

2017 -- H 5573

LC001527

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO TOWNS AND CITIES - ZONING ORDINANCES

Introduced By: Representatives Shekarchi, Costantino, Regunberg, and Casimiro

Date Introduced: February 16, 2017

Referred To: House Municipal Government

(by request)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-24-53 of the General Laws in Chapter 45-24 entitled "Zoning
2 Ordinances" is hereby amended to read as follows:

3 **45-24-53. Adoption -- Notice and hearing requirements.**

4 (a) No zoning ordinance shall be adopted, repealed, or amended until after a public
5 hearing has been held upon the question before the city or town council. The city or town council
6 shall first give notice of the public hearing by publication of notice in a newspaper of general
7 circulation within the city or town at least once each week for three (3) successive weeks prior to
8 the date of the hearing, which may include the week in which the hearing is to be held, at which
9 hearing opportunity shall be given to all persons interested to be heard upon the matter of the
10 proposed ordinance. Written notice, which may be a copy of the newspaper notice, shall be
11 mailed to the statewide planning program of the department of administration, and, where
12 applicable, to the parties specified in subsections (b), (c), (d), ~~and~~ (e) and (f) of this section, at
13 least two (2) weeks prior to the hearing. The newspaper notice shall be published as a display
14 advertisement, using a type size at least as large as the normal type size used by the newspaper in
15 its news articles, and shall:

16 (1) Specify the place of the hearing and the date and time of its commencement;

17 (2) Indicate that adoption, amendment, or repeal of a zoning ordinance is under
18 consideration;

19 (3) Contain a statement of the proposed amendments to the ordinance that may be printed

1 once in its entirety, or summarize and describe the matter under consideration as long as the
2 intent and effect of the proposed ordinance is expressly written in that notice;

3 (4) Advise those interested where and when a copy of the matter under consideration may
4 be obtained or examined and copied; and

5 (5) State that the proposals shown on the ordinance may be altered or amended prior to
6 the close of the public hearing without further advertising, as a result of further study or because
7 of the views expressed at the public hearing. Any alteration or amendment must be presented for
8 comment in the course of the hearing.

9 (b) Where a proposed general amendment to an existing zoning ordinance includes
10 changes in an existing zoning map, public notice shall be given as required by subsection (a) of
11 this section.

12 (c) Where a proposed amendment to an existing zoning ordinance includes changes to
13 dimensional requirements for a specific zone, public notice shall be given as required by
14 subsection (a) of this section, with the additional requirement that, at least two (2) weeks prior to
15 the hearing:

16 (1) Written notice of the date, time and place of the public hearing and the nature and
17 purpose of the hearing shall be sent to all owners of real property whose property is located in the
18 area proposed for change. Notice shall also be sent to any individual or entity holding a recorded
19 conservation or preservation restriction on the property that is the subject of the amendment. The
20 notice shall be sent by registered, certified, or first-class mail to the last known address of the
21 owners, as shown on the current real estate tax assessment records of the city or town in which
22 the property is located; provided, for any notice sent by first-class mail, the sender of the notice
23 shall utilize and obtain a United States Postal Service certificate of mailing, PS Form 3817, or
24 applicable version thereof, to demonstrate proof of such mailing.

25 ~~(e)~~(d) Where a proposed amendment to an existing ordinance includes a specific change
26 in a zoning district map, but does not affect districts generally, public notice shall be given as
27 required by subsection (a) of this section, with the additional requirements that:

28 (1) Notice shall include a map showing the existing and proposed boundaries, zoning
29 district boundaries, existing streets and roads and their names, and city and town boundaries
30 where appropriate; and

31 (2) Written notice of the date, time, and place of the public hearing and the nature and
32 purpose of the hearing shall be sent to all owners of real property whose property is located in or
33 within not less than two hundred feet (200') of the perimeter of the area proposed for change,
34 whether within the city or town or within an adjacent city or town. Notice shall also be sent to any

1 individual or entity holding a recorded conservation or preservation restriction on the property
2 that is the subject of the amendment. The notice shall be sent by registered, certified, or first-class
3 mail to the last known address of the owners, as shown on the current real estate tax assessment
4 records of the city or town in which the property is located; provided, for any notice sent by first-
5 class mail, the sender of the notice shall utilize and obtain a United States Postal Service
6 certificate of mailing, PS form 3817, or any applicable version thereof, to demonstrate proof of
7 such mailing.

8 ~~(d)~~(e) Notice of a public hearing shall be sent by first-class mail to the city or town
9 council of any city or town to which one or more of the following pertain:

10 (1) That is located in or within not less than two hundred feet (200') of the boundary of
11 the area proposed for change; or

12 (2) Where there is a public or quasi-public water source, or private water source that is
13 used, or is suitable for use, as a public water source, within two thousand feet (2,000') of any real
14 property that is the subject of a proposed zoning change, regardless of municipal boundaries.

15 ~~(e)~~(f) Notice of a public hearing shall be sent to the governing body of any state or
16 municipal water department or agency, special water district, or private water company that has
17 riparian rights to a surface water resource and/or surface watershed that is used, or is suitable for
18 use, as a public water source and that is within two thousand feet (2,000') of any real property that
19 is the subject of a proposed zoning change; provided, that the governing body of any state or
20 municipal water department or agency, special water district, or private water company has filed
21 with the building inspector in the city or town a map survey, that shall be kept as a public record,
22 showing areas of surface water resources and/or watersheds and parcels of land within two
23 thousand feet (2,000') thereof.

24 ~~(f)~~(g) Notwithstanding any of the requirements set forth in subsections (a) through ~~(e)~~(f)
25 above, each municipality shall establish and maintain a public notice registry allowing any person
26 or entity to register for electronic notice of any changes to the zoning ordinance. The city or town
27 shall provide public notice annually of the existence of the electronic registry by publication of
28 notice in a newspaper of general circulation within the city or town. In addition, each
29 municipality is hereby encouraged to provide public notice of the existence of the public notice
30 registry in all of its current and future communications with the public, including, but not limited
31 to, governmental websites, electronic newsletters, public bulletins, press releases and all other
32 means the municipality may use to impart information to the local community.

33 (1) Provided, however, notice pursuant to a public notice registry as per this section does
34 not alone qualify a person or entity on the public notice registry as an "aggrieved party" under §

1 45-24-31(4).

2 ~~(h)~~(h) No defect in the form of any notice under this section shall render any ordinance or
3 amendment invalid, unless the defect is found to be intentional or misleading.

4 ~~(i)~~(i) Costs of any notice required under this section shall be borne by the applicant.

5 ~~(j)~~(j) In granting a zoning ordinance amendment, notwithstanding the provisions of § 45-
6 24-37, the town or city council may limit the change to one of the permitted uses in the zone to
7 that the subject land is rezoned and impose limitations, conditions, and restrictions, including,
8 without limitation: (1) Requiring the petitioner to obtain a permit or approval from any and all
9 state or local governmental agencies or instrumentalities having jurisdiction over the land and use
10 that are the subject of the zoning change; (2) Those relating to the effectiveness or continued
11 effectiveness of the zoning change; and/or (3) Those relating to the use of the land as it deems
12 necessary. The responsible town or city official shall cause the limitations and conditions so
13 imposed to be clearly noted on the zoning map and recorded in the land evidence records;
14 provided, that in the case of a conditional zone change, the limitations, restrictions, and
15 conditions shall not be noted on the zoning map until the zone change has become effective. If the
16 permitted use for which the land has been rezoned is abandoned or if the land is not used for the
17 requested purpose for a period of two (2) years or more after the zone change becomes effective,
18 the town or city council may, after a public hearing, change the land to its original zoning use
19 before the petition was filed. If any limitation, condition, or restriction in an ordinance is held to
20 be invalid by a court in any action, that holding shall not cause the remainder of the ordinance to
21 be invalid.

22 ~~(k)~~(k) The above requirements are to be construed as minimum requirements.

23 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES - ZONING ORDINANCES

1 This act would require that when a proposed amendment to a zoning ordinance includes
2 changes to dimensional requirements for a specific zone, the city or town must provide written
3 notice of the public hearing to all owners of real property whose property is located in the area
4 proposed for change, as well as to any entity holding a recorded conservation or reservation
5 restriction on property subject to amendment.

6 This act would take effect upon passage.

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