

ARTICLE XXXIV
Amendments
[Amended 8-24-1989 by Ord. No. 89-09]

§ 150-372. Power to amend; initiation of amendment.

The Board of Supervisors may, from time to time, amend, supplement, change or repeal this chapter, including the Official Zoning Map. ³² Any amendment, supplement, change or repeal may be initiated by the Township Planning Commission, the Board of Supervisors or by a petition to the Board of Supervisors by an interested party.

§ 150-373. Hearing and enactment procedures.

- A. Public hearing. Before hearing and enacting Zoning Ordinance and/or Zoning Map amendments, the Board of Supervisors shall conduct a public hearing to inform the general public of the nature of the amendment and to obtain public comment. Such public hearing shall be conducted after public notice, as defined herein and listed below, has been given.
- B. Public notice. Before conducting a public hearing, the Board of Supervisors shall provide public notice as follows:
 - 1. Notice shall be published once each week for two (2) successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days, and the second publication shall not be less than seven (7) days from the date of the hearing. Publication of the proposed amendment shall include either the full text thereof or the title and brief summary, prepared by the Municipal Solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:
 - (a) A copy of the full text shall be supplied to a newspaper of general circulation in the municipality at the time the public notice is published; and
 - (b) 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 ordinance.

³² **Editor's Note: The Zoning Map is on file and available for inspection in the office of the Township Secretary.**

- (2) For Zoning Map amendments, public notice shall also include the posting of a sign at conspicuous points on the subject property deemed sufficient by the municipality to notify potentially interested citizens; these signs shall be posted at least one (1) week prior to the hearing and will exhibit the nature, date, time and location of the hearing. [Amended 6-28-2001 by Ord. No. 01-03]
 - (3) For curative amendments, public notice shall also indicate that the validity of the ordinance and/or map is in question and shall give the place where and the times when a copy of the request, including any plans, explanatory material or proposed amendments, may be examined by the public.
 - (4) 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 another public hearing, pursuant to public notice, before proceeding to vote on the amendment.
- C. Enactment notice. In addition to the public notice requirements defined herein, the Board of Supervisors must publish a reference to the time and place of the meeting at which passage of the ordinance or amendment will be considered and 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 enactment notice shall be published at least once in one (1) newspaper of general circulation in the municipality not more than sixty (60) days nor less than seven (7) days prior to passage. The published content of the enactment notice shall be the same as that required for public notice described in the preceding Subsection B.
- D. Township Planning Commission referrals.
- (1) For amendments proposed by parties other than the Township Planning Commission, the Board of Supervisors shall submit each amendment to the Township Planning Commission at least thirty (30) days prior to the public hearing on such amendment.
 - (2) A report of the review by the Township Planning Commission, together with any recommendations, may be given to the Board of Supervisors within thirty (30) days from the date of said referral. The recommendation of the Township Planning Commission may include a specific statement as to whether or not the proposed action is in accordance with the intent of this chapter and any officially adopted Comprehensive Plan of the township.
- E. York County Planning Commission referrals. All proposed amendments shall be submitted to the York County Planning Commission at least thirty (30) days prior to the public hearing on such amendments. The Commission may submit recommendations to the Board of Supervisors; however, if the York County

Planning Commission fails to act within thirty (30) days, the Board of Supervisors may proceed without its recommendations.

- F. Adjournment of public hearing. If, during the public hearing process, the Board of Supervisors needs additional time to understand the proposal, inform the public, receive public comment and/or render a decision, it may adjourn the public hearing to a time and place certain.
- G. Within thirty (30) days after enactment, a copy of the amendment to this chapter shall be forwarded to the York County Planning Commission.

§ 150-374. Amendments initiated by Township Planning Commission.

When an amendment, supplement, change or repeal is initiated by the Township Planning Commission, the proposal shall be presented to the Board of Supervisors, which shall then proceed in the same manner as for a petition to the Board of Supervisors which has already been reviewed by the Township Planning Commission.

§ 150-375. Amendments initiated by Board of Supervisors.

When an amendment, supplement, change or repeal is initiated by the Board of Supervisors, such amendment, supplement, change or repeal shall follow the procedure prescribed for a petition under § 150-376.

§ 150-376. Amendments initiated by petition from an interested party.

A petition for amendment, supplement, change or repeal for a portion of this chapter shall include an accurate legal description and surveyed plan of any land to be rezoned and all of the reasons supporting the petition to be considered. The petition shall also be signed by at least one (1) record owner of the property in question, whose signature shall be notarized attesting to the truth and correctness of all the facts and information presented in the petition. A fee to be established by the Board of Supervisors shall be paid upon the filing of such petition for change and for the purpose defraying in the costs of the proceedings prescribed herein. The Board of Supervisors may require duplicate sets of petition materials.

§ 150-377. Curative amendments by landowners.

A landowner who desires to challenge on substantive grounds the validity of this chapter or the Official Zoning Map ³³ 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, including all of the reasons supporting the request to be considered, with a written request that his challenge and proposed amendment be heard

³³ **Editor's Note: The zoning Map is on file and available for inspection in the office of the Township Secretary.**

and decided as provided in Sections 609.1 and 916.1 of the Act; as amended.³⁴ The Board of Supervisors shall commence a hearing thereon within sixty (60) days of the request. The curative amendment shall be referred to the Township and York County Planning Commissions as provided for in §150-373, and public notice of the hearing shall be provided as defined herein.

- A. In reviewing the curative amendment, the Board of Supervisors may deny the request, accept the request as submitted 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:
 - (1) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities.
 - (2) 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.
 - (3) The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodland, wetlands, floodplains, aquifers, natural resources and other natural features.
 - (4) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, 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.
 - (5) The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.
- B. The governing body shall render its decision within forty-five (45) days after the conclusion of the last hearing.
- C. If the governing body fails to act on the landowner's request within the time limits referred to in Subsection B, a denial of the request is deemed to have occurred on the 46th day after the close of the last hearing.
- D. Public notice of the hearing shall include notice that the validity of the ordinance or map is in question and shall give the place where and the times when a copy of the request, including any plans, explanatory material or proposed amendments, may be examined by the public.

³⁴ Editor's Note: see 53 P.S. § 10609.1 and 53 P.S. § 10916.1, respectively.

- E. The challenge shall be deemed denied when:
- (1) The governing body fails to commence the hearing within sixty (60) days;
 - (2) The governing body notifies the landowner that it will not adopt the curative amendment;
 - (3) The governing body adopts another curative amendment which is unacceptable to the landowner; or
 - (4) The governing body fails to act on the request forty-five (45) days after the close of the last hearing on the request, unless the time is extended by mutual consent by the landowner and municipality.
- F. Where, after the effective date of the Act,³⁵ a curative amendment proposal is approved by the grant of a curative amendment application by the governing body pursuant to this section or a validity challenge is sustained by the Zoning Hearing Board pursuant to §150-298, or the court acts finally on appeal from denial of a curative amendment proposal or a validity challenge, and the proposal or challenge so approved requires a further application for subdivision or land development, the developer shall have two (2) years from the date of such approval to file an application for preliminary or tentative approval for a subdivision, land development or planned residential development. Within the two-year period, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. Upon the filing of the preliminary or tentative plan, the provisions of Section 508(4) of the Act³⁶ shall apply.
- G. Where the proposal appended to the curative amendment application or the validity challenge is approved but does not require further application under any Subdivision and land Development Ordinance,³⁷ the developer shall have one (1) year within which to file for a building permit. Within the one-year period, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. During these protected periods, the court shall retain or assume jurisdiction for the purpose of awarding such supplemental relief as may be necessary.

³⁵ Editor's Note: See 53 P.S. § 10101 et seq.

³⁶ Editor's Note: See 53 P.S. § 10101 et seq.

³⁷ Editor's Note: See Ch. 121, Subdivision and Land Development

§ 150-378. Curative amendments by Board of Supervisors.

- A. The Board of Supervisors, by formal action, may declare this chapter 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 Board of Supervisors shall:
- (1) By resolution, make specific findings setting forth the declared invalidity of the ordinance or portions thereof, which may include:
 - (a) References to specific uses which are either not permitted or not permitted in sufficient quantity;
 - (b) References to a class of use or uses which require revision; or
 - (c) References to the entire ordinance which requires revisions.
 - (2) Begin to prepare and consider a curative amendment to the ordinance to correct the declared invalidity.
- B. Within one hundred eighty (180) days from the date of the declaration and proposal, the Board of Supervisors shall enact a curative amendment to validate or reaffirm the validity of this chapter pursuant to the provisions required by Section 609 of the Act³⁸ in order to cure the declared invalidity of the ordinance.
- C. Upon the date of the declaration and proposal, the Board of Supervisors shall not be required to entertain or consider any curative amendment filed by a landowner, nor shall the Zoning Hearing Board be required to give a report, upon request, for a challenge to the validity of the ordinance under §150-298 subsequent to the declaration and proposal, based upon the grounds identical to or substantially similar to those specified in the resolution required by this section. Upon the enactment of a curative amendment to or the reaffirmation of the validity of this chapter, no rights to a cure by amendment or challenge shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of the unamended Zoning Ordinance for which the Board of Supervisors propose to prepare a curative amendment
- D. The Board of Supervisors, having utilized the procedures as set forth in this section, may not again utilize said procedures for a thirty-six-month period following the date of the enactment of a curative amendment or reaffirmation of the validity of the ordinance; provided, however, that if, after the date of declaration and proposal, there is a substantially new duty or obligation imposed upon the township by virtue of a Pennsylvania Appellate Court decision, the Board of Supervisors may utilize the provisions of this section to prepare a curative amendment to the ordinance to fulfill this duty or obligation.

³⁸ **Editor's Note: See 53 P.S. § 10609.**

§ 150-379. Zoning Map amendments.

Whenever there has been a change in the boundary of a zone or a reclassification of a zone adopted in accordance with the above, the change on the Official Zoning Map³⁹ shall be made and shall be duly certified by the Township Secretary and shall thereafter be refiled as part of the permanent records of the township.

³⁹ Editor's Note: The Zoning Map is on file and available for inspection in the office of the Township Secretary.