

2023 -- S 1039

LC002746

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

Introduced By: Senators Kallman, McKenney, and Burke

Date Introduced: May 19, 2023

Referred To: Senate Judiciary

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4 (a) No zoning ordinance shall be adopted, repealed, or amended until after a public hearing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

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

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

17 (3) Contain a statement of the proposed amendments to the ordinance that may be printed
18 once in its entirety, or summarize and describe the matter under consideration as long as the intent
19 and effect of the proposed ordinance is expressly written in that notice;

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

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

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

9 (c) Where a proposed text amendment to an existing zoning ordinance would cause a
10 conforming lot of record to become nonconforming by lot area or frontage, written notice shall be
11 given to all owners of the real property as shown on the current real estate tax assessment records
12 of the city or town. The notice shall be given at least two (2) weeks prior to the hearing at which
13 the text amendment is to be considered, with the content required by subsection (a). If the city or
14 town zoning ordinance contains an existing merger clause to which the nonconforming lots would
15 be subject, the notice shall include reference to the merger clause and the impacts of common
16 ownership of nonconforming lots. The sender of the notice shall utilize and obtain a United States
17 Postal Service certificate of mailing, and the certificate or an electronic copy thereof shall be
18 retained to demonstrate proof of the mailing.

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

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

25 (2) Written notice of the date, time, and place of the public hearing and the nature and
26 purpose of the hearing shall be sent to all owners of real property, as well as affected tenants, whose
27 property is located in or within not less than ~~two hundred feet (200')~~ one thousand feet (1,000') of
28 the perimeter of the area proposed for change, whether within the city or town or within an adjacent
29 city or town. Notice shall also be sent to any individual or entity holding a recorded conservation
30 or preservation restriction on the property that is the subject of the amendment. The notice shall be
31 sent by registered, certified, or first-class mail to the last known address of the owners, as shown
32 on the current real estate tax assessment records of the city or town in which the property is located;
33 provided, for any notice sent by first-class mail, the sender of the notice shall utilize and obtain a
34 United States Postal Service certificate of mailing, PS form 3817, or any applicable version thereof,

1 to demonstrate proof of such mailing.

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

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

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

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

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

27 (1) Provided, however, notice pursuant to a public notice registry as per this section does
28 not alone qualify a person or entity on the public notice registry as an "aggrieved party" under §
29 45-24-31(4).

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

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

33 (j) In granting a zoning ordinance amendment, notwithstanding the provisions of § 45-24-
34 37, the town or city council may limit the change to one of the permitted uses in the zone to which

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

15 (k) In addition to the above requirements regarding hearing notices, in the event of a
16 commercial development or a zoning change for city or town owned property, the following is
17 required:

18 (1) A sign posted at the site considered for development or zone change containing:

19 (i) Date and purpose of hearing;

20 (ii) Notice of hearing displayed in two (2) languages spoken by residents of the affected
21 area; and

22 (iii) A display sign area easily viewable by foot and vehicle traffic.

23 (2) The hearing notice shall be posted on the city/town website as well as any social media
24 site of the city/town.

25 ~~(l)~~ The above requirements are to be construed as minimum requirements.

26 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 increase the distance to one thousand feet (1,000') for notice given to real
2 property owners and tenants for zoning changes. It would also require commercial developments
3 and cities/towns to post hearing notice signage at property as well as notice on websites and any
4 social media site operated by the city/town.

5 This act would take effect upon passage.

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