

CHAPTER 92
FORMERLY
SENATE BILL NO. 126
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 9, 22, AND 29 OF THE DELAWARE CODE RELATING TO THE REVIEW AND CERTIFICATION OF COMPREHENSIVE PLANS AND THE ROLE OF THE CABINET COMMITTEE ON STATE PLANNING ISSUES AND THE OFFICE OF STATE PLANNING COORDINATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §2656(e), Title 9 of the Delaware Code by striking “Governor’s Advisory Council on Planning Coordination” and substituting in lieu thereof “Cabinet Committee on State Planning Issues”.

Section 2. Amend §2657(b), Title 9 of the Delaware Code by striking “The Governor’s Advisory Council on Planning Coordination’s review” and substituting in lieu thereof “The review by the Cabinet Committee on State Planning Issues”.

Section 3. Amend §2658(a), Title 9 of the Delaware Code by striking “Governor’s Advisory Council on Planning Coordination” and substituting in lieu thereof “Cabinet Committee on State Planning Issues”.

Section 4. Amend §2658(a), Title 9 of the Delaware Code by striking the third sentence therein and substituting in lieu thereof the following:

“Within thirty (30) days of plan submission, the Cabinet Committee on State Planning Issues shall conduct a public meeting, at which time the County shall make a presentation of the plan and its underlying goals and development policies.”

Section 5. Amend § 2658, Title 9 of the Delaware Code by striking subparagraph (c) in its entirety and substituting in lieu thereof the following:

“(c) The planning programs shall be a continuous and ongoing process. The local planning agency shall prepare a report on the progress of implementing the comprehensive plan, which shall be sent to the Office of State Planning Coordination each year after adoption of the comprehensive plan. The report shall be due annually no later than on each anniversary of the effective date of the most recently adopted comprehensive plan or plan update until January 1, 2012, and annually no later than July 1 each year thereafter starting on July 1, 2012. The Cabinet Committee shall forward the report to the Office of State Planning Coordination, which will evaluate it in the context of state goals, policies and strategies, and the plans of other jurisdictions. The Office of State Planning Coordination will integrate the information, land use trends, and changing conditions found in the county's report into the annual report of the Cabinet Committee, which is to be prepared as specified in § 9101(d) of Title 29. It is the intent of this subchapter that periodic updates on amendments to and the implementation of adopted comprehensive plans be communicated through the evaluation and appraisal reports to ascertain trends, monitor implementation and foster ongoing coordination.”

Section 6. Amend § 2658(f), Title 9 of the Delaware Code by striking “[repealed]” and substituting in lieu thereof the following:

“The Cabinet Committee may prescribe a format and guidelines for the preparation of the County's report. Should the Cabinet Committee elect to do so, the Office of State Planning Coordination shall assist the Committee in the development and administration of such guidelines.”

Section 7. Amend §2660, Title 9 of the Delaware Code by striking subparagraph (a) in its entirety it in its entirety and substituting in lieu thereof the following:

“(a) The county shall submit a final comprehensive plan for submission to the Cabinet Committee on State Planning Issues no later than five years after the adoption of the current plan; provided, however, that the county may request an extension of such date by forwarding a written request to the Cabinet Committee at least 90 days prior to the deadline. The basis for the request shall be clearly indicated. The decision whether to grant a request an extension, and the duration of such extension, shall be at the discretion of the Cabinet Committee. Upon completion of the comment period set forth in this subchapter, the County shall solicit public comment and adopt a comprehensive plan for zoning, subdivision and other land use decisions. Such plan shall be updated every 5 years thereafter.”

Section 8. Amend §2660(d), Title 9 of the Delaware Code by striking “Governor’s Advisory Council on Planning Coordination” and substituting in lieu thereof “Cabinet Committee on State Planning Issues”.

Section 9. Amend §4956(e), Title 9 of the Delaware Code by striking “Governor’s Advisory Council on Planning Coordination” and substituting in lieu thereof “Cabinet Committee on State Planning Issues”.

Section 10. Amend §4957(b), Title 9 of the Delaware Code by striking “The Governor’s Advisory Council on Planning Coordination’s review” and substituting in lieu thereof “The review by the Cabinet Committee on State Planning Issues”.

Section 11. Amend §4958(a), Title 9 of the Delaware Code by striking “Governor’s Advisory Council on Planning Coordination” and substituting in lieu thereof “Cabinet Committee on State Planning Issues”.

Section 12. Amend §4958(a), Title 9 of the Delaware Code by striking the third sentence therein and substituting in lieu thereof the following:

“Within thirty (30) days of plan submission, the Cabinet Committee on State Planning Issues shall conduct a public meeting, at which time the County shall make a presentation of the plan and its underlying goals and development policies.”

Section 13. Amend §4958, Title 9 of the Delaware Code by striking subparagraph (c) in its entirety and substituting in lieu thereof the following:

“(c) The planning programs shall be a continuous and ongoing process. The local planning agency shall prepare a report on the progress of implementing the comprehensive plan, which shall be sent to the Office of State Planning Coordination each year after adoption of the comprehensive plan. The report shall be due annually no later than on each anniversary of the effective date of the most recently adopted comprehensive plan or plan update until January 1, 2012, and annually no later than July 1 each year thereafter starting on July 1, 2012. The Cabinet Committee shall forward the report to the Office of State Planning Coordination, which will evaluate it in the context of state goals, policies and strategies, and the plans of other jurisdictions. The Office of State Planning Coordination will integrate the information, land use trends, and changing conditions found in the county's report into the annual report of the Cabinet Committee, which is to be prepared as specified in § 9101(d), Title 29. It is the intent of this subchapter that periodic updates on amendments to and the implementation of adopted comprehensive plans be communicated through the evaluation and appraisal reports to ascertain trends, monitor implementation and foster ongoing coordination.”

Section 14. Amend § 4958(f), Title 9 of the Delaware Code by striking “[repealed]” and substituting in lieu thereof the following:

“The Cabinet Committee may prescribe a format and guidelines for the preparation of the County's report. Should the Cabinet Committee elect to do so, the Office of State Planning Coordination shall assist the Committee in the development and administration of such guidelines.”

Section 15. Amend §4960, Title 9 of the Delaware Code by striking subparagraph (a) in its entirety and substituting in lieu thereof the following:

“(a) The county shall submit a final comprehensive plan for submission to the Cabinet Committee on State Planning Issues no later than five years after the adoption of the current plan; provided, however, that the county may request an extension of such date by forwarding a written request to the Cabinet Committee at least 90 days prior to the deadline. The basis for the request shall be clearly indicated. The decision whether to grant a request an extension, and the duration of such extension, shall be at the discretion of the Cabinet Committee. Upon completion of the comment period set forth in this subchapter, the County shall solicit public comment and adopt a comprehensive plan for zoning, subdivision and other land use decisions. Such plan shall be updated every 5 years thereafter.”

Section 16. Amend §4960(d), Title 9 of the Delaware Code by striking “Governor’s Advisory Council on Planning Coordination” and substituting in lieu thereof “Cabinet Committee on State Planning Issues”.

Section 17. Amend §6956(e), Title 9 of the Delaware Code by striking “Governor’s Advisory Council on Planning Coordination” and substituting in lieu thereof “Cabinet Committee on State Planning Issues”.

Section 18. Amend §6957(b), Title 9 of the Delaware Code by striking “The Governor’s Advisory Council on Planning Coordination’s review” and substituting in lieu thereof “The review by the Cabinet Committee on State Planning Issues”.

Section 19. Amend §6958(a), Title 9 of the Delaware Code by striking “Governor’s Advisory Council on Planning Coordination” and substituting in lieu thereof “Cabinet Committee on State Planning Issues”.

Section 20. Amend §6958(a), Title 9 of the Delaware Code by striking the third sentence therein and substituting in lieu thereof the following:

“Within thirty (30) days of plan submission, the Cabinet Committee on State Planning Issues shall conduct a public meeting, at which time the County shall make a presentation of the plan and its underlying goals and development policies.”

Section 21. Amend §6958, Title 9 of the Delaware Code by striking subparagraph (c) in its entirety and substituting in lieu thereof the following:

“(c) The planning programs shall be a continuous and ongoing process. The local planning agency shall prepare a report on the progress of implementing the comprehensive plan, which shall be sent to the Office of State Planning Coordination each year after adoption of the comprehensive plan. The report shall be due annually no later than on each anniversary of the effective date of the most recently adopted comprehensive plan or plan update until January 1, 2012, and annually no later than July 1 each year thereafter starting on July 1, 2012. The Cabinet Committee shall forward the report to the Office of State Planning Coordination, which will evaluate it in the context of state goals, policies and strategies, and the plans of other jurisdictions. The Office of State Planning Coordination will integrate the information, land use trends, and changing conditions found in the county's report into the annual report of the Cabinet Committee, which is to be prepared as specified in § 9101(d), Title 29. It is the intent of this subchapter that periodic updates on amendments to and the implementation of adopted comprehensive plans be communicated through the evaluation and appraisal reports to ascertain trends, monitor implementation and foster ongoing coordination.”

Section 22. Amend § 6958(f), Title 9 of the Delaware Code by striking “[repealed]” and substituting in lieu thereof the following:

“The Cabinet Committee may prescribe a format and guidelines for the preparation of the County's report. Should the Cabinet Committee elect to do so, the Office of State Planning Coordination shall assist the Committee in the development and administration of such guidelines.”

Section 23. Amend §6960, Title 9 of the Delaware Code by striking subparagraph (a) in its entirety and substituting in lieu thereof the following:

“(a) The county shall submit a final comprehensive plan for submission to the Cabinet Committee on State Planning Issues no later than five years after the adoption of the current plan; provided, however, that the county may request an extension of such date by forwarding a written request to the Cabinet Committee at least 90 days prior to the deadline. The basis for the request shall be clearly indicated. The decision whether to grant a request an extension, and the duration of such extension, shall be at the discretion of the Cabinet Committee. Upon completion of the comment period set forth in this subchapter, the County shall solicit public comment and adopt a comprehensive plan for zoning, subdivision and other land use decisions. Such plan shall be updated every 5 years thereafter.”

Section 24. Amend §6960(d), Title 9 of the Delaware Code by striking “Governor’s Advisory Council on Planning Coordination” and substituting in lieu thereof “Cabinet Committee on State Planning Issues”.

Section 25. Amend §101(6), Title 22 of the Delaware Code by striking “Governor's Advisory Council on Planning Coordination” and substituting in lieu thereof “Office of State Planning Coordination.”

Section 26. Amend §702(e), Title 22 by striking the period (“.”) after the phrase “10 years,” and substituting in lieu thereof the following:

“; provided, however, the municipality may request an extension of such date by forwarding an official request to the Cabinet Committee at least 90 days prior to the deadline. The basis for the request shall be clearly indicated. The decision whether to grant a request an extension, and the duration of such extension, shall be at the discretion of the Cabinet Committee.”

Section 27. Amend §702, Title 22 of the Delaware Code by striking subparagraph (f) in its entirety and substituting in lieu thereof the following:

“(f) The comprehensive plan or amendments or revisions thereto shall be submitted to the Office of State Planning Coordination for review at such time as the plan is made available for public review. The plan shall be reviewed in accordance with the Comprehensive Plan Review and Certification Process detailed in §9103 of Title 29.”

Section 28. Amend §702(g), Title 22 of the Delaware Code by striking this section in its entirety and substituting in lieu thereof the following:

“(g) Municipalities shall provide to the Office of State Planning Coordination a report describing implementation of their comprehensive plan and identifying development issues, trends or conditions since the plan was last adopted or amended. The report shall be due annually no later than on each anniversary of the effective date of the most recently adopted comprehensive plan or plan update until January 1, 2012, and annually no later than July 1 each year thereafter starting on July 1, 2012.”

Section 29. Amend §9101(c)(4), Title 29 of the Delaware Code by striking the period (“.”) and substituting in lieu thereof “; and”.

Section 30. Amend §9101, Title 29 of the Delaware Code by a new subparagraph (c)(5) as follows:

“(5) Preparing the Strategies for State Policies and Spending document and maps, which shall serve as the primary policy guide that summarizes the State's land use goals, policies and strategies and directs State spending into investment levels that support the most efficient use of State resources, be they physical, fiscal, or natural, except that county and municipal governments shall retain their existing autonomy with respect to the land use designations set forth in their proposed and/or adopted comprehensive plans. The Strategies for State Policies and Spending shall be updated at least every five years, provided that the Governor may extend the deadline at his or her discretion.”

Section 31. Amend § 9101, Title 29 of the Delaware Code by striking paragraph (h) in its entirety and substituting in lieu thereof the following:

“(h) The Office of State Planning Coordination shall render local planning technical assistance. The Office of State Planning Coordination may serve as the lead agency to engage other state agencies, local governments, and other governmental and non-governmental organizations for the purposes of coordinating planning activities, promoting liaison between various state agencies and local governments, building capacity through training and sharing of digital and other information, developing infrastructure plans and master plans, addressing specific growth and design issues, and such other actions as are appropriate to achieve the purposes of this chapter. The Office of State Planning Coordination shall develop and promote cooperation and coordination among state agencies and local governments to ensure effective and efficient planning and infrastructure investment. The Office of State Planning Coordination may make grants available to county and municipal governments to assist them in achieving any of the objectives outlined in this section, provided that funded activities and deliverables are in compliance and in harmony with the Strategies for State Policies and Spending.”

Section 32. Amend Chapter 91, Title 29 of the Delaware Code by striking §9102 in its entirety and substituting in lieu thereof the following: “§9102. [Deleted.]”

Section 33. Amend §9103(d), Title 29 of the Delaware Code by striking “Advisory Council on Planning Coordination” and substituting in lieu thereof “Cabinet Committee on State Planning Issues”.

Section 34. Amend §9103, Title 29 of the Delaware Code by striking paragraph (e) in its entirety and substituting in lieu thereof the following:

“(e) For municipal comprehensive plans, the Office of State Planning Coordination shall submit a final comprehensive plan report and recommendation to the Governor or designee for certification. The Governor may designate the State Planning Coordinator as the designee, and may prescribe any policies and procedures deemed necessary to allow municipal plans to be certified by the Office of State Planning Coordination provided that the plan, amendment, update or revision thereto is found to be consistent with state goals, policies and strategies, and not in conflict with plans of other jurisdictions. If there is a finding that such a plan, amendment, revision or update is inconsistent or if there is a dispute, the report and the plan are to be forwarded to the Cabinet Committee for State Planning Issues and shall follow the same process as for the certification of county plans. For county comprehensive plans, the Office of State Planning Coordination shall submit a final comprehensive plan report and recommendation to the Cabinet Committee on State Planning Issues. The Cabinet Committee shall consider the report submitted by the Office of State Planning Coordination, appropriate state land development goals and strategies, comments submitted by any impacted jurisdiction and such other information as it may determine to be appropriate and in the public interest. The Cabinet Committee may, in its discretion, conduct a public hearing on the proposed comprehensive plan or amendment or revision thereto, except that no hearing shall be held if the proposed plan, amendment, update or revision thereto is found to be consistent with the state goals, policies and strategies, and not in conflict with plans of other jurisdictions. Within 45 days of the receipt of the report from the Office of State Planning Coordination, the Cabinet Committee shall issue its findings and recommendations, and shall submit the proposed plan to the Governor or designee for certification. The State Planning Coordinator may not be the designee for the review and certification of county plans.”

Section 35. Amend §9103(f), Title 29 of the Delaware Code by striking “Council” in the first sentence therein and substituting in lieu thereof “Cabinet Committee”.

Section 36. Amend §9122, Title 29 of the Delaware Code by striking subsection (1) thereof and renumbering subsections (2)-(11) as subsections (1)-(10), respectively.

Section 37. Amend §9123(a), Title 29 of the Delaware Code by striking “Advisory Council” as it appears therein and substituting in lieu thereof “Cabinet Committee on State Planning Issues”.

Approved July 05, 2011