

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 515 Session of 2013

INTRODUCED BY STEVENSON, BAKER, M. K. KELLER, CALTAGIRONE, CUTLER, GINGRICH, MARSHALL, MILLARD, MAJOR, MUNDY, KORTZ, HARKINS, FLECK, C. HARRIS, MOUL, CAUSER, PICKETT, CARROLL, MILLER, CLYMER, SWANGER, ROCK, GRELL, GILLEN, FARRY, MURT AND DENLINGER, FEBRUARY 5, 2013

AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 10, 2013

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 definitions; and
21 providing for mailed notice in certain proceedings.

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

24 Section 1. Section 107(a) of the act of July 31, 1968
25 (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 by adding definitions to read:  
3 Section 107. Definitions.--(a) The following words and  
4 phrases when used in this act shall have the meanings given to  
5 them in this subsection unless the context clearly indicates  
6 otherwise:

7 \* \* \*

8 "Electronic notice," notice given by a municipality through  
9 the Internet to a landowner or an owner of a mineral interest in <--  
10 land of the time and place of a public hearing and the  
11 particular nature of the matter to be considered at the hearing.

12 \* \* \*

13 "Mailed notice," notice given by a municipality by first  
14 class mail to a landowner or an owner of a mineral interest in <--  
15 land of the time and place of a public hearing and the  
16 particular nature of the matter to be considered at the hearing.

17 \* \* \*

18 Section 2. The act is amended by adding a section to read:

19 Section 109. Notice.--In any case in which mailed notice or  
20 electronic notice is required by this act, the following shall  
21 apply:

22 (1) Mailed notice shall be required only if a AN AFFECTED <--  
23 landowner or an owner of a mineral interest in land within a  
24 municipality has made a WRITTEN request that the notice be <--  
25 mailed and has supplied the municipality with a stamped, self-  
26 addressed envelope prior to the A public hearing. <--

27 (2) Electronic notice shall be required only if a AN <--  
28 AFFECTED landowner or an owner of a mineral interest in land  
29 within a municipality has made a WRITTEN request that notice be <--  
30 sent electronically and has supplied the municipality with an

1 electronic address prior to ~~the~~ A public hearing and only if <--  
2 that municipality maintains the capability of generating an  
3 electronic notice. ~~A~~ AN AFFECTED landowner or an owner of a <--  
4 mineral interest in land making the request and supplying an  
5 electronic address may at any time notify the municipality that  
6 the AFFECTED landowner or the owner of a mineral interest in <--  
7 land no longer will accept electronic notice, and in that event  
8 the municipality may no longer provide electronic notice.

9 (3) ~~A~~ AN AFFECTED landowner or an owner of a mineral <--  
10 interest in land who has requested a mailed notice shall be  
11 solely responsible for the number, accuracy and sufficiency of  
12 the envelopes supplied. The municipality shall not be  
13 responsible or liable if the AFFECTED landowner or an owner of a <--  
14 mineral interest in land does not provide to the municipality  
15 notice of any changes in the owner's mailing address.

16 (4) ~~A~~ AN AFFECTED landowner or an owner of a mineral <--  
17 interest in land who has requested electronic notice shall be  
18 solely responsible for the accuracy and functioning of the  
19 electronic address provided to the municipality. The  
20 municipality shall not be responsible or liable if the AFFECTED <--  
21 landowner or an owner of a mineral interest in land does not  
22 provide to the municipality notice of any changes to the owner's  
23 electronic address.

24 (5) A municipality shall deposit a mailed notice in the  
25 United States mail or provide electronic notice not more than 30  
26 and not less than seven days prior to the scheduled date of the  
27 hearing as shown on the notice.

28 (6) ~~For each public hearing for which a mailed notice or~~ <--  
29 ~~electronic notice has been requested, the municipal secretary or~~  
30 ~~other person designated by the municipal governing body ZONING~~ <--

1 OFFICER shall prepare, sign and maintain a list of all mailed  
2 notices, mailing dates, electronic notices and electronic notice  
3 dates. The signed list shall constitute a presumption that the  
4 notice was given.

5 (7) The mailed notice shall be deemed received by a AN <--  
6 AFFECTED landowner or an owner of a mineral interest in land on  
7 the date deposited in the United States mail.

8 (8) The electronic notice shall be deemed received by a AN <--  
9 AFFECTED landowner or an owner of a mineral interest in land on  
10 the date the municipality electronically notifies the owner.

11 (9) Failure of a AN AFFECTED landowner or an owner of a <--  
12 mineral interest in land to receive a requested mailed notice or  
13 electronic notice shall not be deemed to invalidate any action  
14 or proceedings under this act.

15 ~~Section 3. Section 302(b) of the act, amended June 22, 2000~~ <--  
16 ~~(P.L.495, No.68), is amended to read:~~

17 ~~Section 302. Adoption of Municipal, Multimunicipal and~~  
18 ~~County Comprehensive Plans and Plan Amendments. \* \* \*~~

19 ~~(b) The governing body shall hold at least one public~~  
20 ~~hearing pursuant to public notice, mailed notice and electronic~~  
21 ~~notice. If, after the public hearing held upon the proposed plan~~  
22 ~~or amendment to the plan, the proposed plan or proposed~~  
23 ~~amendment thereto is substantially revised, the governing body~~  
24 ~~shall hold another public hearing, pursuant to public notice,~~  
25 ~~mailed notice and electronic notice, before proceeding to vote~~  
26 ~~on the plan or amendment thereto.~~

27 ~~\* \* \*~~

28 ~~Section 4. Sections 402(b), 504(a) and 505(a) of the act are~~  
29 ~~amended to read:~~

30 ~~Section 402. Adoption of the Official Map and Amendments~~

1 ~~Thereeto. \* \* \*~~

2 ~~(b) The county and adjacent municipalities may offer~~  
3 ~~comments and recommendations during said 45 day review period in~~  
4 ~~accordance with section 408. Local authorities, park boards,~~  
5 ~~environmental boards and similar public bodies may also offer~~  
6 ~~comments and recommendations to the governing body or planning~~  
7 ~~agency if requested by same during said 45 day review period.~~  
8 ~~Before voting on the enactment of the proposed ordinance and~~  
9 ~~official map, or part thereof or amendment thereto, the~~  
10 ~~governing body shall hold a public hearing pursuant to public~~  
11 ~~notice, mailed notice and electronic notice.~~

12 ~~\* \* \*~~

13 ~~Section 504. Enactment of Subdivision and Land Development~~  
14 ~~Ordinance. (a) Before voting on the enactment of a proposed~~  
15 ~~subdivision and land development ordinance, the governing body~~  
16 ~~shall hold a public hearing thereon pursuant to public notice,~~   
17 ~~mailed notice and electronic notice. A brief summary setting~~  
18 ~~forth the principal provisions of the proposed ordinance and a~~  
19 ~~reference to the place within the municipality where copies of~~  
20 ~~the proposed ordinance may be secured or examined shall be~~  
21 ~~incorporated in the public notice, mailed notice and electronic~~  
22 ~~notice. Unless the proposed subdivision and land development~~  
23 ~~ordinance shall have been prepared by the planning agency, the~~  
24 ~~governing body shall submit the ordinance to the planning agency~~  
25 ~~at least 45 days prior to the hearing on such ordinance to~~  
26 ~~provide the planning agency an opportunity to submit~~  
27 ~~recommendations. If a county planning agency shall have been~~  
28 ~~created for the county in which the municipality adopting the~~  
29 ~~ordinance is located, then, at least 45 days prior to the public~~  
30 ~~hearing on the ordinance, the municipality shall submit the~~

1 ~~proposed ordinance to said county planning agency for~~  
2 ~~recommendations.~~

3 \* \* \*

4 ~~Section 505. Enactment of Subdivision and Land Development~~  
5 ~~Ordinance Amendment. (a) Amendments to the subdivision and~~  
6 ~~land development ordinance shall become effective only after a~~  
7 ~~public hearing held pursuant to public notice, mailed notice and~~  
8 ~~electronic notice in the manner prescribed for enactment of a~~  
9 ~~proposed ordinance by this article. In addition, in case of an~~  
10 ~~amendment other than that prepared by the planning agency, the~~  
11 ~~governing body shall submit each such amendment to the planning~~  
12 ~~agency for recommendations at least 30 days prior to the date~~  
13 ~~fixed for the public hearing on such proposed amendment. If a~~  
14 ~~county planning agency shall have been created for the county in~~  
15 ~~which the municipality proposing the amendment is located, then,~~  
16 ~~at least 30 days prior to the hearing on the amendment, the~~  
17 ~~municipality shall submit the proposed amendment to said county~~  
18 ~~planning agency for recommendations.~~

19 \* \* \*

20 Section 5 3. Section 608 of the act, carried without <--  
21 amendment June 22, 2000 (P.L.495, No.68), is amended to read:

22 Section 608. Enactment of Zoning Ordinance.--Before voting  
23 on the enactment of a zoning ordinance, the governing body shall  
24 hold a public hearing thereon, pursuant to public notice, AND <--  
25 PURSUANT TO mailed notice and electronic notice TO ANY AFFECTED <--  
26 LANDOWNER OR OWNER OF A MINERAL INTEREST IN LAND WHO HAS MADE A  
27 TIMELY REQUEST IN ACCORDANCE WITH SECTION 109. The vote on the  
28 enactment by the governing body shall be within 90 days after  
29 the last public hearing. Within 30 days after enactment, a copy  
30 of the zoning ordinance shall be forwarded to the county

1 planning agency or, in counties where no planning agency exists,  
2 to the governing body of the county in which the municipality is  
3 located.

4 Section 4. Section 609(b)(1) and (d) of the act, amended <--  
5 January 11, 2002 (P.L.13, No.2), are amended to read:

6 Section 609. Enactment of Zoning Ordinance Amendments.--\* \*  
7 \*

8 (b) (1) Before voting on the enactment of an amendment, the  
9 governing body shall hold a public hearing thereon, pursuant  
10 to public notice, AND PURSUANT TO mailed notice and <--  
11 electronic notice TO AN AFFECTED LANDOWNER OR AN OWNER OF A <--  
12 MINERAL INTEREST IN THE AFFECTED LAND WHO HAS MADE A TIMELY  
13 REQUEST IN ACCORDANCE WITH SECTION 109. In addition, if the  
14 proposed amendment involves a zoning map change, notice of  
15 said public hearing shall be conspicuously posted by the  
16 municipality at points deemed sufficient by the municipality  
17 along the tract to notify potentially interested citizens.  
18 The affected tract or area shall be posted at least one week  
19 prior to the date of the hearing.

20 \* \* \*

21 (d) If, after any public hearing held upon an amendment, the  
22 proposed amendment is changed substantially, or is revised, to  
23 include land previously not affected by it, the governing body  
24 shall hold another public hearing, pursuant to public notice,  
25 mailed notice and electronic notice, before proceeding to vote  
26 on the amendment.

27 \* \* \*

28 Section 5. This act shall take effect in 60 days. <--