



Legislation Text

File #: 220078, Version: 0

Amending Title 6 of The Philadelphia Code, entitled "Health Code," to add a new Chapter 6-1400, entitled "Cumulative Impacts Assessment," to provide for the identification of environmental justice communities and inclusion of cumulative impacts assessments as part of certain permit and license review and approval processes, to provide for the administration and enforcement of the cumulative impacts assessment approval process, and make certain technical changes; and amending Chapter 21-3000, entitled "Environmental Justice Reporting," to further provide for certain powers and duties of the Environmental Justice Advisory Committee, and make certain technical changes; all under certain terms and conditions.

*THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

SECTION 1. Title 6 of the Philadelphia Code is hereby amended to read as follows:

TITLE 6. HEALTH CODE

\* \* \*

*CHAPTER 6-1400. CUMULATIVE IMPACTS ASSESSMENT.*

*§ 6-1401. Legislative Findings*

- (1) The intent of the legislation is to protect public health to the maximum extent possible employing the full authority of the Department of Health and relevant other agencies, with the goal of minimizing or avoiding all negative impacts to the most exposed and most vulnerable community members.

*§ 6-1402. Definitions.*

*Reserved.*

*§ 6-1403. Environmental justice mapping.*

- (1) The Department of Public Health, or such other Department or office as the Mayor may designate, is authorized to develop an environmental justice map, in consultation with the Environmental Justice Advisory Commission (EJAC), that identifies environmental justice communities, geographic areas within Philadelphia that experience excessive exposure to environmental toxins or stressors and consequently bear an undue burden of negative health or environmental impacts. Environmental justice mapping, including the determination of these environmental justice communities, shall incorporate the best available science and data related to relevant environmental, climate, health, and demographic indicators and stressors, including all identifiable sources of exposure to pollutants or other environmental contaminants and

presence of vulnerable populations.

- (2) Public engagement. The Department shall provide opportunities for meaningful public involvement in the determination of the environmental, climate, health, and demographic indicators and stressors and their weighting as well as the methods to be used in the environmental justice community identification and mapping process, including public notice with relevant information made available online, a public meeting, and an opportunity to submit comments before such mapping and designations are initially adopted or are periodically reassessed. Environmental mapping completed pursuant to this chapter shall be publicly posted in a searchable and downloadable format on the Department's webpage.
- (3) Regular reassessment. As part of the mapping authorized above, the Department shall regularly complete a comprehensive reassessment, after consultation with the EJAC and providing the same meaningful opportunities for public involvement and comment as required for initial adoption, to consider newly available information, update indicators, and re-identify environmental justice communities. To the extent feasible, provision should be made for the ongoing and automatic updating of data that is part of the environmental mapping.

#### *§ 6-1404 Cumulative Impacts Assessment.*

- (1) Required cumulative impacts assessments.
  - (a) A cumulative impacts assessment shall be conducted by the Department for any permit or license applications, including renewals or expansions, for any industrial siting, activity, or operation that, through the release of pollution or other environmental contamination, could meaningfully and adversely affect public health, as determined by the Department by regulation, and that are located in or are likely to impact an environmental justice community. Additionally, a cumulative impacts assessment shall be conducted if: (a) requested through a community petition process, as further provided by regulation; (b) requested by City Council; or (c) it is determined by the Department that a cumulative impacts assessment is appropriate for a project or proposal that is not in or adjacent to an environmental justice community based on its significant potential impact on community health.
  - (b) Permit and license applications subject to a cumulative impacts assessment shall submit to the Department a checklist containing relevant information, as specified by the Department in regulation.
- (2) The cumulative impacts assessment shall assess the planned and any other likely impacts on and risks to the environment and the health of people or human populations that will result from the incremental impact of the proposed project when added to the impact of other past, present, and reasonably foreseeable future sources of pollution across multiple pathways, considering the specific demographics and health or other vulnerabilities of the affected community. The assessment should also consider metrics and factors determined during the mapping process described in § 6-1403, additional concerns in accord with the nature of the project as well as those raised by community members through public engagement processes, and any history of violations on the part of the applicant.

- (3) Notice. Following completion of the cumulative impacts assessment, the Department shall publish, on its website and using such other methods to ensure members within the affected community receive meaningful notice, the results of the cumulative impacts assessment and a plain language summary of the application, the project, and any cumulative impacts in terms and languages understandable to residents within that community.
- (4) Public engagement. The Department shall also collect public comments on the published cumulative impacts assessment results and summary and, for projects with a significant cumulative impact as determined by the Department, hold a public meeting with opportunity for public comment in a location and time accessible to the community before any determination is made pursuant to subsection (5).
- (5) On the basis of a cumulative impacts assessment conducted under this section, and the input received, including from the impacted community and Environmental Justice Advisory Commission (EJAC), during the public participation period, the Department may require additional assessment, as the Department considers necessary. A final cumulative impacts assessment must incorporate input received, including from the impacted community and EJAC, during the public participation period.
- (6) On the basis of a cumulative impacts assessment conducted under this section, and the input received from the impacted community during the public participation period, the Department shall:
  - (a) Make a determination to issue or to not issue a permit, license, or other approval; or
  - (b) Propose such limitations or conditions on the permit, license, or approval the Department determines necessary to protect public health and mitigate adverse impacts on and risks to the environment and community, such as pollution controls, operational conditions, air or water monitoring, or other health protections or environmental mitigation measures provided in public comment.
- (7) Standard of review. Reserved.

*§ 6-1405 Regulations and Enforcement.*

- (1) Regulations. The Department is authorized to coordinate the implementation, administration, and enforcement of this Chapter, and shall promulgate such regulations or guidelines as it may deem necessary for such purposes, in consultation with the Environmental Justice Advisory Commission.
- (2) Fees. The Administration is authorized to charge fees as part of the permit and license application process to cover the cost of administering a program for conducting cumulative impacts assessments, which fees shall be established by the Administration in regulation.
- (3) Existing requirements. Requirements established in this Chapter may be integrated within any existing permit or license requirements and processes to the extent they meet or exceed requirements set forth in this Chapter.

- (4) Enforcement. The Department is authorized to take such steps as it deems appropriate to resolve complaints and enforce this Chapter, including, but not limited to, establishing a system to receive and investigate complaints regarding non-compliance with this Chapter.
- (5) Environmental Justice Advisory Commission (EJAC). The EJAC is authorized to provide advice to the Department regarding implementation of this Chapter, including regulations promulgated under this Chapter, to make recommendations regarding cumulative impacts assessments and permit applications reviewed pursuant to this Chapter, and to assist the Department in public engagement and in the preparation of reports.

SECTION 2. Title 21 of the Philadelphia Code is hereby amended to read as follows:

TITLE 21. MISCELLANEOUS

\* \* \*

CHAPTER 21-3000. ENVIRONMENTAL JUSTICE REPORTING.

§ 21-3001. Definitions

\* \* \*

- (2) Environmental benefit includes, but is not limited to, access to grants, subsidies, loans and other financial assistance relating to energy efficiency or environmental projects; access to open space, green infrastructure and, where relevant, access to waterfronts; *protection from pollutants, environmental toxins, and other community harms*; and the implementation of environmental initiatives, including climate resilience measures.

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§ 21-3002. Environmental Justice Advisory Commission.

- (1) Council hereby calls upon the Mayor, with the cooperation of the Office of Sustainability and all relevant city agencies and departments as requested by the Mayor, to establish an Environmental Justice Advisory Commission, for the purpose of providing recommendations to the [Mayor and] *Mayor, the Office of Sustainability and all relevant city agencies and departments as requested by the Mayor* regarding the establishment of standards for studying and reporting regarding environmental justice. The Mayor shall provide an update to Council on the status of forming a commission no later than December 31, 2019.
- (2) The Commission should be charged with the duty to prepare and submit [a] reports to the Mayor, *the Office of Sustainability and all relevant city agencies and departments as requested by the Mayor*, and the President of City Council, [by no later than December 31, 2020] *as deemed appropriate*, including recommendations regarding:
  - (a) Criteria for identifying locations within the City that experience disproportionate environmental effects;

- (b) Methods of collecting data and conducting analysis in identified locations related to environmental factors that reflect environmental justice concerns;
- (c) Existing City programs, policies, activities and processes that may implicate environmental justice concerns;
- (d) Identification and removal of barriers to meaningful decision-making affecting residents of environmental justice areas.

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