



**MONMOUTH
COUNTY
PLANNING
BOARD**

**Technical
Assistance
Outreach
Brochure for
Municipal
Planning**



Volume

V

NOTICING PROCEDURES



SEPTEMBER 2010

Table of Contents

I. INTRODUCTION.....	Page 1
II. ESSENTIALS TO KNOW*.....	Page 2
III. NEED FOR NOTICES.....	Page 3
IV. DEVELOPMENT DECISION & NOTICE CONNECTIONS.....	Page 3
V. TYPICAL DELIVERABLE.....	Page 4
VI. IMPORTANT NOTICE REQUIREMENTS.....	Page 6
VII. DEMYSTIFYING NOTICES.....	Page 7
VIII. PROCEDURAL STEPS CHECKLIST.....	Page 7
IX. HIGHLIGHTS RECAPPED*.....	Page 9
X. ADDITIONAL RESOURCES.....	Page 10

**Duplicated on the Quick Reference Guide*

USER DISCLAIMER: This municipal planning outreach brochure does not replace or summarize all components of the New Jersey Municipal Land Use Law, Local Redevelopment and Housing Law, the Open Public Meetings Act (refers to meetings) or any other laws mentioned or not mentioned in this brochure. Please consult a land use and/or redevelopment attorney familiar with the issues described in this guide for further guidance, as the topics and steps cited herein may be advisory in nature or may change as new laws are enacted or amended and court decisions may modify the ways these plans, maps and laws are used.

I. Introduction

This is the fifth and final volume in a series of technical assistance outreach brochures for municipal planning developed by the Monmouth County Planning Board. The back of this brochure references all the volume titles. Volume V is a "how-to" guide on preparing public notices for a variety of planning related matters and is divided into ten sections. This brochure includes legally required and optional procedural recommendations on how to develop different types of public notices. Brochure Volume V is intended for municipal clerks, attorneys, planners and land use board secretaries and administrators for developing public notices.

Early Questions Municipalities Should Ask Themselves:

- 1) What is a public notice?
- 2) Why are public notices required and /or needed?
- 3) What are the procedural steps for preparing and issuing notices?
- 4) What are the consequences incurred if notice is not properly done?

II. Essentials to Know

NOTICES

<i>NOTICE DEFINITIONS:</i>	<p>A public notice informs citizens of government or government-related activities that may affect the citizen's everyday lives. (<i>Public Notice Resource Center, Inc.</i>)</p>
<i>PREPARES NOTICE:</i>	<p>Entities that may typically prepare a notice:</p> <ul style="list-style-type: none">• Applicant• Municipal Clerk• Land Use Administrator• Secretary to Planning Board or Board of Adjustment• Attorney
<i>TYPICAL PREPARATION:</i>	<p>It may take a few hours or several days to create a public notice depending on staff constraints, deadline or the complexity of certain projects, or type of information placed in the notice.</p>
<i>TYPICAL CONTENTS:</i>	<ul style="list-style-type: none">• Date, time and place of hearing• Nature of the matters to be considered at hearing• Identification of the property proposed for development or affected by the proposed action by street address and/or block and lot as shown on the current tax duplicate• Location and times in which any of the material related to the matters to be considered at the hearing may be reviewed
<i>OPTIONAL CONTENTS:</i>	<ul style="list-style-type: none">• Map used to assist in describing the matter• Webpage address to find more information• Contact information to direct related questions on the matter
<i>POSSIBLE CONSEQUENCES TO IMPROPER NOTICING:</i>	<ul style="list-style-type: none">• Invalidation of decisions by courts• Applicants or the public may appeal decisions• Delays on hearings and time schedules for project• Lack of or limited engagement of public participation or awareness
<i>WHERE NOTICES ARE TYPICALLY FOUND:</i>	<ul style="list-style-type: none">• Clerk's Office• Municipal Buildings / Bulletins• Newspapers / Legal Advertisements• Direct mailings to affected properties or properties within a 200-foot radius of affected properties

III. Need for Notices

Notice to the public is a common and important function of the municipal planning process.

Importance:

- The opportunity to involve the public on decisions about various development projects and municipal plans.
- Helps the public and decision-making bodies make stronger and more informed decisions.
- Conduit of information from a developer or government entity to the public.

Benefits:

- Promotes a greater public awareness and citizen participation in the planning process.
- Gives the public an opportunity to have their voices heard at public hearings or meetings.
- Assists in identifying changes occurring in a community.
- Helps the public monitor municipal projects or plans and initiatives.
- Allows developers to notice surrounding property owners easily and helps avoid some challenges to their project.

Aspects of a Good Notice:

- It includes precise messages that can be reviewed years later with a clear understanding.
- It is in an easily accessible and user-friendly format.
- It is published in trusted forms of information such as newspapers.

IV. Development Decision & Notice Connections

The connection between development application decisions and notice requirements are very important and cannot be underestimated.

Municipalities are required under the New Jersey Municipal Land Use Law to make decisions on development applications within a certain period of time. As part of the hearing process, applicants must provide notice of such a hearing. The required elements of a notice must be shown. Applications are heard at a public hearing once proper notice has been given. However, exceptions do occur such as in the case of minor subdivision applications where a municipality may waive notice and public hearing requirements if a municipal ordinance is in place indicating to do so. The relationship between notice and hearing decisions is important to the decision-making and development process. If a notice is not done correctly and within the required period of time, an application may not be heard or the decision can be reversed or voided by the courts.

V. Typical Deliverable

Township of Everyone (Board Name)

TAKE NOTICE that on the date, at time, a public hearing will be held before the name of municipal board at the municipal building, location, on the appeal or application or plan or map of the undersigned for site on the premises located at address and designated as Block(s) number, Lot(s) number on the Township/Municipality Tax Map.

The following described maps and documents are on file in the office of the Municipal Clerk and are available for inspection:

Brief description of what will be heard at the meeting - project, presentation, etc.

Any interested party may appear at the said hearing and participate therein in accordance with the rules of the name Board.

Name of applicant or clerk

Publication Date

Notices that are issued by applicants or municipalities are most commonly found in the legal advertisements or classified sections of newspapers. Some municipalities also display notices in the Municipal Clerk's office, conspicuously near where hearings take place, or feature the information on their municipal webpage or on bulletin boards. Applicants are encouraged to plan in advance for mailings or newspaper noticing to account for any problems that might arise. Residents are encouraged to become familiar with the mechanisms used for public noticing in their community and to regularly visit these sites for information regarding upcoming hearings and notices, and to contact the municipality itself with questions.

How to Determine When to Notice:

Calendar days are used to identify the date for notice mailing/placement

Noticing Requirements: You must notice 10 calendar days before hearing date

Hearing Date: July 20th (example)

10 Calendar Days: July 10th is the latest date that notice can be mailed by certified mail (example)

Source: N.J.S.A. 40:55D-14

V. Typical Deliverable *(continued)*

Municipalities often outline their notice requirements provisions or steps for a hearing within their zoning or land use ordinance. For example, the Borough of Freehold in Monmouth County outlines notice requirements for a hearing in section 16.16.060 of their land use ordinance.

16.16.060 Notice requirements for hearing.

Whenever a hearing is required on an application, except for applications for site plan approval, minor subdivision or final approval of major subdivision, the applicant shall give notice thereof as follows:

A. Public Notice. Public notice shall be given by publication in the official newspaper of the borough at least ten (10) days prior to the date of the hearing.

B. Owners of Adjacent Property. Notice shall be given to the owners of all real property as shown on the current tax duplicate or duplicates located within two hundred (200) feet in all directions of the property which is the subject of such hearing and whether located within or without the municipality in which the applicant's land is located. Such notice shall be given by:

1. Serving a copy thereof on the owner as shown on the current tax duplicate or his or her agent in charge of the property; or
2. Mailing a copy thereof by certified mail to the property owner at his address as shown on the current tax duplicate. A return receipt is not required.

Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice-president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation.

C. Adjoining Municipality. Notice of all hearings on applications for development involving property located within two hundred (200) feet of an adjoining municipality shall be given by personal service or certified mail to the clerk of such municipality. Such notice shall be in addition to the notice required to be given pursuant to subsection B of this section to the owners of lands in such adjoining municipality which are located within two hundred (200) feet of the subject premises.

D. County Planning Board. Notice shall be given by personal service or certified mail to the county planning board of a hearing on an application for development of property adjacent to an existing county road or proposed road shown on the official county map or on the county master plan, adjoining other county land or situate within two hundred (200) feet of a municipal boundary.

E. Commissioner of Transportation. Notice shall be given by personal service or certified mail to the commissioner of transportation of a hearing on an application for development of property adjacent to a state highway.

F. Director of Division of State and Regional Planning. Notice shall be given by personal service or certified mail to the director of the division of state and regional planning in the department of community affairs of a hearing on an application for development of property which exceeds one hundred fifty (150) acres or five hundred (500) dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the borough clerk, pursuant to R.S. 40:55D-12g.

G. Proof of Service. All notices hereinabove specified in this section shall be given at least ten (10) days prior to the date fixed for hearing and the applicant shall file an affidavit of proof of service with the board holding the hearing on the application for development.

H. Completion by Certified Mail. Any notice made by certified mail as hereinabove required shall be deemed complete upon mailing in accordance with the provisions of R.S. 40:55D-14.

I. Form of Notice. All notices required to be given pursuant to the terms of this title shall state:

1. The date, time and place of the hearing;

Source: Monmouth County Planning Board Municipal Files, Borough of Freehold Zoning Ordinance

The Borough of Freehold notice requirements described above represent a clear and comprehensive example of mandatory notice required elements per the New Jersey Municipal Land Use Law as well as optional elements. It is advisable to first review the local municipal ordinance to see if special notice requirements must be met in addition to those required within the New Jersey Municipal Land Use Law.

VI. Important Notice Requirements

All notices must include the date, time, place of hearing and nature of matters to be considered. The following table indicates the most popular type of projects or plans noticed, who is required to be noticed, how many days notice is required, and references the statute or other important related information.

Type	Group/Persons Noticed	Notice Days	Statute
REDEVELOPMENT AREA INVESTIGATION REPORTS	Official newspaper publication	Notice provided twice (once a week for two consecutive weeks). Second notice must appear no less than 10 days prior to hearing	N.J.S.A. 40A:12A-6.b
	Last owner of each parcel in the study area according to the assessment records of the municipality	At least 10 days prior to hearing date	N.J.S.A. 40A:12A-6.b
	Any persons who file objections to determination	Within 10 days after determination of "an area in need of redevelopment"	N.J.S.A. 40A:12A-6.5
ZONING ORDINANCE	Owners of all real property as shown on the current tax duplicates	At least 10 days prior to the hearing	N.J.S.A. 40:55D-62.1
	Military Facility Commander	At least 10 days prior to the hearing	N.J.S.A. 40:55D-12
	Partnership Owner	At least 10 days prior to the hearing	N.J.S.A. 40:55D-12
	County Planning Board		N.J.S.A. 40:55D-16
MASTER PLAN	Newspaper of general circulation or Official newspaper publication	At least 10 days prior to hearing	N.J.S.A. 40:55D-13
	Clerk of Adjoining Municipality	At least 10 days prior to hearing	N.J.S.A. 40:55D-13
	County Planning Board	At least 10 days prior to hearing Not more than 30 days after adoption, revision or amendment	N.J.S.A. 40:55D-13
MASTER PLAN REEXAMINATION REPORT	Municipal Clerk of Adjoining Municipality		N.J.S.A. 40:55D-89
	County Planning Board	<i>Please see Master Plan / Zoning Ordinance statute for further guidance</i>	N.J.S. 40:55D-89
OFFICIAL MAP	Clerk of Adjoining Municipality	At least 10 days prior to the hearing notice on adoption, revision or amendment	N.J.S.A. 40:55D-15
	County Planning Board	At least 10 days prior to hearing	N.J.S.A. 40:55D-15b
		Not more than 30 days after adoption, revision or amendment	N.J.S.A. 40:55D-15b
MINOR SUBDIVISION APPLICATIONS	<i>No noticing requirements typically. Please see statute for further guidance</i>	Notice may be waived for minor subdivision applications	N.J.S.A. 40:55D-46.1
PROPERTY ADJACENT TO STATE HIGHWAYS	Owners of all real property as shown on current tax duplicates	At least 10 days prior to hearing	N.J.S.A. 40:55D-12.b
	Clerk of Adjoining Municipality	At least 10 days prior to hearing	N.J.S.A 40:55D-12.d
	County Planning Board	At least 10 days prior to hearing	N.J.S.A 40:55D-12.e
	Commissioner of Transportation	At least 10 days prior to hearing	N.J.S.A. 40:55D-12.f
PROPERTY EXCEEDING 150 ACRES OR 500 DWELLING UNITS	State Planning Commission	At least 10 days prior to hearing	N.J.S.A. 40:55D-12.g

Source: *New Jersey Municipal Land Use Law / New Jersey Zoning and Land Use Administration, William Cox with Donald M. Ross, 2007*

DISCLAIMER: Please consult a land use and/or redevelopment attorney familiar with the issues described in this guide for further guidance on noticing, as the topics and steps cited herein may be advisory in nature or may change as new laws are enacted or amended and court decisions may modify the ways these plans, maps, notices and laws are used.

VII. Demystifying Notices

- Notices are deemed complete upon mailing and not upon receipt. Receipt of notice is not required.
- Filing of receipts and affidavits are not required by statute. However, it is recommended.

VIII. Procedural Steps Checklist

Use the following sample checklist to develop notices (use the most recent documents):

STEP 1 Identify Notice Requirements

- Identify what, if any, notice requirements are needed according to the Municipal Land Use Law, Local Redevelopment Housing Law (if in a redevelopment area only) and/or Open Public Meeting Act.
- Identify if there are any municipal imposed special notice requirements that must be met. Information can normally be found in the land use ordinance if there are special requirements.
- Determine when notice is needed to satisfy calendar days and if there is sufficient time and calendar days to prepare a public notice to be published within that timeframe.

STEP 2 Designate Preparer

- Identify person(s) to develop the notice. Ensure necessary resources are provided.

STEP 3 Contact Newspaper

- Identify the official or general newspaper(s) of the municipality. It is advisable to contact the municipal Clerk or Administrator for this information.
- Contact the official or general newspapers of the municipality to confirm their publishing deadlines for public notice requirements and plan accordingly.
- Discuss early with newspaper officials the steps on how to obtain a newspaper affidavit and publication. This is often needed to verify that notice has indeed been placed. (Many land use administrators or planning board secretaries will require this information in order to schedule a case before the planning board.)

VIII. Procedural Steps Checklist *(continued)*

STEP 4 **Review Information (Typical Sources)**

- Review any necessary planning development applications, reports or plans to obtain information to insert in a notice (i.e. project summary, boundary descriptions, block and lot information.)
- Confirm that the address or, if used, the block and lot and other hearing information is accurate. It is advisable to consult up to date Tax Maps where applicable.
- Review any correct sample notices used by the municipality to help serve as a guide in the preparation of notices.
- If needed, consult with attorneys for the local Planning Board, Zoning Board of Adjustments, or municipal counsel.
- If applicable, it is advisable to consult with a redevelopment attorney for notices directly related to a redevelopment area (special requirements are applicable for notice in this case).
- Request a current list of property owner names and addresses for notice requirements for applicable projects from the Tax Assessor department. A 200-foot property owner radius list is often compiled using information from the tax assessor list. Review the property owner listing for accuracy.

STEP 5 **Write Notice**

- Develop, review, and edit a draft notice to ensure the accuracy of required components.
- Ensure the notice contains all the required information necessary. If attachments will be provided, make sure that those are attached to the notice.

STEP 6 **Publish and/or Send Notice**

- Contact the Municipal Clerk to identify what is the “newspaper of general circulation” or official newspaper of a municipality.
- Publish the notice in a “newspaper of general circulation” or official newspaper of the municipality by the required deadlines. Though not required, you may also be obliged to place notices in highly visible public areas such as the Clerk's office, municipal bulletin boards, etc.
- If required, ensure receipt of newspaper affidavit of publication by the hearing date.
- Send notice to any required entities or persons. (i.e. adjoining municipalities, County Planning Board, Commissioner of Transportation, etc.)

STEP 7 **Archive Notice**

- Maintain or archive notices for development applications or any related municipal planning documents. (Often maintained with the municipal clerk or the secretary of the Planning Board, Zoning Board or other bodies.)
- Maintain or archive the list of individuals and/or organizations that the notice was sent to. This is important to address any challenges that may arise in the future or to answer inquiries regarding who received notice.

IX. Highlights Recapped

- ☑ Notices must include the date, time, place of hearing and nature of matters to be considered.
- ☑ Identify notice requirements early in the planning process to avoid missed deadlines.
- ☑ Confirm the correct block and lots or other identifying information in the notice is indeed correct. Verify this information is accurate to the project itself.
- ☑ The County Planning Board is noticed on Zoning Ordinances, Development Regulations and Master Plan adoptions, revisions and amendments.
- ☑ Legal courts may invalidate decisions rendered if there are improperly completed notices or a failure to submit a required notice. Other consequences may include delayed hearings.
- ☑ Notice requirements may sometimes have special requirements that must be satisfied such as in the case of Redevelopment Area Investigations.
- ☑ Always ensure newspaper notification is submitted by the required deadline.
- ☑ Request newspaper affidavits and proof of publication when conducting newspaper notices for a development project. Maintain copies for your notice records or for possible future inquiries by the public.
- ☑ Seek assistance when drafting and submitting notices for plans or development projects.
- ☑ Ensure your property listings used for mailings is the most up to date listing available.
- ☑ Certified mailing notice is an often preferred method to using regular mail to ensure receipt to noticed individuals or organizations. It is not required by statute however.

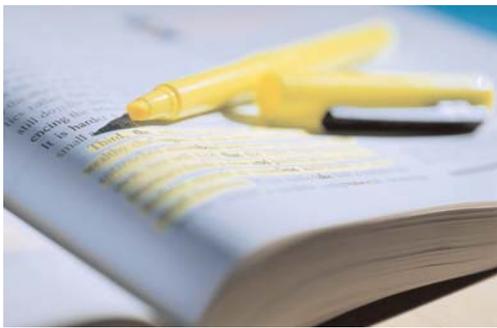
X. Additional Resources

ONLINE:

Public Notice Resource Center.
<http://www.pnrc.net/>

New Jersey Press Association.
<http://publicnoticeads.com/nj/>

List of New Jersey Newspapers.
www.njpa.org/njpa/news_this_week/public%20notices%20on%20the%20Web.html



BOOKS:

Cox, William, and Donald M. Ross.
New Jersey Zoning and Land Use Administration.
Newark, NJ: Gann Law Books, 2008.
(Published Annually - New Jersey Planning Officials).

LAWS:

Municipal Land Use Law, Chapter 291, Laws of N.J. 1975. C.40:55D-1-163.

Local Redevelopment and Housing Law. N.J.S.A. 40:12A-1-22.

Open Public Meetings Act. N.J.S.A. 10:4-6 to 10:4-21 et. seq.



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Volume II: MASTER PLAN & OFFICIAL MAP PROCEDURES

Volume III: ZONING ORDINANCE & ZONE MAP PROCEDURES

Volume IV: REDEVELOPMENT AREA INVESTIGATION REPORT &
REDEVELOPMENT PLAN PROCEDURES

Volume V: NOTICING PROCEDURES

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