

2018 -- H 7767 SUBSTITUTE A

LC005047/SUB A/2

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO TOWNS AND CITIES - ZONING ORDINANCES

Introduced By: Representatives Cunha, Shekarchi, Shanley, Morin, and Barros

Date Introduced: February 28, 2018

Referred To: House Municipal Government

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4 (a) No zoning ordinance shall be adopted, repealed, or amended until after a public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 text amendment to an existing zoning ordinance would cause a
13 conforming lot of record to become nonconforming by lot area and/or frontage, written notice
14 shall be given to all owners of such real property, as shown on the current real estate tax
15 assessment records of the city or town. Such notice shall be given at least two (2) weeks prior to
16 the hearing at which the text amendment is to be considered, with the content required by
17 subsection (a) of this section. If the city or town zoning ordinance contains an existing merger
18 clause to which the nonconforming lots would be subject, the notice shall include reference to the
19 merger clause and the impacts of common ownership of nonconforming lots. The sender of the
20 notice shall utilize and obtain a United States Postal Service certificate of mailing, and such
21 certificate or an electronic copy thereof shall be retained to demonstrate proof of such mailing.

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

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

28 (2) Written notice of the date, time, and place of the public hearing and the nature and
29 purpose of the hearing shall be sent to all owners of real property whose property is located in or
30 within not less than two hundred feet (200') of the perimeter of the area proposed for change,
31 whether within the city or town or within an adjacent city or town. Notice shall also be sent to any
32 individual or entity holding a recorded conservation or preservation restriction on the property
33 that is the subject of the amendment. The notice shall be sent by registered, certified, or first-class
34 mail to the last known address of the owners, as shown on the current real estate tax assessment

1 records of the city or town in which the property is located; provided, for any notice sent by first-
2 class mail, the sender of the notice shall utilize and obtain a United States Postal Service
3 certificate of mailing, PS form 3817, or any applicable version thereof, to demonstrate proof of
4 such mailing.

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

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

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

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

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

30 (1) Provided, however, notice pursuant to a public notice registry as per this section does
31 not alone qualify a person or entity on the public notice registry as an "aggrieved party" under §
32 45-24-31(4).

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

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

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

19 ⊕(k) The above requirements are to be construed as minimum requirements.

20 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 text amendment to a zoning ordinance
2 would cause a conforming lot of record to become nonconforming by lot area and/or frontage, the
3 city or town must provide written notice of the public hearing to all owners of real property
4 affected by the text amendment.

5 This act would take effect upon passage.

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