

ARTICLE XXI
AMENDMENTS

2100. Power of Amendment

The Board of Supervisors may, from time to time, amend, supplement, change, modify or repeal this Ordinance or any part of this Ordinance, including the Zoning Map. When doing so, the Board of Supervisors shall proceed in the manner prescribed in this Article.

2101. Enactment of Zoning Ordinance Amendments

- (1.) General Procedure. Proposals for amendment, supplement, change, modification, or repeal of the Zoning Ordinance may be initiated by the Board of Supervisors, by the Planning Commission, or by petition of one or more property owners.
 - (a.) For the preparation of amendments to zoning ordinances, the procedure set forth in Section 607 of the Municipalities Planning Code (MPC) for the preparation of a proposed zoning ordinance shall be optional.
 - (b.) Before voting on the enactment of an amendment, the governing body shall hold a public hearing thereon, pursuant to public notice. In addition, if the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the municipality at points deemed sufficient by the municipality along the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing.
 - (1.) In addition to the requirement that notice be posted under (b.) above, where the proposed amendment involves a zoning map change, notice of the public hearing shall be mailed by the municipality at least thirty (30) days prior to the date of the hearing by first class mail to the addresses to which real estate tax bills are sent for all real property located within the area being rezoned, as evidenced by tax records within the possession of the municipality. The notice shall include the location, date and time of the public hearing. A good faith effort and substantial compliance shall satisfy the requirements of this section.
 - (2.) This clause shall not apply when the rezoning constitutes a comprehensive rezoning.
 - (c.) In the case of an amendment other than that prepared by the planning agency, the governing body shall submit each such amendment to the planning agency at least thirty (30) days prior to the hearing on such proposed amendment to provide the planning agency an opportunity to submit recommendations.
 - (d.) If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the governing body shall hold public hearing, pursuant to public notice, before proceeding to vote on the amendment.

- (e.) If a county planning agency shall have been created for the county in which the municipality proposing the amendment is located, then at least thirty (30) days prior to the public hearing on the amendment by the local governing body, the municipality shall submit the proposed amendment to the county planning agency for recommendations.
 - (f.) The municipality may offer a mediation option as an aid in completing proceedings authorized by this section. In exercising such an option, the municipality and mediating parties shall meet the stipulations and follow the procedures set forth in Article IX of the MPC.
 - (g.) Within thirty (30) days after enactment, a copy of the amendment to the zoning ordinance shall be forwarded to the county planning agency or, in counties where no planning agency exists, to the governing body of the county in which the municipality is located.
- (2.) Publication, Advertisement, and Availability of Proposed Ordinances
- (a.) Proposed zoning ordinances and amendments shall not be enacted unless notice of proposed enactment is given in the manner set forth in this section, and shall include the time and place of the meeting at which passage will be considered, a reference to a place within the municipality where copies of the proposed ordinance or amendment may be examined without charge or obtained for a charge not greater than the cost thereof. The governing body shall publish the proposed ordinance or amendment once in one newspaper of general circulation in the municipality not more than sixty (60) days nor less than seven (7) days prior to passage. Publication of the proposed ordinance or amendment shall include either the full text thereof or the title and a brief summary, prepared by the municipal solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:
 - (1.) A copy thereof shall be supplied to a newspaper of general circulation in the municipality at the time the public notice is published.
 - (2.) An attested copy of the proposed ordinance shall be filed in the county law library or other county office designated by the county commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing said ordinances.
 - (b.) In the event substantial amendments are made in the proposed ordinance or amendment, before voting upon enactment, the governing body shall, at least ten (10) days prior to enactment, re-advertise, in one newspaper of general circulation in the municipality, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.
 - (c.) Zoning ordinances and amendments may be incorporated into official ordinance books by reference with the same force and effect as if duly recorded therein.

2102. Curative Amendments

A curative amendment may be initiated by either a landowner or by the Board of Supervisors.

(1.) Procedure for Landowner Curative Amendments.

A landowner who desires to challenge on substantive grounds the validity of a zoning ordinance or map or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the Board of Supervisors with a written request that his challenge and proposed amendment be heard and decided as provided in Section 2409 of the MPC.

- (a.) A landowner who desires to challenge on substantive grounds the validity of a zoning ordinance or map or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the governing body with a written request that his challenge and proposed amendment be heard and decided as provided in Section 916.1 of the MPC. The governing body shall commence a hearing thereon within sixty (60) days of the request as provided in Section 916.1 of the MPC. The curative amendment and challenge shall be referred to the planning agency or agencies as provided in Section 609 of the MPC and notice of the hearing thereon shall be given as provided in Section 610 of the MPC and in Section 916.1 of the MPC.
- (b.) The hearing shall be conducted in accordance with Section 908 of the MPC and all references therein to the zoning hearing board shall, for purposes of this section be references to the government body: provided, however, that the provisions of Sections 908 (1.2) and (9) of the MPC shall not apply and the provisions of Section 916.1 of the MPC shall control. If a municipality does not accept a landowner's curative amendment brought in accordance with this subsection and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for the entire zoning ordinance and map, but only for those provisions which specifically relate to the landowner's curative amendment and challenge.
- (c.) The governing body of a municipality which has determined that a validity challenge has merit may accept a landowner's curative amendment, with or without revision, or may adopt an alternative amendment which will cure the challenged defects. The governing body shall consider the curative amendments, plans and explanatory material submitted by the landowner and shall also consider:
 - (i.) The impact of the proposal upon road, sewer facilities, water supplies, schools and other public service facilities;
 - (ii.) If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the ordinance or map;

- (iii.) The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features;
- (iv.) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and
- (v.) The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

(2.) Procedure for Municipal Curative Amendments

If a municipality determines that its zoning ordinance or any portion thereof is substantially invalid, it shall take the following actions:

- (a.) A municipality shall declare by formal action, its zoning ordinance or portions thereof substantively invalid and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days following such declaration and proposal the governing body of the municipality shall:
 - (i.) By resolution make specific findings setting forth the declared invalidity of the zoning ordinance which may include:
 - (1.) References to specific uses which are either not permitted or not permitted in sufficient quantity;
 - (2.) Reference to a class of use or uses which require revision; or
 - (3.) Reference to the entire ordinance which requires revisions.
- (b.) Within one hundred eighty (180) days from the date of the declaration and proposal, the municipality shall enact a curative amendment to validate, or reaffirm the validity of, its zoning ordinance pursuant to the provisions required by Section 609 of the MPC in order to cure the declared invalidity of the zoning ordinance.
- (c.) Upon the initiation of the procedures, as set forth in Section 2102(2)(a), the governing body shall not be required to entertain or consider any landowner's curative amendment filed under Section 609.1 of the MPC nor shall the zoning hearing board be required to give a report requested under Section 909.1 or 916.1 of the MPC subsequent to the declaration and proposal based upon the grounds identical to or substantially similar to those specified in the resolution required by Section 2102(2)(a)(i). Upon completion of the procedures as set forth in Sections 2101(2)(a) and (b), no rights to a cure pursuant to the provisions of Sections 609.1 and 916.1 of the MPC shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of the un-amended zoning ordinance for which there has been a curative amendment pursuant to this section.
- (d.) A municipality having utilized the procedures as set forth in Sections 2102(2)(a) and (b) may not again utilize said procedure for a thirty-six (36) month period

following the date of the enactment of a curative amendment, or reaffirmation of the validity of its zoning ordinance, pursuant to Section 2102(2)(b); provided, however, if after the date of declaration and proposal there is a substantially new duty or obligation imposed upon the municipality by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, the municipality may utilize the provisions of this section to prepare a curative amendment to its ordinance to fulfill said duty or obligation.

- (3.) In the event of conflict between the provisions set forth herein and the Municipalities Planning Code, the Municipalities Planning Code shall control. The Provisions in the Municipalities Planning Code pertaining to zoning amendment and curative amendment applications, procedures and requirements are incorporated herein as though fully set forth. The conflicting provisions contained herein shall be deemed, repealed and amended by such provisions in the Municipalities Planning Code.