13002832/tiny-house-zoning-laws-regulations> , last visited (Nov. 24, 2020).

⁵⁹ *Id.*

To address urban sprawl and housing problems, some states and cities have moved to the direction of limiting single family housing. Oregon has a long history in sprawl-fighting since a state law passed in 1973 to prevent urban sprawl moving into farmland.⁶⁰ In 2019, Oregon became the first state to ban single family zoning.⁶¹ Minneapolis eliminated single-family-only zoning to allow three-unit homes citywide in 2018, in part, by increasing housing density, to aim at mitigating the effects of climate change and racial discrimination. Seattle followed to ban single family zoning in 2019.⁶² California started from 2016 to allow owners of single-family house to build accessory dwelling units (ADUs), or “granny flat.” Both Minnesota and California are preparing state regulation to ban single family zoning.⁶³

In Pennsylvania, many local governments have implemented policies and ordinances to control sprawl. One common feature of mixed-use development has been incorporated into several municipality ordinances that are briefed below. While the established ordinances have their own focuses on the mixed-uses, a Montgomery County’s model ordinance provides a complete structure for a mixed-use zoning ordinance.

In the Bensalem Township of Buck County, PA, a special district is set up as R-55 Riverfront Revitalization District.⁶⁴ The Statement of Purpose for this district is “to encourage the redevelopment and revitalization of the Delaware River Waterfront area of the Township” in an approach of harmonious development of a variety of mixed uses in the Riverfront Area.

⁶⁵ The use regulations for this district include a mixture of residential and non-residential

⁶⁰ Christian Britschgi, *Minnesota Is Latest State to Consider Ban on Single-Family Zoning*, Reason, Mar. 11, 2020, <https://reason.com/2020/03/11/minnesota-is-latest-state-to-consider-ban-on-single-family-zoning/>.

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ BENSLEM, PA., CODE div. 12 (2005).

⁶⁵ *Id.*

development, reservation of the existing natural resources or landscape features, and special sports or other facilities.

In the Susquehanna Township of Dauphin County, PA, a special district is set up as Business-Office-Residential District.⁶⁶ The intended purpose for this type of district is to provide a suitable environment for a mixture of specific commercial businesses, professional offices and residential uses. Another special district is set up as Mixed-Use Corridor – High Density District.⁶⁷ This district is to address the revitalization and adaptive reuse of land within the Herr Street and Walnut Street corridors, including the encouragement of a mix of commercial, office, and high density residential uses.⁶⁸

In Lancaster City, PA, a Mixed-Use district is set up as a high-density residential district.⁶⁹ This type of district is a mix of residential uses in close proximity to nonresidential uses, including commercial, cultural, light industrial and other miscellaneous uses to encourage the reuse of former manufacturing structures and undeveloped land.

In the Ferguson Township of Centre County, PA, a Tradition Town Development regulation is set up to sanction, promote, and facilitate the development of fully integrated, mixed use, pedestrian-oriented neighborhoods.⁷⁰ The purpose of this type of development is to minimize traffic congestion, suburban sprawl, and environmental degradation.

Montgomery County, PA, is similar to the tri-county area in pursuing sustainable development goals on building livable, sustainable communities with diversified affordable

⁶⁶ SUSQUEHANNA, PA., CODE §27-1001 (1989)

⁶⁷ SUSQUEHANNA, PA., CODE §27-1401 (1989)

⁶⁸ *Id.*

⁶⁹ LANCASTER, PA., CODE art. I, §300-2 (2019)

⁷⁰ FERGUSON, PA., CODE §27- 303 (2019)

housing.⁷¹ It has built up 16 model ordinances with different zoning focuses. The series has received a national Award of Excellence in the Best Practices category from the American Planning Association and a Certificate of Merit from the PA Chapter of the American Planning Association. One of the 16 model ordinances is the New Town Mixed-Use Model Ordinance.⁷² This model ordinance is designed for a district where compact, walkable, and livable development is appropriate, including residential, commercial and office uses, as well as transit hubs and town center. About one third of homebuyers or renters, such as empty nesters and singles, have preference to this type of district.⁷³ This Montgomery County's model ordinance includes different mixed-use features of the four municipality ordinances briefed above. More specifically, it has three key elements:

- 1) Wide variety of permitted uses - A mixed-use district should permit a wide variety of uses that can complement or at least coexist with each other, including retail, offices, hotels, restaurants, parks, entertainment, apartments (2nd floor), structured parking, etc.⁷⁴
- 2) Diverse mix of uses - The model ordinance's mixing requirements vary depending on the size of the tract. On tracts greater than 10 acres, the mix must include residential and non-residential components.⁷⁵
- 3) Pedestrian-friendly building design - Encouraging true mobility choices such as walking, biking, and accessing transit is essential for compact, mixed use development. The design of streets and sidewalks and how they relate to uses must reinforce these travel choices.⁷⁶

⁷¹ Montgomery County Planning Commission, *MONTCO 2040 Comprehensive Plan*, (2015), https://www.montcopa.org/DocumentCenter/View/7719/Adopted-Montco-2040-Shared-Vision_01_16_2015?bidId=.

⁷² Montgomery County Planning Commission Board, *New Town Mixed-Use District*, (2010), <https://www.montcopa.org/DocumentCenter/View/4101/NTMMOrdFinal?bidId=>].

⁷³ Montgomery County Planning Commission Board *supra* at note 68.

⁷⁴ *Id.*

⁷⁵ *Id.*

D. Sustainability Benefits from Other Municipalities

Municipalities adopting flexible smart growth ordinances for mixed-use development provides various opportunities to become a more sustainable place for its residents. For the environment, smart growth policies reduce the amount of air pollution caused by increased use of automobiles and preserve land. It also impacts the economy by promoting alternative transportation options which aids in job creation. Additionally, once sprawl becomes more contained it allows more concentrated funding for already developed communities. Finally, allowing more flexibility for mixed uses generates diversity and affordable housing.

1. Environmental Benefits: Air and Land

Urban sprawl contributes to the degradation of air pollution and land displacement. The dependence of the automobile contributes to air pollution because the further the expansion of land development, the more travel time spent in cars. Research shows urban sprawl increases greenhouse gas emissions.⁷⁷ Higher-density areas have significantly less ozone and gas emissions because transportation is multi-modal: cycling, walking, and public transit. Research shows that sprawl induced areas that do not provide compact, multi-modal transportation development reduces walking, cycling and public transit use by 40-80%.⁷⁸

To avoid this disparate consequence, it is important that municipalities adopt better smart growth plans that will improve the air quality. Besides air quality, avoiding urban sprawl means preserving land for other essential uses. Land is a valuable resource, and more consideration should be given to avoid land displacement. In theory, many argue that sprawl consumes land but even after development the land is still there. What sprawl actually does is displace open land

⁷⁶ *Id.*

⁷⁷ Rog *supra* at note 1.

⁷⁸ Litman *supra* at note 13.

that could be used for farmland, wetlands, parks, open space, etc.⁷⁹ By not given more consideration to these purposes of land can impact wildlife, groundwater, and ecological activities. Becoming a sprawl resistant community means conserving the land that can help feed or employ people.

2. Economic Benefits

Smart growth policies not only help by improving air quality and land placement but has an economic return on these benefits. Starting with transportation, the less demand for cars means there are multiple ways to get around. Having more accessibility to public transportation, cycling and walking reduces a financial burden on people who are economically disadvantaged to purchase a vehicle. Access to public transit has the opportunity to create jobs because there will be a demand for drivers, mechanics, customer service representatives, etc. In addition, when land is preserved, this will assist in reducing the costs of highways and construction projects. One of the biggest dilemmas the Tri-County Regional Planning Commission faces is how to allocate funds throughout municipalities. Adopting a more flexible smart growth plan allows the funding to be concentrated in higher density areas versus the outward expansion. Funding will be used to put into already developed communities for schooling, policing, sewers, emergency services, etc.

3. Social Equity Benefits- Diversity and Affordable Housing

Municipalities with flexible mixed-use development allows more diversity and affordable housing options. According to the Tri-County Regional Planning Commission Growth Plan, it is important for “residential development to be open to residents of all ages and income levels to access employment, commercial, educational, and recreational opportunities.”⁸⁰ Mixed land use

⁷⁹ *Id.*

⁸⁰ Tri-County Regional Planning Commission *supra* at note 9.

development provides a “more diverse and sizable population and commercial base for supporting viable public transit, and they enhance the vitality and perceived security of an area by increasing the number of people on the street. Mixing land uses helps streets, public spaces and pedestrian-oriented retail again become places where people meet.”⁸¹ This in turn can possible avoid another “White Flight” situation and residential diversity.

Mixed-use development also provides affordable housing to low-middle income residents. Currently, there is a need for affordable housing in Dauphin and Cumberland county.⁸² “The term “affordable housing” is no longer just a euphemism for low-income individuals. Many policemen, schoolteachers, shopkeepers, public works employees and other private sector employees cannot afford to live in the communities where they work.”⁸³ A solution to this problem is mixed-use development, by allowing lots to have more flexibility for residential dwellings. By maximizing the use of a lot, this can offset the costs of urban sprawl. This means allowing medium and high-density residential zones to be permitted in office parks or commercial districts. Lastly, when a community is not dependent on a car, there are more occasions to increase exercise. Having the option to cycle and walk creates a healthier community.

III. Recommendations

⁸¹ Marya Morris, *Smart Codes: Model Land-Development Regulations*, American Planning Association, Report No. 556, (2009), https://planning-org-uploaded-media.s3.amazonaws.com/publication/download_pdf/PAS-Report-556.pdf.

⁸² Personal Interview with Duke *supra* note 8.

⁸³ Governor’s Center for Local Gov’t Services, *Reducing Land Barriers to Affordable Housing Planning Series #10*, Fourth Edition, (August 2001), <https://www.ccpa.net/DocumentCenter/View/7898/planning-series-affordable-housing>.

Tackling urban sprawl is no easy feat, there are a lot of moving parts to get the TCRPC and its municipalities to get to a more flexible and comfortable place for mixed-use development. Here are some recommendations that should be considered:

A. Proposed new addition to the Tri-County Model Ordinance: “Town Mixed-Use Model Ordinance”

A new addition to the current Tri-County Model Ordinance should be added to control the outward expansion of sprawl. This addition can happen by increasing the flexibility for mixed-uses in the current model ordinance for high and medium density areas. The ordinance has certain permitted uses that lays out all of the possible specific uses for a lot. The table is extremely specific and does not allow for flexible uses.

One of the best examples the TCRCP can learn from is the Montgomery County’s New Town Mixed-Use Model Ordinance. The key elements of this model ordinance are the following:

- a) wide variety of permitted uses, (e.g. residential, office, retail, entertainment, etc.), to create lively and sustainable places,
- b) Diverse mix of uses mandatory for tract sizes above ten acres, including both residential and non-residential components, and
- c) pedestrian-friendly building design.⁸⁴

These elements allow the flexibility to incorporate into a mixed-use development ordinance and can provide many benefits to the residents in Dauphin, Cumberland, and Perry county.

⁸⁴ Montgomery County Planning Commission Board, *New Town Mixed-Use District*, p3, (2010), [https://www.montcopa.org/DocumentCenter/View/4101/NTMMOrdFinal?bidId=.](https://www.montcopa.org/DocumentCenter/View/4101/NTMMOrdFinal?bidId=)

Because of the Tri-County Regional Planning Commission needs and its advice, this project focuses on residential housing in small towns with mixed-uses, i.e. the Suburban Core area as defined in Tri-County as one of three growth areas: “suburban and town areas with locally oriented public utilities and services and limited mass transit access, with the possibilities of connections of public services between Urban Core and Growth Areas.”⁸⁵ Currently, Tri-County Model Ordinances do not include any section to address this Suburban Core area. Therefore, we are proposing a “Town Mixed-Use Model Ordinance” for our model ordinance, based on the New Town Mixed-Use Model Ordinance of Montgomery County and the mixed-use sections of other municipality ordinances.

The “Town Mixed-Use Model Ordinance” proposal will directly alleviate the sprawl problem by promoting diverse land uses with higher residential housing density and other settings. The various permissions for housing types will increase residential housing density, especially by permissions of triplexes and apartments. The mandatory mixed-use will bring commercial or office settings close to the residential buildings. In addition, because of the housing density, diverse mix use, and pedestrian-friendly building design, residents, employees, and visitors will find easy choice to walk or take public transportation. Moreover, different housing options of duplex, triplex, and apartment unit, provide affordable housing for low income families with or without private cars to reduce their transportation cost.⁸⁶ The results may be evaluated in two types of measurement by data collected in the future. One measurement for this development is to ensure at least three units per acre for housing density in the targeted Suburban Core area.⁸⁷

B. Updated Comprehensive Plans, Community Asset Mapping and Education

⁸⁵ Tri-County Regional Planning Commission *supra* at note 10.

⁸⁶ *Id.*

⁸⁷ *Id.*

Some of the current problems caused by urban sprawl is because there are no updated measurements or plans to address it. Because many comprehensive plans are not reviewed and updated, there are no current principles or elements necessary to address sprawl. Pennsylvania municipalities interested in reducing sprawl should provide incentives for reviewing and updating comprehensive plans every 10-20 years. This will help municipalities better understand the costs of sprawl.

One solution to being more strategic about comprehensive plans addressing sprawl is conducting a community asset mapping project. Community asset mapping is a strength-based method to assess community development.⁸⁸ There are various approaches to conduct this asset mapping, one approach appropriate for comprehensive plans would be The Heritage Approach.⁸⁹ The Heritage Approach creates a map or list of physical features, natural or built, that make the community a special place.⁹⁰ Assets include natural heritage features such as rivers, park, as well as built features such as an old bridges, historic buildings, etc.⁹¹ This will help the municipalities be more strategic in where to focus mixed-use development while maintaining its most valuable assets. This method of strategy will also bring comfort to those who would have strong pushbacks or feelings towards community development changes. Asset mapping helps educate those in charge of municipalities because it will help them be smarter about how and where to spend their money. The more expansion that occurs, the more expensive it gets to provide sewers and roads. Being more educated about where to build helps key stakeholders in municipalities better evaluate the cost of sprawl and they will be better prepared to combat it.

⁸⁸ Center for Court Innovation, *Introduction to Community Asset Mapping*, https://www.courtinnovation.org/sites/default/files/documents/asset_mapping.pdf (last visited Nov. 21, 2020).

⁸⁹ Tony Fuller, Denyse Guy, and Carolyn Pletsch. *Asset Mapping: A Handbook*, https://community-wealth.org/sites/clone.community-wealth.org/files/downloads/tool-u-guelph-asset_mapping.pdf (last visited Nov. 27, 2020).

⁹⁰ *Id.*

⁹¹ *Id.*

C. Funding

In terms of funding for more mixed-use development, it can be broken down into two categories: private sector and public sector.⁹²

The private sector is the basic driving force of the real estate development and usually fund these types of projects on their own.⁹³ Many private investors get funding from banks and other investment entities to fund mixed-use development projects.⁹⁴ Therefore, if anyone in the private sector wanted to use this “Town Mixed-Use Zoning Ordinance,” they would just be responsible for the construction and building permit fees which varies by project site and municipality.

For the public sector, support is overly critical to the creation of successful mixed-use projects. Local governments play a vital role because they regulate land use and oversee municipal permitting processes.⁹⁵ Many local governments administer impact fees and manage public utilities which provides services to every occupied property within its jurisdiction.⁹⁶ To support mixed-use development there is public funding support at federal, state, regional and local levels.⁹⁷ There are federal funding initiatives to support mixed-use development like tax credit programs, affordable housing vouchers, and tax-abatement districts.⁹⁸ For state funding in Pennsylvania, there are several programs that support mixed-use development. Building PA is a real estate development program that earmarks 150 million state dollars, an amount which is matched by non-

⁹² Delaware Valley Regional Planning Commission, *Financing Mixed-Use Development In The Delaware Valley Region*, (Dec. 8, 2016), <http://www.dvrpc.org/reports/08037.pdf>.

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

profits and private investors to target small and mid-sized communities in the state.⁹⁹

Another program is the Mixed-Use Facility Financing Initiative (MUFFI), a program that supports mixed-use development and revitalization of commercial corridors by closing the funding gaps between residential and commercial lender. MUFFI gives preference to project that involve the rehabilitation of existing structures.¹⁰⁰ For regional and local funding, municipalities and counties may offer a range of funding sources to promote smart growth.¹⁰¹

IV. Conclusion

In summary, by following the best practices of Montgomery county's New Town Mixed-Use District ordinance, has the potential to help the tri-county region to become more sprawl resistant. Permitting a wide variety of mixed-uses in high to medium density areas provides many benefits. It helps the environment by avoiding land displacement and retaining its natural resource. It provides affordable housing options and increases different modes of transportation. As a result, the air quality improves due to less greenhouse gas emissions caused by longer traveling distances. With more pedestrian-friendly options available, this increases people to be more active and healthier. And finally, this model ordinance will help the TCRPC to invest funding into already developed areas and help with their budgetary decisions.

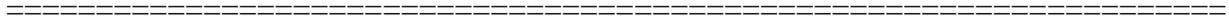
This proposed addition of the "Town Mixed-Use Model Ordinance" will guide other municipalities to draft its ordinances in a similar and flexible fashion. Other states and cities have reduced sprawl by include key elements like wide variety of permitted uses, diverse mix of uses, and pedestrian-friendly buildings. However, it is important that municipalities take the proper

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

measurements to control sprawl by updating its comprehensive plan and target growth areas. With a solid plan and various funding options, there is the potential to save money, natural resources, diversity, and the character of each county.



ORDINANCE NO. _____ AN ORDINANCE OF THE
_____[TOWNSHIP/BOROUGH] OF _____ COUNTY, PENNSYLVANIA, TO
ESTABLISH REGULATIONS RELATED TO THE PROVISION OF TOWN-MIXED USE
ZONING ORDINANCE

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the authority of the
[Council/Board] of the _____ [Township/Municipality] of _____ County,
Pennsylvania:

Chapter 1
Short title and General provisions

Section 101. Short title

This ordinance shall be known as the “Town Mixed-Use Ordinance” of _____
[Municipality].

Section 102. General provisions

(a) Statement of purpose.

The purpose of the Town Mixed-Use (TMU) Ordinance is to reduce residential sprawl in the Tri-County region to align with its Regional Growth Management Plan.¹⁰² Therefore, this ordinance is aligned and enacted for the following purposes:

1. To help influence regional land use and economic development patterns which influences comprehensive transportation. This zoning ordinance will focus on where existing infrastructures are and investing in areas where public transportation is accessible in communities to accommodate the needs of its residents.

¹⁰² *Regional Growth Management Plan 2040 Update*. Tri-County Regional Planning Commission. (2017). <https://static1.squarespace.com/static/56dc3f9cb654f9876576bab7/t/59f0cf942278e7a844c1c502/1508954022229/2040RGMPFullFINALWEB.pdf>

2. To discourage land displacement and unplanned dispersed development which threatens natural areas and resources. To reduce the use of automobiles thus decreasing the emissions of greenhouse gases and improving air quality.
3. To promote diverse land uses like infill, compact and possible redevelopment.
4. To manage residential sprawl and create diverse and affordable housing options. There is a potential for second-floor apartments on commercial or retail properties. Additionally, granny flat or tiny house on residential properties. This type of flexibility creates housing options for all ages and economic backgrounds.¹⁰³
5. To assist in strategic planning to increase private investments which leads to higher property values within these types of commercial development.¹⁰⁴
6. To provide more housing options and decrease unplanned outward expansion, which indirectly fosters diverse neighborhoods.
7. To achieve healthy communities by offering more pedestrian-friendly resources like sidewalks for cycling, running, walking, and other activities.

(b) Legal authority.

This ordinance is adopted under Article I, Section 27 of the Constitution of the Commonwealth of Pennsylvania, Sections 601 and 602 of the Pennsylvania Municipalities Planning Code¹⁰⁵, and Section 1506 and 1601 of the Second-Class Township Code.¹⁰⁶

¹⁰³ *Id.*

¹⁰⁴ Benefits of Mixed-Use Development. Complete Communities Toolbox. <https://www.completecommunitiesde.org/planning/landuse/mixed-use-benefits/> (last visited on 10/24/2020)

¹⁰⁵ Act 247 of 1968, Pennsylvania Municipalities Planning Code, Article VI, § 601 and §602.

¹⁰⁶ Act 69 of 1933, The Second-Class Township Code, Article XV, §1506 and §1601.

Chapter 2

Definitions¹⁰⁷

ACCESSORY BUILDING: A building subordinate to and detached from the main building on the same lot and used for purposes customarily incidental to the main building.

ACCESSORY STRUCTURE: A structure subordinate to and detached from the main building on the same lot, the use of which is customarily incidental to that of the principal structure on the lot.

DWELLING, MULTI-FAMILY (Apartment): A building designed, occupied or used by three or more families living independently of each other, wherein each dwelling unit or apartment shall contain private bath and kitchen facilities; including apartment houses.

DWELLING, SINGLE FAMILY DETACHED: A building used by one (1) family, having only one (1) dwelling unit and having two (2) side yards.

DWELLING, SINGLE FAMILY SEMI-DETACHED: A building used by one (1) family, having one (1) side yard, and one (1) party wall in common with another building. (Duplex)

ECHO HOUSING (Elder Cottage Housing Opportunities): Also known as “granny flat”. It is usually built on a large single-family home lot, and permits a family member, related by blood, marriage or adoption, to live independently but close to relatives on the same lot. The housing consists of one bedroom, a bathroom, living room and kitchen and is connected to the utility system of the main dwelling unit. Sometimes, it is also called **ACCESSORY DWELLING UNIT (ADU)**, and may be rented to non-related persons.

¹⁰⁷ Tri-County Regional Planning Commission, *Tri-County Regional Planning Commission Model Zoning Ordinance*, (2008), <https://static1.squarespace.com/static/56dc3f9cb654f9876576bab7/t/5756f0e3746fb921225739a3/1465315557401/ModelZoningOrdinance.pdf>

Chapter 3

General Requirements

Section 301. Tract Size Requirement

(a) This ordinance requires a tract size of ten (10) acres or above to be designated as Town Mixed Use (TMU) zoning district.

Section 302. Mixed Use Requirements¹⁰⁸

The following mix of use requirements shall be met with the percents of total building floor area within one TMU tract:

- (1) Office uses with minimum percent of 5%, maximum percent of 70%.
- (2) Commercial uses with minimum percent of 5%, maximum percent of 50%.
- (3) Residential use with minimum percent of 20%, maximum percent of 85%

Section 303. Residential Density Requirement¹⁰⁹

Maximum dwelling units per acre are various within the TMU zoning district depending on the dwelling category as follows:

- (1) Dwellings, Single family detached, 5 units per acre,
- (2) Dwellings, Single family semi-detached, 8 units per acre,
- (3) Dwellings, Multiple Family, 12 units per acre (up to 18 units per acre for a new construction of senior single residential building).

¹⁰⁸ Montgomery County Planning Commission Board, *New Town Mixed-Use District*, (2010), <https://www.montcopa.org/DocumentCenter/View/4101/NTMMOrdFinal?bidId=>

¹⁰⁹ SUSQUEHANNA, PA., CODE §27-1404 (1989)

Section 304. Off-street Parking Requirements¹¹⁰

(a) Off-Street Parking - Off-street parking facilities shall be provided to lessen congestion in the streets of the TMU zoning district.

(b) Outdoor Parking - Outdoor parking spaces shall not be deemed to be part of the open space of the lot on which it is located in the TMU zoning district.

(c) Parking Garage - In the case of multi-family and nonresidential uses, free standing parking garages whether above or below ground must conform to all requirement in Chapter 5 of this ordinance .

Section 305. Common Open Space Requirements¹¹¹

(a) Open Space – The following requirements for open space in the TMU zoning district shall apply:

(1) Open space areas shall only consist of plazas, central greens, playing fields, playing courts, playgrounds, trails, greenways with trails, pedestrian malls, promenades, picnic areas, and other similar types of usable, public space

(2) Open space areas shall be designed as focal points within the development and shall make public access as easy and straightforward as possible. Public access shall be guaranteed to all required open space through a deed restriction or other means acceptable to the municipal governing body.

(b) Plaza – The following requirements for plazas in the TMU zoning district shall apply:

(1) Plazas shall be surrounded on all sides by either streets or the front facades of buildings. Perpendicular or angled parking spaces shall not abut plazas. When streets abut

¹¹⁰ Tri-county *Model Zoning Ordinance*. *Supra* at note 11.

¹¹¹ Montgomery County, *New Town Mixed-Use District*, *supra* at note

a plaza, the opposite side of the street from the plaza shall have building front facades rather than parking lots or open space facing the plaza.

(2) At least 25%, but no more than 80%, of the plaza shall be landscaped with trees, shrubs, and mixed plantings with year round interests.

Section 406. Pedestrian and Bicycle Connection Requirements

(a) Circulation System - A convenient, continuous pedestrian circulation system that minimizes the opportunity for pedestrian- motor-vehicle conflicts shall be provided throughout the TMU tract. ¹¹²

(b) Sidewalks - All public streets, except for alleys, shall be bordered by sidewalks on both sides within the TMU tract. However, this shall not eliminate the need for consideration of greenways, trails, or other "off-street" pedestrian routes that would provide access and circulation through the site and to existing and proposed external development.

(c) Walkways - Where pedestrian access is established in locations other than along a public street, the width and material of the walkway shall be consistent with the intended function.

(d) Pedestrian Travel Zone - Where serving predominantly retail or office uses, sidewalks may need to be wider than 5 feet. A pedestrian travel zone of at least 5 feet in width shall be provided in addition to areas of the sidewalk that serve as a building frontage zone and/or fixture/planting zone. ¹¹³

(e) Bicycle Circulation and Parking - The connection and continuation of existing bicycle trails or existing bicycle routes through the site shall be required. Bicycle parking is required to be

¹¹² Montgomery County Planning Commission Board, *supra* at note 9.

¹¹³ *Id.*

provided for all public or semipublic areas and for all non-residential or multi-family land uses.

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Chapter 4

Uses

Section 401. Permitted Uses by Right

(a). Office Uses – The office uses are permitted uses by right in the TMU zoning district as follows:¹¹⁵

- (1) Professional, administrative, and business offices
- (2) Financial institutions, excluding drive-through facilities
- (3) Hotels, bed and breakfast facilities, convention centers, and banquet facilities
- (4) Galleries and museums
- (5) Theaters
- (6) Schools and day care centers
- (7) Government administrative offices, post offices, community centers, and libraries

(b) Commercial Uses – The commercial uses are permitted uses by right in the TMU zoning district as following :¹¹⁶

- (1) Retail commercial sales, excluding drive-through facilities
- (2) Personal service businesses
- (3) Restaurants and other food or beverage establishments, excluding drive through facilities

¹¹⁴ KENNETT SQUARE, PA., CODE of Zoning §18-7 (2020)

¹¹⁵ Montgomery County Planning Commission Board, *New Town Mixed-Use District*, (2010), <https://www.montcopa.org/DocumentCenter/View/4101/NTMMOrdFinal?bidId=>

¹¹⁶ Id.

(4) Studios for dance, music, fitness, art, or photography

(5) Indoor sports facilities, including bowling alley, racquet sports, and health club

(c) Residential Uses – The residential uses are permitted uses by right in the TMU zoning district as follows:¹¹⁷

(1) Dwellings, Single-family detached

(2) Dwellings, Single-family semi-detached

(3) Dwellings, Single-family attached

(4) Dwellings, Multi Family units provided all dwelling units are located on the second floor and above

(d) Common Open Spaces - Parks, plazas, and common open spaces are permitted uses by right in the TMU zoning district.¹¹⁸

(e) Accessory Uses -Accessory uses to a principal use are permitted uses by right in the TMU zoning district.¹¹⁹

(f) Structured Parking - Structured parking garages or structural parking within a principal building are permitted uses by right in the TMU zoning district, provided that is located within fifty (50) feet of a street curb line from a related building.

Section 402. Conditional Uses

(a) Residential Uses – The residential uses are conditional uses in the TMU zoning district as follows:

¹¹⁷ SUSQUEHANNA, PA., CODE §27-1401 (1989)

¹¹⁸ Montgomery County, *New Town Mixed-Use District*, *supra* at note 12

¹¹⁹ *Id.*

(1) Dwelling, Multi Family units on the first floor, provided the apartment units are not located on a block or across the street from a block that is primarily comprised of existing or proposed retail and related uses.¹²⁰

(2) Townhouses dwelling units, provided they are not located on a block or across the street from a block that is primarily comprised of existing or proposed commercial uses.¹²¹

(3) ECHO housing and ADUs, provided the maximum size of one such unit with no larger than nine hundred (900) square feet of floor area on any single building lot.¹²²

(b) Transit Facilities – Transit facilities are conditional uses within the TMU zoning district, provided buildings over 1,000 square feet in size incorporate ground floor commercial uses.

(c) Temporary Surface Parking – Temporary surface parking lots as a principal use are conditional uses within the TMU zoning district, provided the parking lot is not located on the principal commercial street of the development.

Section 403. Prohibited Uses¹²³

The following uses are prohibited within the TMU zoning district:

- (1) Drive-through window or facilities
- (2) Automobile or other vehicle sales, service, or repair establishments
- (3) Gasoline service station and filling station
- (4) Self-service storage facilities
- (5) Adult entertainment uses

¹²⁰ Id.

¹²¹ Id.

¹²² Tri-county *Model Zoning Ordinance*. *Supra* at note 11.

¹²³ Id.

Chapter 5

Dimensional Requirements

Section 501. All lots in the TMU zoning district shall meet the dimensional requirements in this section.

(a) Lot Area Requirements – A lot area shall meet the minimum requirements as follows:¹²⁴

- (1) All apartments and non-residential uses do not have minimum lot size required.
- (2) Minimum Net Lot Area for townhouses and apartments is 2,000 square feet.
- (3) Minimum Net Lot Area for single-family detached homes is 5,000 square feet.

(b) Lot Width Requirements – A lot width shall meet the minimum requirements as follows:

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- (1) All apartments and non-residential uses do not have minimum lot width required.
- (2) Minimum Lot Width for townhouses and twins is 20 feet.
- (3) Minimum Lot Width for single-family detached homes is 50 feet.

Section 502. Building Setback¹²⁶

All buildings in the TMU zoning district shall meet the setback requirements in this section.

(a) Building Not Adjacent to a Plaza - When no plaza is between the building and the street, the building setback is required as follows:

- (1) Minimum building setback from street curb lines, portions of buildings up to 40 feet in height, provided buildings are not located within the street legal right-of-way line:

¹²⁴ Montgomery County, *New Town Mixed-Use District*, *supra* at note 12

¹²⁵ *Id.*

¹²⁶ *Id.*

(i). Arterial Streets: 20 feet

(ii). All Other Streets: 12 feet

(2) Minimum building setback from street curb lines is 25 feet for buildings of any portions of buildings from 40 to 75 feet in height.

(3) Maximum building setback from street curb lines for 60% or more of the front facade of the ground floor level of buildings (these standards do not apply to structured parking garages)

(i) Arterial Streets: 35 feet

(ii) All Other Streets: 25 feet

(b) Building Adjacent to a Plaza - Where a plaza is between the building and the street, the building setback from street curb lines shall be the depth of the plaza.

(c) Building not Abutting Street – Where the building’s property lines are not abutting streets, minimum building set back is requires as follows:

(1) 0 feet if portions of buildings are sharing a party wall,

(2) 10 feet if portions of buildings are not sharing a party wall, up to 40 feet in height, or

(3) 20 feet if portions of buildings are not sharing a party wall, from 40 to 75 feet in height.

(d) Separate Building – Where separate buildings are not sharing a party wall, minimum building set back is requires as follows:

(1) 20 feet if portions of buildings are up to 40 feet in height.

(2) 40 feet if portions of buildings are from 40 to 75 feet in height.

(e) Surface Parking – The minimum surface parking area setback from street ultimate right-of-way lines and property lines is 10 feet.

Section 503. Maximum Building Height¹²⁷

(a) Height of principal building shall not exceed 42 feet, except the height of any building may exceed 42 feet in height by one foot for each additional foot by which the width of each yard exceeds the minimum yard regulations of the district; however, under no circumstances shall the height exceed four stories or a maximum of 55 feet.

Section 504. Maximum Lot Impervious Coverage¹²⁸

Any building in the TMU zoning district shall meet the maximum lot impervious coverage as follows:

- (1) Principle Non-residential Building: 80%
- (2) Single Family Detached: 40%
- (3) Residential buildings except Single Family-Detached: 45%

Section 506. Floor Area Ratio¹²⁹

Any building in the TMU zoning district shall meet the floor area ratio (FAR) as follows:

- (1) 1.5 is the maximum FAR with no bonus awarded.
- (2) 2.5 is the maximum FAR with bonus awarded, as described in Chapter 6.

Chapter 6

Bonus Provisions

Section 601. Workforce Housing

¹²⁷ SUSQUEHANNA, PA., CODE §27-1403 (1989)

¹²⁸ Montgomery County Planning Commission Board, *supra* at note 9.

¹²⁹ Id.

Workforce housing in the TMU zoning district is to be promoted by bonus. For the purpose of this section, workforce housing is defined as a unit made available at rents for residents whose income is between 30-60 of Area Median Income (AMI) to determined by the municipality governing body; and home prices for residents whose income is between 80-100% of AMI, adjusted for family size, as determined by the U.S. Department of Housing and Urban development.¹³⁰ An FAR bonus of 0.5 shall be granted by the municipality governing body to a development plan or by the Zoning Officer to a building renovation plan when workforce housing is provided in either plan above in accordance with the following requirements:¹³¹

(1) At least fifty percent of the development's building floor area is residential, and at least ten percent (10%) of the dwelling units are sold or leased as workforce housing units.

(2) External building materials and finishes are the same in type and quality for workforce units as for the market rate units.

(3) Workforce dwelling units are dispersed among the market rate units throughout the development.

(4) For-sale workforce dwelling units shall be deed restricted to guarantee long-term affordability.

Section 602. Green Building¹³²

A FAR bonus of 0.5 shall be granted to a new construction building or a renovated building with one hundred percent (100%) green buildings, in accordance with one of the following:

¹³⁰ *Model Conservation by Design Ordinance for Pennsylvania*, PA Dept of Conservation & Natural Resources, the Governor's Center for Local Gov. Services, Natural Lands Trust, Inc. (2008)

¹³¹ *Id.*

¹³² *Id.*

(1) Green buildings shall include buildings that meet the silver or higher designation in the Leadership in Energy and Environmental Design (LEED) program, as determined by the Green Building Certification Institute¹³³.

(2) Green buildings shall include buildings that meet any national, generally-accepted certification that is equivalent to the LEED silver or higher designation.

Section 603. Environmental Protection

When a land development includes protection of local environmental significant features, a density bonus can be applied and approved by the municipality governing body with discretion.

¹³⁴ A maximum density bonus of ten percent (10%) approved for the protection or rehabilitation of any environmental feature of regional importance determined by the municipality governing body.¹³⁵

Chapter 7

Administration

Section 701. Duties

(a) Board of supervisors

1. The Board of Supervisors shall appoint a Zoning Officer to enforce all duties to necessary enforce the Town Mixed-Use Ordinance. ¹³⁶
2. The Board of Supervisors shall establish by resolution a schedule of fees, charges, and expenses and collection procedures for applications for building permits, conditional

¹³³ <https://www.usgbc.org/leed>

¹³⁴ Marya Morris, *Smart Codes: Model Land-Development Regulations*, American Planning Association, Report No. 556, (2009), https://planning-org-uploaded-media.s3.amazonaws.com/publication/download_pdf/PAS-Report-556.pdf.

¹³⁵ KENNETT SQUARE, PA., CODE §18-7 (2020)

¹³⁶ PROVIDENCE, CODE PA. art. 7(2014)

uses, variances, appeals, amendments, and other matters pertaining to this Zoning Ordinance.¹³⁷

(b) Zoning officer

The provisions of this ordinance shall be enforced by an agent, to be appointed by the Board of Supervisors of [Township/Municipality] _____ who shall be known as the Zoning Officer to carry out the terms of this ordinance.¹³⁸ The Zoning Office shall have the power and duty to do the following:

1. To receive, examine and process all applications and building permits as provided by the terms of this Ordinance. The Zoning Officer shall issue building permits for conditional uses, or for variances after the same have been approved;¹³⁹
2. To record and file all applications for zoning permits and pertinent documents or information and keep them for public record.
3. To inspect properties and land developments to determine compliance with all provisions of this Ordinance.
4. The Zoning Officer shall have the right to enter any building or structure or enter upon any land at any reasonable hour in the course of their duties of inspection.¹⁴⁰
5. To be responsible for keeping this ordinance and the Official Zoning Map updated.
6. To revoke a permit or approval issued under the provisions of this ordinance in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based or for any other cause set forth in the Zoning Ordinance, or otherwise permitted by law;

¹³⁷ *Id.*

¹³⁸ See *supra* note 1.

¹³⁹ See *supra* note 11.

¹⁴⁰ *Id.*

7. The Zoning Officer shall investigate complaints regarding violations of this ordinance.

This investigation shall be completed within fifteen (15) business days of said complaint.¹⁴¹

8. To take enforcement actions as provided by the Pennsylvania Municipalities Planning Code, as amended.¹⁴²

(c) Zoning hearing board

The Zoning Hearing Board will review and determine all appeals in relation to violations of this Ordinance.

Section 702. Building permits

(a) No person or party may develop or redevelop a tract of land greater than 10 acres without being issued a Building Permit for any purpose except in compliance with the literal provisions of this Ordinance.

(b) Building Permits. A Building Permit is required to be issued prior to the start of any of the following activities:¹⁴³

1. Erection, construction, movement, placement, razing, demolition, removal, alteration or expansion (vertical or horizontal) of a structure, building;
2. Change of the type of use or expansion of the use of a structure or area of land greater than 10 acres
3. Creation of a new mixed-use purpose
4. Demolition of a building

¹⁴¹ See *supra* note 11.

¹⁴² See *supra* note 1.

¹⁴³ *Id.*

5. Other activities required to have a permit by this Ordinance

(c) Submittal

1. All applications for a Building Permit in residential, commercial, retail, or accessory dwellings shall be in writing.
2. The building permit application must be accompanied by a site plan showing as necessary to demonstrate conformity to this Ordinance:¹⁴⁴
 - a) Lot: The location and dimensions of the lot.
 - b) Streets: Names and widths of abutting streets and highways.
 - c) Structures & Yards: Locations, dimensions, and uses of existing and proposed structures and yards on the lot and, as practical, of any existing structures within one hundred (100) feet of the proposed structure but off the lot.
 - d) Improvements: Proposed off-street parking and loading areas, access drives, and walks. Proposed sewage disposal system.
 - e) Drawing Scale: For lots less than one half (1/2) acre, the site plan must be at the scale of one (1) inch = twenty (20) feet; for larger lots, the site plan must be at scale of one (1) inch = forty (40) feet. The north point must be shown on all site plans.
3. Such completed application, with required fees by Township or Municipality shall be designated to the Zoning Officer.

(d) Approval of building permit

1. If satisfied that the proposed work and/or use conforms to the provisions of this ordinance and all laws and ordinances applicable thereto, the Zoning Officer shall

¹⁴⁴ PENN TOWNSHIP, PA, ZONING ORDINANCE, *arte VII* (2004), http://www.penntwp.com/ART7_ZOfinal1204.pdf.

issue a permit as soon as possible but no later than ninety (90) days from the receipt of the Building Permit application.¹⁴⁵

2. A party can commence the proposed work and/or use of this ordinance once the Building Permit has been approved.
3. When a Building Permit has been issued, upon completion of work, a final inspection shall be made by Zoning Officer.¹⁴⁶

(e) Denial of building permit - A party whose request for Building Permit has been denied by the Zoning Officer, the party may make a later application for a permit provided all deficiencies which were the basis for the prior denial of the permit have been eliminated.¹⁴⁷

Section 703. Types of uses¹⁴⁸

(a) Permitted by right uses. The Zoning Officer shall issue a building permit under this Ordinance in response to an application that is “permitted by right” if it meets all of the requirements of this ordinance.

(b) Conditional uses. A building permit under this Ordinance for a use requiring a Conditional Use Permit shall be issued by Zoning Officer only in response to a written approval by the Township or Municipality, following a hearing and compliance with any conditions the Township or Municipality require by this ordinance.

(c) Bonus. The Zoning Officer shall issue a building permit under the requirement of Chapter 6 of this Ordinance.

Section 704. Nonconformities

(a) Continuation of nonconforming land uses

¹⁴⁵ See *supra* at note 1.

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ See *supra* at note 1.

All lawful uses of land, buildings, signs, or other structures existing on or before the effective date of this ordinance may be continued, altered, restored, reconstructed, sold, or maintained in accordance with the provisions of this Ordinance.¹⁴⁹

(b) Registering nonconformities

(1) Nonconforming uses and structures must be reported to the Zoning Officer by the owner, user, lessor, or lessee, and be registered by the Zoning Officer within one year of the effective date of this Ordinance.¹⁵⁰

(2) The Zoning Officer, upon proof of a legal nonconformity, may certify the existence of the nonconforming uses and/or structures.¹⁵¹

(3) The Zoning Officer must also keep a filed record of nonconforming uses and structures.¹⁵²

Section 705. Enforcement, Penalties and Remedies

(a) Enforcement

If there is a violation of this ordinance, the Township or Municipality shall initiate enforcement proceedings by sending an enforcement notice, as provided in the following:

(1) The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any party who has filed a written

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² See *supra* at note 15.

request to receive enforcement notices regarding that parcel, and to any other person or party requested in writing by the owner of record.¹⁵³

(2) An enforcement notice shall state the name of owner of record and any other party whom the Township or Municipality intends to take action against.

(3) The location of the property that is in violation.

(4) The specific violation and description of the requirements that have not be met.

(5) The date which steps for compliance must be commenced and completed.

(b) Penalties

1. Property owners and/or parties who have been cited for any violations of the standards identified in this Zoning Ordinance shall be responsible for all costs and fees required by Zoning Hearing Board, Township or Municipality.

2. Fees may include but not limited to, reasonable attorney fees incurred by Township or Municipality, through its consultants and administrative staff in their performance of background investigations, legal proceedings, retributions, and rectification measures.¹⁵⁴

(c) Remedies

1. The recipient of the violation notice has the right to appeal to the Zoning Hearing Board of Township or Municipality within thirty (30) days.¹⁵⁵

¹⁵³ See *supra* at note 1.

¹⁵⁴ See *supra* at note 15.

¹⁵⁵ See *supra* at note 1.

2. Appeal must be in writing and filed with the Zoning Hearing Board of Township or Municipality.
3. The Zoning Hearing Board of Township or Municipality must review the appeal within thirty (30) days of receipt and determine the proper remedies, recommendations, and next steps.
4. The Zoning Hearing Board of Township or Municipality must contact the appellant no later than fifteen (15) days after a determination has been made.
5. A party's failure to comply with appealing the violation notice within thirty (30) days, unless extended by Zoning Hearing Board of Township or Municipality constitutes a violation with possible sanctions. ¹⁵⁶

Section 706. Severability

It is declared here that if any provisions in this Ordinance are to be found invalid or ineffective in whole or part by a court of competent jurisdiction, ¹⁵⁷such invalidity shall not affect any other provision or application of this Ordinance. All other provisions shall continue to be held separately and in full effect.

Section 707. Repeals

The pre-existing [Township/Municipality Zoning Ordinance], as amended is repealed. If any other zoning ordinances or provisions are inconsistent with this Zoning Ordinance, it shall supersede the other ordinances and provisions.

Section 708. Effective date

This ordinance shall become effective 30 days after enactment.

¹⁵⁶ See *supra* at note 15.

¹⁵⁷ See *supra* at note 1.

