

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10011-MQ-15 (01/13)

Short Title: Randolph County Zoning Procedure Changes. (Local)

Sponsors: Representatives McNeill and Hurley (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ALLOW FOR PLANNING BOARDS TO HOLD HEARINGS AND MAKE FINAL DECISIONS FOR ZONING AMENDMENT REQUESTS IN RANDOLPH COUNTY AND MUNICIPALITIES LOCATED ENTIRELY OR PARTIALLY WITHIN RANDOLPH COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-343 reads as rewritten:

"§ 153A-343. **Method of procedure.**

(a) The board of commissioners shall, in accordance with the provisions of this Article, provide for the manner in which zoning regulations and restrictions and the boundaries of zoning districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed. The procedures adopted pursuant to this section shall provide that whenever there is a zoning map amendment, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of a public hearing on the proposed amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing. Except for a county-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply, the applicant shall certify to the board of commissioners that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of public hearing. The person or persons required to provide notice shall certify to the board of commissioners that proper notice has been provided in fact, and such certificate shall be deemed conclusive in the absence of fraud.

(b) The first class mail notice required under subsection (a) of this section shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the county elects to use the expanded published notice provided for in this subsection. In this instance, a county may elect to either make the mailed notice provided for in subsection (a) of this section or may as an alternative elect to publish notice of the hearings required by G.S. 153A-323, but provided that each of the advertisements shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of subsection (a) of this section.



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1 (b1) Actual notice of the proposed amendment and a copy of the notice of public hearing
2 required under subsection (a) of this section shall be by any manner permitted under G.S. 1A-1,
3 Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, registered or
4 certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2),
5 notice may be given by publication consistent with G.S. 1A-1, Rule 4(j1). This subsection applies
6 only to an application to request a zoning map amendment where the application is not made by
7 the owner of the parcel of land to which the amendment would apply. This subsection does not
8 apply to a county-initiated zoning map amendment.

9 ...

10 (d) When a zoning map amendment is proposed, the county shall prominently post a notice
11 of the public hearing on the site proposed for rezoning or on an adjacent public street or highway
12 right-of-way. When multiple parcels are included within a proposed zoning map amendment, a
13 posting on each individual parcel is not required, but the county shall post sufficient notices to
14 provide reasonable notice to interested persons.

15 (e) The board of commissioners may, by ordinance, delegate to the planning board the
16 authority to conduct the public hearing required under this section and make the final decision on
17 zoning map amendment proposals, including the adoption of a consistency statement pursuant to
18 G.S. 153A-341. The board of commissioners may prescribe procedures for the public hearing that
19 are not inconsistent with this Article. The planning board shall make its final decision by majority
20 vote of the members of the planning board. Any person aggrieved by a final decision of the
21 planning board pursuant to this subsection may appeal to the board of commissioners by providing
22 written notice to the county manager within 15 days of the final decision. On appeal, the board of
23 commissioners shall review the decision of the planning board de novo. The board of
24 commissioners may, by ordinance, rescind or modify any authority delegated to the planning
25 board pursuant to this subsection."

26 **SECTION 2.** G.S. 160A-384 reads as rewritten:

27 "**§ 160A-384. Method of procedure.**

28 (a) The city council shall provide for the manner in which zoning regulations and
29 restrictions and the boundaries of zoning districts shall be determined, established and enforced,
30 and from time to time amended, supplemented or changed, in accordance with the provisions of
31 this Article. The procedures adopted pursuant to this section shall provide that whenever there is a
32 zoning map amendment, the owner of that parcel of land as shown on the county tax listing, and
33 the owners of all parcels of land abutting that parcel of land as shown on the county tax listing,
34 shall be mailed a notice of a public hearing on the proposed amendment by first class mail at the
35 last addresses listed for such owners on the county tax abstracts. This notice must be deposited in
36 the mail at least 10 but not more than 25 days prior to the date of the public hearing. Except for a
37 city-initiated zoning map amendment, when an application is filed to request a zoning map
38 amendment and that application is not made by the owner of the parcel of land to which the
39 amendment would apply, the applicant shall certify to the city council that the owner of the parcel
40 of land as shown on the county tax listing has received actual notice of the proposed amendment
41 and a copy of the notice of public hearing. The person or persons required to provide notice shall
42 certify to the city council that proper notice has been provided in fact, and such certificate shall be
43 deemed conclusive in the absence of fraud.

44 (b) The first class mail notice required under subsection (a) of this section shall not be
45 required if the zoning map amendment directly affects more than 50 properties, owned by a total
46 of at least 50 different property owners, and the city elects to use the expanded published notice
47 provided for in this subsection. In this instance, a city may elect to either make the mailed notice
48 provided for in subsection (a) of this section or may as an alternative elect to publish notice of the
49 hearing as required by G.S. 160A-364, but provided that each advertisement shall not be less than
50 one-half of a newspaper page in size. The advertisement shall only be effective for property
51 owners who reside in the area of general circulation of the newspaper which publishes the notice.

1 Property owners who reside outside of the newspaper circulation area, according to the address
2 listed on the most recent property tax listing for the affected property, shall be notified according
3 to the provisions of subsection (a) of this section.

4 (b1) Actual notice of the proposed amendment and a copy of the notice of public hearing
5 required under subsection (a) of this section shall be by any manner permitted under G.S. 1A-1,
6 Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, registered or
7 certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2),
8 notice may be given by publication consistent with G.S. 1A-1, Rule 4(j1). This subsection applies
9 only to an application to request a zoning map amendment where the application is not made by
10 the owner of the parcel of land to which the amendment would apply. This subsection does not
11 apply to a city-initiated zoning map amendment.

12 (c) When a zoning map amendment is proposed, the city shall prominently post a notice of
13 the public hearing on the site proposed for rezoning or on an adjacent public street or highway
14 right-of-way. When multiple parcels are included within a proposed zoning map amendment, a
15 posting on each individual parcel is not required, but the city shall post sufficient notices to
16 provide reasonable notice to interested persons.

17 (d) The city council may, by ordinance, delegate to the planning board the authority to
18 conduct the public hearing required under this section and make the final decision on zoning map
19 amendment proposals, including the adoption of a consistency statement pursuant to
20 G.S. 160A-383. The city council may prescribe procedures for the public hearing that are not
21 inconsistent with this Article. The planning board shall make its final decision by majority vote of
22 the members of the planning board. Any person aggrieved by a final decision of the planning
23 board pursuant to this subsection may appeal to the city council by providing written notice to the
24 city manager within 15 days of the final decision. On appeal, the city council shall review the
25 decision of the planning board de novo. The city council may, by ordinance, rescind or modify any
26 authority delegated to the planning board pursuant to this subsection."

27 **SECTION 3.(a)** Section 1 of this act applies to Randolph County. Section 2 of this act
28 applies to municipalities located entirely or partially within Randolph County.

29 **SECTION 3.(b)** This act is effective when it becomes law.