

No. 2013-36

AN ACT

HB 515

Amending the act of July 31, 1968 (P.L.805, No.247), entitled, as amended, "An act to empower cities of the second class A, and third class, boroughs, incorporated towns, townships of the first and second classes including those within a county of the second class and counties of the second through eighth classes, individually or jointly, to plan their development and to govern the same by zoning, subdivision and land development ordinances, planned residential development and other ordinances, by official maps, by the reservation of certain land for future public purpose and by the acquisition of such land; to promote the conservation of energy through the use of planning practices and to promote the effective utilization of renewable energy sources; providing for the establishment of planning commissions, planning departments, planning committees and zoning hearing boards, authorizing them to charge fees, make inspections and hold public hearings; providing for mediation; providing for transferable development rights; providing for appropriations, appeals to courts and penalties for violations; and repealing acts and parts of acts," further providing for definitions; and providing for mailed notice in certain proceedings.

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

Section 1. Section 107(a) of the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code, reenacted and amended December 21, 1988 (P.L.1329, No.170), is amended by adding definitions to read:

Section 107. Definitions.—(a) The following words and phrases when used in this act shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

* * *

"Electronic notice," notice given by a municipality through the Internet of the time and place of a public hearing and the particular nature of the matter to be considered at the hearing.

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"Mailed notice," notice given by a municipality by first class mail of the time and place of a public hearing and the particular nature of the matter to be considered at the hearing.

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

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

(1) An owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within a municipality may request that the municipality provide written or electronic notice of a public hearing which may affect such tract or parcel of land.

(2) Mailed notice shall be required only if an owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality has made a written request that the notice be mailed and has supplied the municipality with a stamped, self-addressed envelope prior to a public hearing.

(3) Electronic notice shall be required only if an owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality has made a written request that notice be sent electronically and has supplied the municipality with an electronic address prior to a public hearing and only if that municipality maintains the capability of generating an electronic notice. An owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality making the request and supplying an electronic address may at any time notify the municipality that the owner of the tract or parcel of land located within the municipality or the owner of the mineral rights in the tract or parcel of land within the municipality no longer will accept electronic notice, and, in that event, the municipality may no longer provide electronic notice.

(4) An owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality who has requested a mailed notice shall be solely responsible for the number, accuracy and sufficiency of the envelopes supplied. The municipality shall not be responsible or liable if the owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality does not provide to the municipality notice of any changes in the owner's mailing address.

(5) An owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality who has requested electronic notice shall be solely responsible for the accuracy and functioning of the electronic address provided to the municipality. The municipality shall not be responsible or liable if the owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality does not provide to the municipality notice of any changes to the owner's electronic address.

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

(7) For each public hearing, the municipal secretary or zoning officer shall prepare, sign and maintain a list of all mailed notices, mailing dates, electronic notices and electronic notice dates. The signed list shall constitute a presumption that the notice was given.

(8) The mailed notice shall be deemed received by an owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality on the date deposited in the United States mail.

(9) The electronic notice shall be deemed received by an owner of a tract or parcel of land located within a municipality or an owner of the

mineral rights in a tract or parcel of land within the municipality on the date the municipality electronically notifies the owner.

(10) Failure of an owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality to receive a requested mailed notice or electronic notice shall not be deemed to invalidate any action or proceedings under this act.

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

Section 608. Enactment of Zoning Ordinance.—Before voting on the enactment of a zoning ordinance, the governing body shall hold a public hearing thereon, pursuant to public notice, ***and pursuant to mailed notice and electronic notice to any owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality who has made a timely request in accordance with section 109.*** The vote on the enactment by the governing body shall be within 90 days after the last public hearing. Within 30 days after enactment, a copy of 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.

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

Section 609. Enactment of Zoning Ordinance Amendments.—* * *

(b) (1) Before voting on the enactment of an amendment, the governing body shall hold a public hearing thereon, pursuant to public notice, ***and pursuant to mailed notice and electronic notice to an owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality who has made a timely request in accordance with section 109.*** 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.

* * *

(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 another public hearing, pursuant to public notice, ***mailed notice and electronic notice,*** before proceeding to vote on the amendment.

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Section 5. This act shall take effect in 60 days.

APPROVED—The 2nd day of July, A.D. 2013

TOM CORBETT