

ARTICLE XIX

AMENDMENTS

SECTION 19.01 - 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.

SECTION 19.02 - ENACTMENT OF ZONING ORDINANCE AMENDMENTS. Proposals for amendment, supplement, change, modification, or repeal may be initiated by the Board of Supervisors on its own motion, by the Planning Commission, or by petition of one or more owners of property to be affected by the proposed amendment, subject to the following provisions:

- A. Submission Dates. Proposals for amendment, supplement, change or modification to This Ordinance, including the Zoning Map, will be accepted for review and recommendation by the Planning Commission. The regularly scheduled meetings of the Planning Commission are hereby established as the meetings at which such aforementioned proposals shall be considered. All proposals for amendment, supplement, change or modification to This Ordinance shall be submitted to the Township Secretary for referral to the Planning Commission not later than fourteen (14) days prior to the regularly scheduled meetings of the Planning Commission.
- B. Proposals Originated by the Board of Supervisors. The Board of Supervisors may on its own motion prepare proposals for amendment, supplement, change, modification or repeal of This Ordinance.
- C. Proposals Originated by the Planning Commission. The Planning Commission may on its own motion prepare proposals for amendment, supplement, change, modification or repeal of This Ordinance.
- D. Proposals Originated by Citizen Petition. Owners of property in the Township may by petition submit proposals for amendment, supplement, change, modification or repeal of This Ordinance.
 - 1. A fee shall be paid at the same time to cover costs, and no part of such fee shall be returnable to a petitioner. Said fee shall be in accordance with a fee schedule adopted by resolution of the Board of Supervisors from time to time.
 - 2. On receipt of said petition and the requisite fee the Zoning Officer shall transmit a copy of the petition to the Planning Commission.

Within thirty (30) days after receipt of the Planning Commission's report and recommendation, the Board of Supervisors shall either fix a time for public hearing or notify the petitioner of its decision not to consider the proposal.

- E. In the case of an amendment other than that prepared by the Planning Commission, the Board of Supervisors shall submit each such amendment to the Planning Commission at least thirty (30) days prior to the hearing on such amendment to provide the Planning Commission an opportunity to submit recommendations.

The Planning Commission shall make a report and recommendation to the Board of Supervisors.

- 1. The report shall set forth in detail reasons wherein public necessity, convenience, general welfare, and the objectives of the Middlesex Township Comprehensive Plan do or do not justify the proposed change, and may include any additions or modifications to the original proposal.
- 2. At its discretion, the Planning Commission may hold a public hearing before making such report and recommendation.

- F. Referral to County Planning Commission. At least thirty (30) days prior to the public hearing on the amendment by the Board of Supervisors, the Board of Supervisors shall submit the proposed amendment to the Cumberland County Planning Commission for recommendations.

- G. Before voting on the enactment of an amendment, the Board of Supervisors shall hold a public hearing thereon, pursuant to public notice. Notice shall be given as follows:

- 1. By publication of the notice in a newspaper of general circulation in the Township. Said notice shall be published one each week for two successive weeks. The first publication shall not be more than thirty days nor less than fourteen days from the date of the hearing.
- 2. When such hearing concerns a Zoning Map change, written notice shall be given to parties in interest; who shall be at least those persons whose properties adjoin or are across the street from the property in question.

In addition, if the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the Township at points deemed sufficient by the Township along the perimeter of 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.

- H. 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 Board of Supervisors shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.
- I. Enactment of Zoning Ordinance Amendment. The vote on the enactment by the Board of Supervisors shall be within ninety (90) days after the last public hearing. Within thirty (30) days after enactment, a copy of the amendment to the Zoning Ordinance shall be forwarded to the County Planning Commission.
- J. The Township may offer a mediation option as an aid in completing proceedings authorized by this Section. In exercising such an option, the Township and mediating parties shall meet the stipulations and follow the procedures set forth in Section 18.12.

SECTION 19.03 - CURATIVE AMENDMENTS. A curative amendment may be initiated by either a landowner or by the Board of Supervisors.

A. 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 18.10.

1. The Board of Supervisors shall commence a hearing thereon within sixty (60) days of the request as provided in Section 18.10. The curative amendment and challenge shall be referred to the Township and County Planning Commissions as provided in Section 19.02 and notice of the hearing thereon shall be given as provided in Section 19.02 G. and in Section 18.10.
2. The hearing shall be conducted in accordance with Section 18.04 and all references therein to the Zoning Hearing Board shall, for the purposes of this section be references to the Board of Supervisors. If the Board of Supervisors 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.
3. If the Board of Supervisors determines that a validity challenge has merit, the Board of Supervisors may accept a landowner's curative amendment, with or without revision, or may adopt an alternative amendment which will cure the alleged

defects. The Board of Supervisors shall consider the curative amendments, plans and explanatory material submitted by the landowner and shall also consider:

- a. the impact of the propoasal upon roads, sewer facilities, water supplies, schools and other public service facilities;
- b. 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;
- c. the suitability of the site for the intensity of use proposed by the site's soils, slopes, woodland, wetlands, flood plains, aquifers, natural resources and other natural features;
- d. 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; and
- e. the impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

B. Procedure for Municipal Curative Amendments.

1. If the Board of Supervisors determines that this Zoning Ordinance or any portion thereof is substantially invalid, the Board of Supervisors shall declare by formal action, this Zoning Ordinance or portions hereof 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:
 - a. 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. Begin to prepare and consider a curative amendment to the zoning ordinance to correct the declared invalidity.
2. 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 the zoning ordinance.
3. Upon initiation of the procedures, as set forth in Section 19.03 B. 1., the Board of Supervisors shall not be required to entertain or consider any landowner's curative amendment filed under Section 19.03 A. nor shall the Zoning Hearing Board be required to give a report requested under Section 18.10 subsequent to the declaration and proposal based upon the grounds identical to or substantially similar to those specified in the resolution required by Section 19.03 B.1.a. Upon completion of the procedures as set forth in 19.03 B.1. and 2., no rights to a cure shall, from the date of declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of the unamended zoning ordinance for which there has been a curative amendment pursuant to this section.
4. The Board of Supervisors having utilized the procedures as set forth in Section 19.03 B.1. and 2. 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 the zoning ordinance, pursuant to Section 19.3 B.2.; provided, however, if after the date of declaration and proposal there is a substantially new duty or obligation imposed upon the Township by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, the Township may utilize the provisions of this section to prepare a curative amendment to this ordinance to fulfill said duty or obligation.

SECTION 19.04 - PUBLICATION, ADVERTISEMENT AND AVAILABILITY OF ORDINANCES

- A. Proposed zoning ordinance 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 Township where copies of the proposed amendment may be examined without charge or obtained for charge not greater than the cost thereof. The Board of Supervisors shall publish the proposed amendment once in one newspaper of general circulation in the Township not more than sixty (60) days nor less than seven (7) days prior to passage. Publication of the proposed amendment shall include either the full text thereof or the title and a brief summary, prepared by the Township 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 Township 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 ordinance.
- B. In the event substantial amendments are made in the proposed amendment, before voting upon enactment, the Board of Supervisors shall at least ten (10) days prior to enactment readvertise, in one newspaper of general circulation in the Township, 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.