

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 263 Session of
2009

INTRODUCED BY FREEMAN, ARGALL, CARROLL, BOYD, BRENNAN,
CALTAGIRONE, CAUSER, COHEN, CUTLER, FABRIZIO, FRANKEL, GEIST,
GINGRICH, GRUCELA, JOSEPHS, W. KELLER, KORTZ, LEVDANSKY,
LONGIETTI, McILVAINE SMITH, MILLER, M. O'BRIEN, O'NEILL,
READSHAW, ROSS, SAINATO, SIPTROTH, STABACK, SWANGER,
VULAKOVICH, WALKO AND YUDICHAK, FEBRUARY 4, 2009

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, FEBRUARY 4, 2009

AN ACT

1 Amending the act of April 28, 1978 (P.L.87, No.41), entitled "An
2 act authorizing the Commonwealth of Pennsylvania, through the
3 Department of Conservation and Natural Resources, to enter
4 into such agreements and to acquire such interest as may be
5 necessary to establish, protect and maintain the Appalachian
6 Trail, and providing for the establishment, protection and
7 maintenance of such trail," further providing for the content
8 of zoning ordinances; and extending the time period necessary
9 to implement certain provisions.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Section 4 of the act of April 28, 1978 (P.L.87,
13 No.41), known as the Pennsylvania Appalachian Trail Act, amended
14 June 11, 2008 (P.L.176, No.24), is amended to read:

15 Section 4. Municipalities; powers and duties.

16 (a) A municipality, as defined in the Pennsylvania
17 Municipalities Planning Code, through which the Appalachian
18 Trail passes shall have the power and their duty shall be to
19 take such action consistent with applicable law, as at least an

1 interim measure, to preserve the natural, scenic, historic and
2 esthetic values of the trail and to conserve and maintain it as
3 a public natural resource. Such action shall include the
4 adoption, implementation and enforcement of [zoning ordinances
5 as the governing body deems necessary] a zoning ordinance the
6 content of which the governing body deems appropriate to
7 preserve those values. Such municipalities may act hereunder in
8 that section of the municipality through which the Appalachian
9 Trail passes without zoning the entire municipality as required
10 under section 605 of the Pennsylvania Municipalities Planning
11 Code.

12 (b) The Department of Community and Economic Development
13 shall assist municipalities in complying with the provisions of
14 this section by furnishing technical assistance relating to
15 zoning matters. The Department of Community and Economic
16 Development shall notify each municipality which is required to
17 comply with the provisions of subsection (e) within 30 days of
18 the effective date of this subsection.

19 (c) The Department of Conservation and Natural Resources
20 shall assist municipalities in the identification and
21 acquisition of property appropriate for a conservation easement
22 or other protection measures and provide information to
23 municipalities relating to protection measures such as
24 conservation easements and other techniques through its grant
25 programs, subject to availability of funding, eligibility and
26 the terms, rules, procedures and requirements thereof.

27 (d) Municipalities which have not adopted zoning ordinances
28 under subsection (a) as of the effective date of this subsection
29 shall receive priority for grant funding under the Land Use
30 Planning and Technical Assistance Program of the Department of

1 Community and Economic Development.

2 (e) (1) Municipalities shall implement zoning ordinances
3 under subsection (a) within [one year of the effective date
4 of this subsection] two years of August 11, 2008.

5 (2) A municipality shall not be required to implement a
6 zoning ordinance under subsection (a) if, on [the effective
7 date of this subsection] August 11, 2008, all of the property
8 adjoining the Appalachian Trail in the municipality is:

9 (i) owned by the Department of Conservation and
10 Natural Resources; or

11 (ii) operated as a game preserve by a nonprofit,
12 nonstock corporation which is qualified as an exempt
13 organization under section 501(c) of the Internal Revenue
14 Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)).

15 (3) If title to property under paragraph (2) is
16 transferred or the use of such property changes, the
17 municipality shall implement a zoning ordinance under
18 subsection (a) within one year of the date the title to the
19 property is transferred or the use of the property changes.
20 Section 2. This act shall take effect immediately.

Appalachian Trail Protection Act

ACT 24 of 2008

Signed by Governor Rendell on June 11, 2008

Introduced By Representatives Freeman, Argall, Barrar, Cohen, Fabrizio, Geist, Gingrich, Goodman, Grucela, Harhai, Harper, Hennessey, Hershey, James, Josephs, Kortz, Leach, Levdansky, Mahoney, Mann, Mundy, Murt, Myers, O'Neill, Santoni, Saylor, Scavello, Schroder, McIlvaine, Smith, K. Smith, Staback, Walko, Wojnaroski, Youngblood, Yudichak, Samuelson, Pashinski and Caltagirone on May 8, 2007

AN ACT

Amending the Act of April 28, 1978 (P.L.87, No.41), entitled "An act authorizing the Commonwealth of Pennsylvania, through the Department of Environmental Resources, to enter into such agreements and to acquire such interest as may be necessary to establish, protect and maintain the Appalachian Trail, and providing for the establishment, protection and maintenance of such trail," further providing for actions by municipalities and their powers and duties; and making editorial changes.

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

Section 1. The title and sections 3(a) and 4 of the act of April 28, 1978 (P.L.87, No.41), known as the Pennsylvania Appalachian Trail Act, are amended to read:

AN ACT

Authorizing the Commonwealth of Pennsylvania, through the Department of Conservation and Natural Resources, to enter into such agreements and to acquire such interest as may be necessary to establish, protect and maintain the Appalachian Trail, and providing for the establishment, protection and maintenance of such trail.

Section 3. Powers of department.

(a) The Commonwealth of Pennsylvania, through the Department of Conservation and Natural Resources, hereinafter referred to as the department, is authorized independent of any action by a municipality under section 4 to 9 to enter into written cooperative agreements with political subdivisions, landowners, private organizations and individuals and to acquire by agreement, gift, eminent domain or purchase, land, rights-of-way and easements for the purpose of establishing, protecting and maintaining a walking trail right-of-way across this Commonwealth, now generally known as the Appalachian Trail, under such terms and conditions, including payment by the department in lieu of property taxes on trail lands or property so acquired or subject to such use in accordance with the act of May 17, 1929 (P.L.1798, No.591) referred to as the Forest Reserves Municipal Financial Relief Law, as shall protect the interests of the actual or adjacent landowners, or land users and as shall further the purposes of this act. In the event of acquisition by eminent domain of land, other than tillable farmland, the total amount of land so acquired shall not exceed an average of 125 acres per mile of trail; and in the event of acquisition by eminent domain of tillable farmland, such acquisition of such land shall be limited to a footpath with a width of not more than 25 feet across such land until the owner of such land evidences plans to convert the land to non-farming use. Any department or agency of the Commonwealth, or any political subdivision, may transfer to the department land or rights in land for these purposes, on terms and conditions as

agreed upon, or may enter into an agreement with the department providing for the establishment and protection of the trail.

Section 4. Municipalities; powers and duties.

(a) Political subdivisions, including municipalities. A municipality as defined in the Pennsylvania Municipalities Planning Code shall have the power and their duty shall be to take such action consistent with applicable law, as at least an interim measure, to preserve the natural, scenic, historic and esthetic values of the trail and to conserve and maintain it as a public natural resource. Such action shall include, but not be limited to, the adoption, implementation and enforcement of zoning ordinances as the governing body deems necessary to preserve those values. Such municipalities may act hereunder in that section of the municipality through which the Appalachian Trail passes without zoning the entire municipality as required under section 605 of the Pennsylvania Municipalities Planning Code.

(b) The Department of Community and Economic Development shall assist municipalities in complying with the provisions of this section by furnishing technical assistance relating to zoning matters. The department of community and economic development shall notify each municipality which is required to Comply with the provisions of subsection (e) within 30 days of the effective date of this subsection.

(c) The Department of Conservation and Natural Resources shall assist municipalities in the identification and acquisition of property appropriate for a conservation easement or other protection measures and provide information to municipalities relating to protection measures such as conservation easements and other techniques through its grant programs, subject to availability of funding, eligibility, and the terms, rules, procedures and requirements thereof.

(d) Municipalities which have not adopted zoning ordinances under subsection (a) as of the effective date of this subsection shall receive priority for grant funding under the Land Use Planning and Technical Assistance Program of the Department of Community and Economic Development.

(e) (1) Municipalities shall implement zoning ordinances under subsection (a) within one year of the effective date of this subsection. (2) A municipality shall not be required to implement a zoning ordinance under subsection (a) if, on the effective date of this subsection, all of the property adjoining the Appalachian Trail in the municipality is: (I) owned by the Department of Conservation and Natural Resources; or (II) operated as a game preserve by a nonprofit, non-stock corporation which is qualified as an exempt organization under section 501(c) of the internal revenue code of 1986 (public law 99-514, 26 u.s.c. § 501(c)).

(3) If title to property under paragraph (2) is transferred or the use of such property changes, the municipality shall implement a zoning ordinance under subsection (a) within one year of the date the title to the property is transferred or the use of the property changes.

Section 2. This act shall take effect in 60 days.



pennsylvania
DEPARTMENT OF COMMUNITY
& ECONOMIC DEVELOPMENT

January 22, 2009

Re: *Municipal Information about the Pennsylvania Appalachian Trail Act*

Dear Municipal Official:

We are contacting you because your municipality is affected by the recently passed Pennsylvania Appalachian Trail Act (Act 24 of 2008). A Steering Committee was recently formed to implement Act 24 and to support planning activities related to the Act. Steering Committee members include representatives from the Pennsylvania Departments of Community and Economic Development, Conservation and Natural Resources, Environmental Protection, and their non-governmental partner - The Appalachian Trail Conservancy (ATC). The Steering Committee has selected the firm of Wallace Roberts & Todd, LLC (WRT) to prepare materials to assist communities with their efforts in implementing the Act.

As a first step we are providing you with some basic information about how we will be working over the next few months to provide regulatory and other tools that help your community implement the Act. The enclosed package includes a project description and timeline, a legal summary of the Pennsylvania Appalachian Trail Act, and contact and website details. It is recommended that you also provide a copy of this information to your municipal solicitor.

We look forward to working with your community on protecting the Appalachian National Scenic Trail as an important recreation and natural resource.

Sincerely,

On Behalf of the PA Appalachian Trail Act Steering Committee

Ed LeClear
Community Planner
Department of Community & Economic Development

Coming this Spring!

PA Appalachian Trail
Act

Regional Forums

March 2009



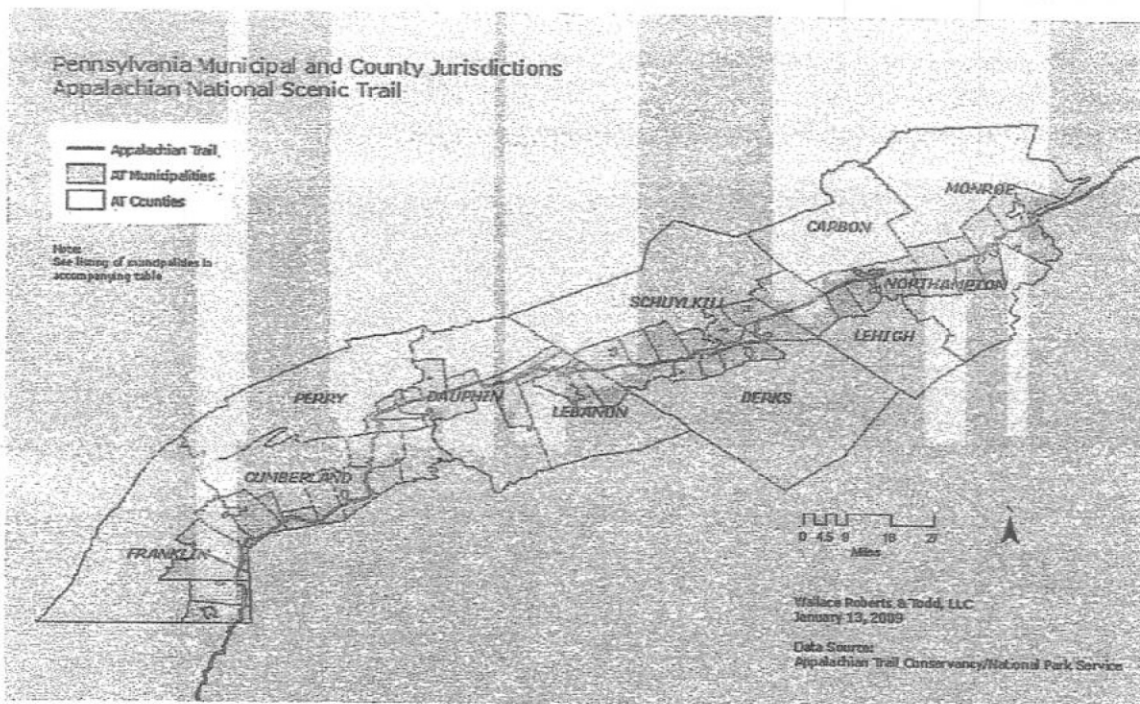
Community
Affairs and
Development

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4th Floor

Harrisburg
Pennsylvania
17120-0225

tel: 888.223.6837
fax: 717.783.1402
866-GO-NEWPA | nowPA.com

The Appalachian National Scenic Trail – In Pennsylvania



Monroe County

- Delaware Water Gap Borough
- Eldred Township
- Hamilton Township
- Ross Township
- Smithfield Township
- Stroud Township

Carbon County

- East Penn Township
- Lower Towamensing Township

Northampton County

- Bushkill Township
- Lehigh Township
- Moore Township
- Plainfield Township
- Upper Mount Bethel Township
- Wind Gap Borough

Lehigh County

- Heidelberg Township
- Lynn Township
- Washington Township

Berks County

- Albany Township
- Bethel Township
- Greenwich Township

- Tilden Township
- Upper Bern Township
- Upper Tulpehocken Township
- Windsor Township

Schuylkill County

- East Brunswick Township
- Pine Grove Township
- South Manheim Township
- Washington Township
- Wayne Township
- West Penn Township
- Port Clinton Borough
- West Brunswick Township

Lebanon County

- Bethel Township
- Cold Springs Township
- Swatara Township
- Union Township

Dauphin County

- East Hanover Township
- Halifax Township
- Middle Paxton Township

- Reed Township
- Rush Township
- Wayne Township

Perry County

- Duncannon Borough
- Penn Township
- Rye Township

Cumberland County

- Cooke Township*
- Dickinson Township
- Middlesex Township
- Monroe Township
- Silver Spring Township
- South Middleton Township
- Southampton Township
- South Newton Township

Franklin County

- Greene Township
- Guilford Township
- Quincy Township
- Southampton Township
- Washington Township

*Exempted per legislation

The Appalachian National Scenic Trail - The First in the Nation

The 2,175-mile long Appalachian Trail (AT) stretches through 14 eastern states from Maine to Georgia. Conceived in 1921 and completed in 1937, it traverses the wild, scenic, wooded, pastoral, and culturally significant lands of the Appalachian Mountains.



Appalachian Trail, photo by Timothy Cummings; courtesy of the Appalachian Trail Conservancy

The AT is enjoyed by an estimated 4 million people each year. It is within a day's drive of two-thirds of the U.S. population. People of all ages and abilities enjoy short walks, day hikes, and long-distance backpacking journeys along the trail. It offers a variety of opportunities for viewing spectacular scenery, for exploring, for adventure, for exercise, for nature study, and for renewal.

The AT is managed cooperatively by the National Park Service, the Appalachian Trail Conservancy (ATC), volunteers from 30 local AT Clubs (for the entire trail), the USDA Forest Service, and other public land-managing agencies. Within this partnership, thousands of volunteers do much of the work each year to keep the Trail open for all to enjoy. The Trail exists on more than 75 different federal and state forests and park lands.

The Appalachian National Scenic Trail in Pennsylvania

In Pennsylvania, the Appalachian Trail follows ridges of mountains east of the Alleghenies to the Susquehanna River in a long section of Trail notorious for its foot-bruising, boot-destroying rocks. The Trail north of the Susquehanna is characterized by long, flat, rocky ridges broken by fairly strenuous climbs in and out of gaps. About ten miles south of the Susquehanna River, the Trail crosses the Great Valley of the Appalachians to the Blue Ridge. This southern portion of the Trail through Pennsylvania has many sections that are gentle, and grades are easy,

making it one of the easiest sections of the Trail. The Trail's length in Pennsylvania is 229 miles, and it ranges in elevation from 320 to 2,080 feet above mean sea level.

In Pennsylvania, the AT is managed by state agency partners, including the Department of Conservation and Natural Resources, the Pennsylvania Game Commission, the Pennsylvania Department of Transportation, the Appalachian Trail Conservancy, and 11 volunteer-based trail clubs. All parties are signatories to a memorandum of understanding known as the Agreement. The footpath itself and a corridor of land around the trail (which varies greatly in width) are publicly owned by the Commonwealth of Pennsylvania and the National Park Service.

Pennsylvania Act 24 of 2008 (Amending the 1978 Pennsylvania Appalachian Trail Act)

With the passage of Act 24, signed into law in June, 2008 by the Governor Rendell, 58 Pennsylvania municipalities through which the Appalachian National Scenic Trail runs will be required by law to use their zoning authority to preserve the AT and protect the natural, scenic, historic and aesthetic resources along the trail. More specifically, Section 4 of Act 24 requires that municipalities "take such action consistent with applicable law, as at least an interim measure, to preserve the natural, scenic, historic and aesthetic values of the trail and to conserve and maintain it as a public natural resource. Such action shall include the adoption, implementation and enforcement of zoning ordinances as the governing body deems necessary to preserve those values." Municipalities will be assisted by the Pennsylvania Department of Community and Economic Development in complying with these provisions. Act 24 requires the implementation of such measures by September, 2009.



Appalachian Trail Scenic View, photo by Timothy Cummings; courtesy of the Appalachian Trail Conservancy

Act 24 Implementation Program

In September 2008, an interagency Task Force was created to develop a program to implement the provisions of Act 24. Task Force members include representatives from the Pennsylvania Departments of Community and Economic Development, Conservation and Natural Resources, Environmental Protection, and their non-governmental partner - The Appalachian Trail Conservancy (ATC). The Task Force determined that it needed to develop resource material to assist municipalities in adopting trail protection strategies most appropriate for their circumstances. In July, 2008, the Conservancy significantly contributed to this program by assembling and making an initial assessment of current municipal zoning ordinances for most of the Pennsylvania municipalities through which the AT passes.

In October, 2008, after issuing a request for proposals and considering approximately 16 submissions, the Task Force selected a consultant team to assist in developing resource materials and developing an Act 24 implementation strategy. That team is led by the Philadelphia-based planning and design firm of Wallace Roberts & Todd (WRT) in association with the law firm of Montgomery, McCracken, Walker & Rhoads, and the Visual Interactive Communications Group. The Task Force will serve as a steering committee which works closely with the consultant team.



Hikers taking advantage of a beautiful day on the Appalachian Trail

A Collaborative Approach

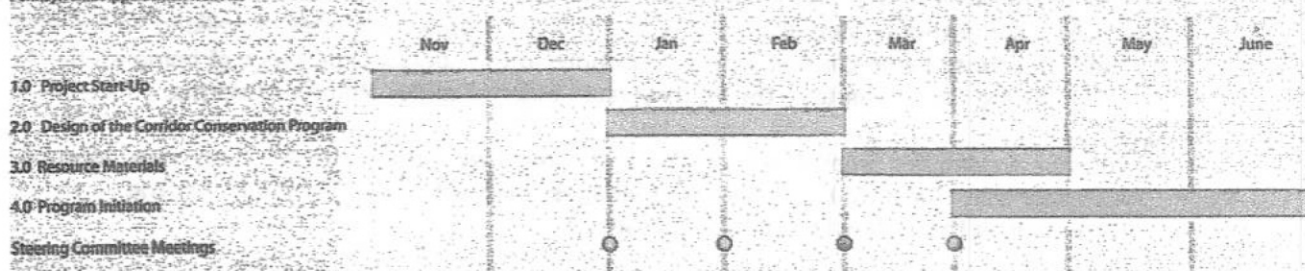
The Act 24 implementation program gives the highest priority to a collaborative approach to protecting the Appalachian Trail, working closely with municipal and county representatives, landowners, nonprofit organizations and other advisors. More specifically, the program envisions:

- Initial meetings with the planning departments of the 11 counties encompassing the 58 AT municipalities.
- Interviews with individuals familiar with the AT, representing the varied perspectives of municipal officials, landowners, conservation organizations, trail users and business interests.
- Holding public regional meetings in March, 2009 to share information on AT conditions and issues, what is currently being done to conserve the trail corridor, and to explore potential new strategies for providing additional protection of the trail.
- Conducting hands-on workshops in June, 2009 to demonstrate the application of trail protection strategies to supplement those already used by counties and municipalities.
- Posting a program website to provide convenient access to up-to-date information about the Act 24 implementation program and a means for communicating with the Task Force and its consultant team.

Preliminary Program Timeline: November 2008 – June 2009

Exhibit C: Project Schedule

Pennsylvania Appalachian Trail Act



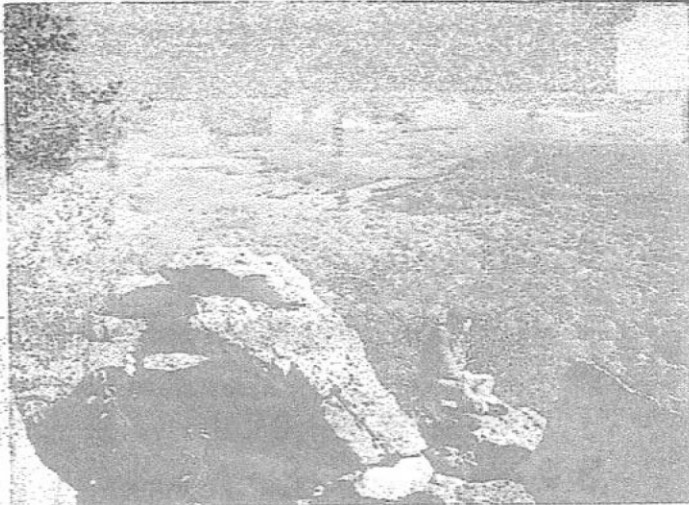
The Program's Initial Products

At this time, the implementation program envisions the following "deliverables" intended to assist municipalities and other interests in achieving the goals of Act 24.

- A pamphlet on the *State of the Appalachian Trail* in Pennsylvania, summarizing the status of trail protection and issues of concern, based upon initial meetings and interviews.
- A *Prospectus* illustrating the kinds of regulatory and non-regulatory techniques currently used by AT municipalities and counties, as well as possibly other local jurisdictions and nonprofit organizations involved in protecting significant trails in

Pennsylvania and other states. The prospectus will be used at the regional meetings in March, 2009.

- A *Conservation Guidebook for the PA Appalachian Trail*, containing model regulations and guidelines for using them, to be used at workshops to be held in late spring, 2009.
- A *Program Implementation Strategy* to assist AT municipalities in protecting the Appalachian Trail. That strategy will address the potentially important roles of county planning departments, the National Park Service, the Appalachian Trail Conservancy and other nonprofit conservation organizations, and private consultants providing professional planning services to municipalities.



A person enjoying the view from the Pinnacle

Why Act 24 is Important Legislation that Can Benefit Appalachian Trail Communities

The Appalachian Trail has national significance as the nation's first and best known *National Scenic Trail*. However, its recognition and appreciation by local communities are affected by the AT's somewhat limited accessibility and the occasional challenges of walking on the trail itself. But those same characteristics contribute to the special experience of being on the AT and knowing that it can take the Pennsylvania hiker to either Maine or Georgia.

Yet only a relatively small group of "through hikers" walk the entire AT every year. Most of the AT's hikers are local trail enthusiasts of all ages, many of whom live in or near the communities through which the trail passes.

Fortunately, the AT's regional and local significance is gaining recognition through county greenway plans, municipal plans and land use regulations, and the land protection efforts of nonprofit conservation organizations. In recent years, those activities have been supported by Pennsylvania's *Growing Greener* and other state programs, as well as federal and nonprofit funding of land conservation initiatives.

Most AT counties have now adopted greenway and open space plans envisioning trail networks that tie into the Appalachian Trail. Those planning concepts reflect an emerging vision for healthier lifestyles and quality of life for residents, visitors and businesses. Many county and local governments are gaining a clear understanding of the interrelationship between their environmental and economic well-being in a highly competitive regional and national market place. The connection between a quality environment and quality economic development has become a well-accepted guiding principle.

In short, Act 24 is intended not only to protect the Appalachian Trail experience for future generations of Pennsylvania's residents and visitors, but to contribute to realizing the full potential of the AT as a regional and local resource. Although the Act does require action for the relatively few municipalities that currently have no zoning, for most municipalities it should be seen as a means for focusing on trail protection needs, using proven strategies already used by Pennsylvania's AT municipalities as well as in other states. Therefore, AT counties and municipalities are strongly encouraged to contribute their ideas and share their concerns about protecting the Appalachian Trail in this planning effort.

Project Contact

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Wallace Roberts Todd, LLC
1700 Market Street, 28th Floor
Philadelphia, PA 19103
Ph. (215) 430.5088
RKerns@ph.wrttdesign.com

Project Website

Find out more about the Pennsylvania
Appalachian Trail Act Project at
<http://www.apptrailpa.org>

Orientation Material Information Sources

The National Park Service - <http://www.nps.gov/appa>
Appalachian Trail Conservancy - <http://www.appalachiantrail.org>
PA Department of Community and Economic Development, Request for Qualifications - Implementation of the Provisions
of Act 24 of 2008
Memo - Municipal Obligations Under Act 24, Fronefield Crawford, Jr., November 25, 2008