

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 1195

H.P. 881

House of Representatives, April 6, 1993

An Act to Amend the Requirements for Hearing and Public Notice in the Adoption and Amendment of Zoning Ordinances.

Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative WENTWORTH of Arundel.

Be it enacted by the People of the State of Maine as follows:

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4 Sec. 1. 30-A MRSA §4352, sub-§9, as enacted by PL 1991, c. 504, §2, is amended to read:

6 9. Notice and hearing in rezoning. Before any ~~property is~~ rezoned the adoption of a zoning ordinance or the amendment of an
8 existing zoning ordinance or map, the municipal reviewing
10 authority or the municipal officers shall conduct a public hearing as required by subsection 1. Notice of this hearing must:

12 A. Be posted in the municipal office at least 14 days
14 before the public hearing;

16 B. Be published at least 2 times in a newspaper having
18 general circulation in the municipality, with the date of
the first publication ~~must be~~ at least 7 days before the
hearing; and

20 ~~C. For each parcel in and abutting the area to be rezoned,~~
22 ~~be mailed at least 14 days before the public hearing to the~~
24 ~~last known address of the person to whom property tax on~~
26 ~~each parcel is assessed. A municipality shall maintain a~~
28 ~~list of names and addresses of those persons to whom a~~
notice is mailed under this paragraph. A notice must be
sent under this paragraph only if the rezoning is a change
of use that permits industrial, commercial or retail
development in a zone where such uses were previously
prohibited or that prohibits all such uses in a zone where
previously permitted. Notice under this paragraph is not
required for any other type of proposed zoning ordinance,
including overlay zoning ordinances or any type of zoning
ordinances required under section 4343, subsection 1-B, and

34 D. Contain a copy of a map indicating the any property to
36 be rezoned.

38 ~~Failure of an appellant to receive a notice sent by a~~
40 ~~municipality in accordance with paragraph C does not invalidate~~
42 ~~an ordinance or any provision of an ordinance; however, any~~
44 ~~person entitled to receive a notice of a zone change under~~
46 ~~paragraph C who does not receive such a notice may appeal the~~
decision of the municipality to adopt the zoning ordinance to the
Superior Court within 30 days after the adoption of the zoning
ordinance. The Superior Court may invalidate a zoning ordinance
or any provision of a zoning ordinance if the appellant
demonstrates that the appellant was entitled to receive a notice
under paragraph C that the municipality failed to send the
48 notice as required, that the appellant had no knowledge of the

2 ~~proposed zoning change and that the appellant was materially~~
3 ~~prejudiced by that lack of knowledge.~~

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STATEMENT OF FACT

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8 The purpose of this bill is to clarify the need for the
9 municipal officers or planning board to hold a public hearing
10 prior to the enactment of zoning ordinances or amendments by
11 requiring a hearing to be held for all cases. This bill repeals
12 the requirement that a notice of the hearing be mailed to
property owners.