

THE CITY OF PROVIDENCE
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RESOLUTION OF THE CITY COUNCIL

No. 210

Approved May 13, 2013

WHEREAS, Providing property owners and the public access to information regarding land use and zoning matters is crucial to open and transparent government; and

WHEREAS, Public testimony on proposed zoning changes informs the decision-making process; and

WHEREAS, Rhode Island General Law § 45-23-53 provides the public hearing and noticing requirements that municipalities must follow prior to hearing the proposed changes; and

WHEREAS, The state law requires that abutters within 200 feet of the area where a zoning change is proposed must receive a notice of the hearing and proposed change via certified mail; and

WHEREAS, The current state law does not require certified mailing of notices if districts are affected generally by the proposal; and

WHEREAS, The proposed House Bill 5393 and Senate Bill 0320 would require municipalities to send notices, by certified mail, to property owners for every change in regulation and zoning; and

WHEREAS, The new requirement is cost-prohibitive to municipalities, and is redundant and unnecessary, as all information is also published once a week for three weeks in the newspaper, and is posted online at the Secretary of State's website; and

WHEREAS, The noticing requirement as proposed in the new legislation would cost the city of Providence close to \$200,000 in the next fiscal year alone, as the city completes a rewrite of its zoning ordinance.


NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Providence does hereby urge the General Assembly to oppose House Bill 5393 and Senate Bill 0320; and


BE IT FURTHER RESOLVED, That upon passage a copy of this resolution be sent to House Gordon D. Fox, Majority Leader Nicholas A. Mattiello, the sponsors of House Bill 5393; the members of the House Committee on Municipal Government; Senate President M. Teresa Paiva-Weed, Senate Majority Leader Dominick J. Ruggerio, the sponsors of Senate Bill 0794, the members of the Senate Committee on Housing and Municipal Government, and all other Providence representatives and senators.

IN CITY COUNCIL

MAY 02 2013

READ AND PASSED



PRES.


CLERK

I HEREBY APPROVE



Mayor

Date:

5/13/13

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

A N A C T

RELATING TO TOWNS AND CITIES – SUBDIVISION OF LAND

Introduced By: Representatives Shekarchi, Nunes, Lima, Ucci, and Phillips

Date Introduced: February 12, 2013

Referred To: House Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-23-53 of the General Laws in Chapter 45-23 entitled
2 "Subdivision of Land" is hereby amended to read as follows:

3 **45-23-53. Local regulations – Public hearing and notice requirements.** – (a) No local
4 regulations shall be adopted, repealed, or amended until after a public hearing has been held upon
5 the question before the city or town planning board. The city or town planning board shall first
6 give notice of the public hearing by publication of notice in a newspaper of general circulation
7 within the municipality 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 this hearing
9 opportunity shall be given to all persons interested on being heard upon the matter of the
10 proposed regulations. Written notice, which may be a copy of the newspaper notice, shall be
11 mailed to the statewide planning program of the Rhode Island department of administration at
12 least two (2) weeks prior to the hearing. The newspaper notice shall be published as a display
13 advertisement, using a type size at least as large as the normal type size used by the newspaper in
14 its news articles, and shall:

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

16 (2) Indicate that adoption, amendment or repeal of local regulations is under
17 consideration;

18 (3) Contain a statement of the proposed amendments to the regulations that may be
19 printed once in its entirety, or may summarize or describe the matter under consideration as long

1 as the intent and effect of the proposed regulation is expressly written in that notice;

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

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

8 (b) Notice of the public hearing shall be sent by first class mail to the city or town
9 planning board of any municipality where there is a public or quasi-public water source, or
10 private water source that is used or is suitable for use as a public water source, located within two
11 thousand feet (2,000') of the municipal boundaries.

12 (c) 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 located within either the municipality or two thousand feet (2,000')
16 of the municipal boundaries; provided, that a map survey has been filed with the building
17 inspector as specified in section 45-24-53(e).

18 (d) Notwithstanding any of the requirements set forth in subsections (a) through (c)
19 above, each municipality shall establish and maintain a public notice registry of landowners,
20 electors and nonprofit organizations within said municipality requesting notice under this section
21 for any changes to the local regulations. The planning board or administrative officer shall place
22 on the registry the name and address of any such landowner, elector or organization upon written
23 request of such landowner, elector or organization. A landowner, elector or organization may
24 request such notice be sent by mail or by electronic mail. Each municipality shall be required
25 every year to notify, in writing, landowners, electors and nonprofit organizations within said
26 municipality, of the existence of the public notice registry through that municipality's applicable
27 yearly tax billing invoices. In addition, each municipality is hereby encouraged to notify said
28 landowners, electors and nonprofit organizations of the existence of the public notice registry in
29 all of its current and future communications with the public, including, but not limited to,
30 governmental websites, electronic newsletters, public bulletins, press releases and all other means
31 the municipality may use to impart information to the local community.

32 ~~(d)(e)~~ No defect in the form of any notice under this section renders any regulations
33 invalid, unless the defect is found to be intentional or misleading.

34 ~~(e)(f)~~ The requirements in this section are to be construed as minimum requirements.

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

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

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

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

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

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

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

30 ~~(e)~~(b) Where a proposed amendment to an existing ordinance includes a specific change
31 in a zoning district map, changes to the uses allowed in a district, and/or changes to dimensional
32 requirements, including density restrictions and minimum lot area requirements ~~but does not~~
33 ~~affect districts generally,~~ public notice shall be given as required by subsection (a) of this section,
34 with the additional requirements that:

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

4 (2) Written notice of the date, time, and place of the public hearing and the nature and
5 purpose of the hearing shall be sent to all owners of real property whose property is located in or
6 within not less than two hundred feet (200') of the perimeter of the area proposed for change,
7 whether within the city or town or within an adjacent city or town. Notice shall also be sent to any
8 individual or entity holding a recorded conservation or preservation restriction on the property
9 that is the subject of the amendment. The notice shall be sent by registered or certified mail to the
10 last known address of the owners, as shown on the current real estate tax assessment records of
11 the city or town in which the property is located.

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

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

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

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

28 (e) Notwithstanding any of the requirements set forth in subsections (a) through (d)
29 above, each municipality shall establish and maintain a public notice registry of landowners,
30 electors, and nonprofit organizations within said municipality requesting notice under this section
31 for any changes to the zoning ordinance. The zoning board or zoning officer shall place on the
32 registry the name and address of any such landowner, elector or organization upon written request
33 of such landowner, elector or organization. A landowner, elector or organization may request
34 such notice be sent by mail or by electronic mail. Each municipality shall be required every year

1 to notify, in writing, landowners, electors and nonprofit organizations within said municipality, of
2 the existence of the public notice registry through that municipality's applicable yearly tax billing
3 invoices. In addition, each municipality is hereby encouraged to notify said landowners, electors
4 and nonprofit organizations of the existence of the public notice registry in all of its current and
5 future communications with the public, including, but not limited to, governmental websites,
6 electronic newsletters, public bulletins, press releases and all other means the municipality may
7 use to impart information to the local community.

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

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

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

28 (i) The above requirements are to be construed as minimum requirements.

29 SECTION 3. This act shall take effect upon passage.

LC01102

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO TOWNS AND CITIES – SUBDIVISION OF LAND

1 This act would require cities and towns to establish and maintain a public notice registry
2 of landowners, electors, and nonprofit organizations within said municipality, requesting notice
3 for any changes to local subdivision regulations or zoning ordinances.

4 This act would take effect upon passage.

5

LC01102

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

AN ACT

RELATING TO TOWNS AND CITIES - SUBDIVISION OF LAND - ZONING
ORDINANCES

Introduced By: Senator William A. Walaska

Date Introduced: February 13, 2013

Referred To: Senate Housing & Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-23-53 of the General Laws in Chapter 45-23 entitled
2 "Subdivision of Land" is hereby amended to read as follows:

3 **45-23-53. Local regulations -- Public hearing and notice requirements.** -- (a) No local
4 regulations shall be adopted, repealed, or amended until after a public hearing has been held upon
5 the question before the city or town planning board. The city or town planning board shall first
6 give notice of the public hearing by publication of notice in a newspaper of general circulation
7 within the municipality 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 this hearing
9 opportunity shall be given to all persons interested on being heard upon the matter of the
10 proposed regulations. Written notice, which may be a copy of the newspaper notice, shall be
11 mailed to the statewide planning program of the Rhode Island department of administration at
12 least two (2) weeks prior to the hearing. The newspaper notice shall be published as a display
13 advertisement, using a type size at least as large as the normal type size used by the newspaper in
14 its news articles, and shall:

- 15 (1) Specify the place of the hearing and the date and time of its commencement;
- 16 (2) Indicate that adoption, amendment or repeal of local regulations is under
17 consideration;
- 18 (3) Contain a statement of the proposed amendments to the regulations that may be

1 printed once in its entirety, or may summarize or describe the matter under consideration
2 provided that the intent and effect of the proposed regulation is expressly written in that notice;

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

5 (5) State that the proposals shown on the notice may be altered or amended prior to the
6 close of the public hearing without further advertising, as a result of further study or because of
7 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) Notice of the public hearing shall be sent by first class mail to the city or town
10 planning board of any municipality where there is a public or quasi-public water source, or
11 private water source that is used or is suitable for use as a public water source, located within two
12 thousand feet (2,000') of the municipal boundaries.

13 (c) Notice of a public hearing shall be sent to the governing body of any state or
14 municipal water department or agency, special water district, or private water company that has
15 riparian rights to a surface water resource and/or surface watershed that is used or is suitable for
16 use as a public water source located within either the municipality or two thousand feet (2,000')
17 of the municipal boundaries; provided, that a map survey has been filed with the building
18 inspector as specified in section 45-24-53(e).

19 (d) Notwithstanding any of the requirements set forth in subsections (a) through (c)
20 above, each municipality shall establish and maintain a public notice registry of landowners,
21 electors, and nonprofit organizations within said municipality who requests notice of any changes
22 to the local regulations pursuant to this section. The planning board or administrative officer shall
23 place on the registry the name and address of any such landowner, elector, or nonprofit
24 organization upon written request of such landowner, elector, or nonprofit organization. A
25 landowner, elector, or nonprofit organization may request such notice be sent by mail or by
26 electronic mail.

27 (e) Each municipality shall be required every year to notify, in writing, landowners,
28 electors and nonprofit organizations within said municipality, of the existence of the public notice
29 registry through that municipality's applicable yearly tax billing invoices. In addition, each
30 municipality is hereby encouraged to notify said landowners, electors, and nonprofit
31 organizations of the existence of the public notice registry in all of its current and future
32 communications with the public, including, but not limited to, governmental websites, electronic
33 newsletters, public bulletins, press releases, and all other means the municipality may use to
34 impart information to the local community.

1 ~~(d)~~ (f) No defect in the form of any notice under this section renders any regulations
2 invalid, unless the defect is found to be intentional or misleading.

3 ~~(e)~~ (g) The requirements in this section are to be construed as minimum requirements.

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

6 **45-24-53. Adoption -- Notice and hearing requirements.** -- (a) No zoning ordinance
7 shall be adopted, repealed, or amended until after a public hearing has been held upon the
8 question before the city or town council. The city or town council shall first give notice of the
9 public hearing by publication of notice in a newspaper of general circulation within the city or
10 town at least once each week for three (3) successive weeks prior to the date of the hearing,
11 which may include the week in which the hearing is to be held, at which hearing opportunity shall
12 be given to all persons interested to be heard upon the matter of the proposed ordinance. Written
13 notice, which may be a copy of the newspaper notice, shall be mailed to the statewide planning
14 program of the department of administration, and, where applicable, to the parties specified in
15 subsections (b), (c), (d), and (e) of this section, at least two (2) weeks prior to the hearing. The
16 newspaper notice shall be published as a display advertisement, using a type size at least as large
17 as the normal type size used by the newspaper in its news articles, and shall:

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

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

21 (3) Contain a statement of the proposed amendments to the ordinance that may be
22 printed once in its entirety, or summarize and describe the matter under consideration provided
23 that the intent and effect of the proposed ordinance is expressly written in that notice;

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

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

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

33 ~~(e)~~ (b) Where a proposed amendment to an existing ordinance includes a specific change
34 in a zoning district map, but does not affect districts generally changes to the uses allowed in a

1 district, and/or changes to dimensional requirements, including density restrictions and minimum
2 lot area requirements, public notice shall be given as required by subsection (a) of this section,
3 with the additional requirements that:

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

7 (2) Written notice of the date, time, and place of the public hearing and the nature and
8 purpose of the hearing shall be sent to all owners of real property whose property is located in or
9 within not less than two hundred feet (200') of the perimeter of the area proposed for change,
10 whether within the city or town or within an adjacent city or town. Notice shall also be sent to any
11 individual or entity holding a recorded conservation or preservation restriction on the property
12 that is the subject of the amendment. The notice shall be sent by registered or certified mail to the
13 last known address of the owners, as shown on the current real estate tax assessment records of
14 the city or town in which the property is located.

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

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

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

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

31 (e) Notwithstanding any of the requirements set forth in subsections (a) through (d)
32 above, each municipality shall establish and maintain a public notice registry of landowners,
33 electors, and nonprofit organizations within said municipality who requests notice of any changes
34 to the zoning ordinance pursuant to this section. The zoning board or zoning officer shall place on

1 the registry the name and address of any such landowner, elector, or organization upon written
2 request of such landowner, elector, or organization. A landowner, elector, or organization may
3 request such notice be sent by mail or by electronic mail.

4 Each municipality shall be required every year to notify, in writing, landowners, electors,
5 and nonprofit organizations within said municipality, of the existence of the public notice registry
6 through that municipality's applicable yearly tax billing invoices. In addition, each municipality is
7 hereby encouraged to notify said landowners, electors, and nonprofit organizations of the
8 existence of the public notice registry in all of its current and future communications with the
9 public, including, but not limited to, governmental websites, electronic newsletters, public
10 bulletins, press releases, and all other means the municipality may use to impart information to
11 the local community.

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

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

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

32 (i) The above requirements are to be construed as minimum requirements.

33 SECTION 3. This act shall take effect upon passage.

LC01113

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO TOWNS AND CITIES - SUBDIVISION OF LAND - ZONING
ORDINANCES

- 1 This act would require municipalities to establish and maintain a public notice registry of
- 2 landowners, electors, and nonprofit organizations for notification of changes to local regulations.
- 3 This act would take effect upon passage.

LC01113