

***What constitutes “reasonable effort” when a town chooses to mail or deliver notices of an upcoming hearing to amend the town’s zoning bylaws instead of publishing the notices in a newspaper of general circulation?***

Title 24 § 4447 sets forth the requirements towns must comply with when providing notice of upcoming public hearings concerning the adoption, amendment, or repeal of zoning or subdivision bylaws. There are two ways towns can give notice of the impending public hearing. The first is to publish in a newspaper of general publication and to post in one or more public places either the full text of the proposed material, or a notice including a statement of the purpose of the hearing, the geographic areas affected, a table of contents or list of section headings, and a description of a place within the municipality where the full text may be examined. 24 V.S.A. § 4447(b)(1)(A)-(D).

If a town wants to avoid the cost of publishing the notice, there is an alternative. Towns may “make reasonable effort” to mail or deliver copies of the full text (or a concise summary of the text as provided for in subdivision (b)(1)(A)-(D)) of the proposed material and the public hearing notice to each voter, as evidenced by the voter checklist of the municipality, and to each owner of land within the municipality, as evidenced by the grand list of the municipality. 24 V.S.A. § 4447(b)(2).

Regardless of the method used, notice of a public hearing under Chapter 117 must be given at least 15 days prior to the date of the hearing.

VLCT was recently asked if a town could send out a “saturation mailing” addressed to all “postal patrons” in the town to ensure that everyone who was entitled to notice received it. One reason the town suggested the saturation mailing is because the grand list and voter checklist were not current with actual property transfers and that if the town relied solely on the grand list and voter checklist, some of the town’s newer voters or property owners might not receive notice of the public hearing. The statute requires that the town “make reasonable effort to mail or deliver” copies of the hearing notice. The suggested method of mailing certainly appears to be a “reasonable effort” as it ensures that all current voters and/or property owners receive notice of the public hearing. However, to ensure compliance with the requirements of the statute, the saturation mailing should not be addressed merely to “Postal Patron” but should be specifically addressed to “(Name of Town) Property Owner/Voter.” Specifically addressed individual notices must also be mailed to all property owners who reside out of town.

- Julie Fothergill, Attorney, VLCT Municipal Assistance Center  
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