

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1329 Session of
2007

INTRODUCED BY KESSLER, FREEMAN, SAYLOR, BRENNAN, CARROLL,
CREIGHTON, CURRY, EVERETT, FLECK, GALLOWAY, GERBER, GRUCELA,
HARPER, HENNESSEY, KING, KORTZ, KULA, LEACH, LENTZ,
LONGIETTI, MACKERETH, MELIO, MOYER, O'NEILL, SEIP, K. SMITH
AND WATSON, MAY 24, 2007

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MAY 24, 2007

AN ACT

1 Amending the act of July 31, 1968 (P.L.805, No.247), entitled,
2 as amended, "An act to empower cities of the second class A,
3 and third class, boroughs, incorporated towns, townships of
4 the first and second classes including those within a county
5 of the second class and counties of the second through eighth
6 classes, individually or jointly, to plan their development
7 and to govern the same by zoning, subdivision and land
8 development ordinances, planned residential development and
9 other ordinances, by official maps, by the reservation of
10 certain land for future public purpose and by the acquisition
11 of such land; to promote the conservation of energy through
12 the use of planning practices and to promote the effective
13 utilization of renewable energy sources; providing for the
14 establishment of planning commissions, planning departments,
15 planning committees and zoning hearing boards, authorizing
16 them to charge fees, make inspections and hold public
17 hearings; providing for mediation; providing for transferable
18 development rights; providing for appropriations, appeals to
19 courts and penalties for violations; and repealing acts and
20 parts of acts," further providing for jurisdiction of the
21 zoning hearing board and the court of common pleas in
22 challenges to the validity of an ordinance for procedural
23 defects in the process of enactment.

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

26 Section 1. Section 909.1(a) of the act of July 31, 1968
27 (P.L.805, No.247), known as the Pennsylvania Municipalities

1 Planning Code, reenacted and amended December 21, 1988

2 (P.L.1329, No.170), is amended to read:

3 Section 909.1. Jurisdiction.--(a) The zoning hearing board
4 shall have exclusive jurisdiction to hear and render final
5 adjudications in the following matters:

6 (1) Substantive challenges to the validity of any land
7 use ordinance, except those brought before the governing body
8 pursuant to sections 609.1 and 916.1(a)(2).

9 [(2) Challenges to the validity of a land use ordinance
10 raising procedural questions or alleged defects in the
11 process of enactment or adoption which challenges shall be
12 raised by an appeal taken within 30 days after the effective
13 date of said ordinance. Where the ordinance appealed from is
14 the initial zoning ordinance of the municipality and a zoning
15 hearing board has not been previously established, the appeal
16 raising procedural questions shall be taken directly to
17 court.]

18 (3) Appeals from the determination of the zoning
19 officer, including, but not limited to, the granting or
20 denial of any permit, or failure to act on the application
21 therefor, the issuance of any cease and desist order or the
22 registration or refusal to register any nonconforming use,
23 structure or lot.

24 (4) Appeals from a determination by a municipal engineer
25 or the zoning officer with reference to the administration of
26 any flood plain or flood hazard ordinance or such provisions
27 within a land use ordinance.

28 (5) Applications for variances from the terms of the
29 zoning ordinance and flood hazard ordinance or such
30 provisions within a land use ordinance, pursuant to section

1 910.2.

2 (6) Applications for special exceptions under the zoning
3 ordinance or flood plain or flood hazard ordinance or such
4 provisions within a land use ordinance, pursuant to section
5 912.1.

6 (7) Appeals from the determination of any officer or
7 agency charged with the administration of any transfers of
8 development rights or performance density provisions of the
9 zoning ordinance.

10 (8) Appeals from the zoning officer's determination
11 under section 916.2.

12 (9) Appeals from the determination of the zoning officer
13 or municipal engineer in the administration of any land use
14 ordinance or provision thereof with reference to
15 sedimentation and erosion control and storm water management
16 insofar as the same relate to development not involving
17 Article V or VII applications.

18 * * *

19 Section 2. Section 1002-A of the act is amended to read:

20 Section 1002-A. Jurisdiction and Venue on Appeal; Time for
21 Appeal; Procedural defects.--(a) All appeals from all land use
22 decisions rendered pursuant to Article IX shall be taken to the
23 court of common pleas of the judicial district wherein the land
24 is located and shall be filed within 30 days after entry of the
25 decision as provided in 42 Pa.C.S. § 5572 (relating to time of
26 entry of order) or, in the case of a deemed decision, within 30
27 days after the date upon which notice of said deemed decision is
28 given as set forth in section 908(9) of this act.

29 (b) Challenges to the validity of a land use ordinance
30 raising procedural questions or alleged defects in the process

1 of enactment or adoption shall be raised by appeal taken
2 directly to the court of common pleas of the judicial district
3 in which the municipality adopting the ordinance is located in
4 accordance with 42 Pa.C.S. § 5571.1 (relating to appeals from
5 ordinances, resolutions, maps, etc.).

6 Section 3. This act shall take effect immediately.