

## Chapter 299 of the Acts of 2000

### AN ACT RELATIVE TO ZONING BY-LAWS.

*Whereas* , The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith an alternative procedure for the attorney general to review zoning by-laws, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

Section 32 of chapter 40 of the General Laws is hereby amended by adding the following two paragraphs:-

Notwithstanding the provisions of the preceding paragraph, if the attorney general finds there to be any defect in the procedure of adoption or amendment of any zoning by-law relating to form or content of the notice of the planning board hearing prescribed in section 5 of chapter 40A, or to the manner or dates on which said notice is mailed, posted or published as required by said section 5, then instead of disapproving the by-law or amendment because of any such defect, the attorney general may proceed under the provisions of this paragraph. If the attorney general so elects, written notice shall be sent to the town clerk within a reasonable time setting forth with specificity the procedural defect or defects found, including a form of notice thereof, whereupon the running of the 90-day period provided for the attorney general's review pursuant to this section shall be suspended. The town clerk shall forthwith post the notice in a conspicuous place in the town hall for a period of not less than 14 days, and shall publish it once in a newspaper of general circulation in the town. The notice shall state that any resident, the owner of any real property in the town, or any other party entitled to notice of the planning board hearing, who claims that any such defect was misleading or was otherwise prejudicial may, within 21 days of the publication, file with the town clerk a written notice so stating and setting forth the reasons supporting that claim. Forthwith after the expiration of said 21 days, the town clerk shall submit to the attorney general either (a) a certificate stating that no claim was filed within the 21 day period, or (b) a certificate stating that one or more claims were filed together with copies thereof. Upon receipt of the town clerk's certificate, the 90-day period provided for the attorney general's review pursuant to this section shall resume; but if the expiration of the 90-day period is less than ten days from the date on which the town clerk's certificate was received, then the review period shall be extended to the tenth day following such receipt. If no claim was made, the attorney general may waive any such defect; but, if any claim is made then the attorney general may not waive any such defect. However, by not filing a claim under this paragraph, a person shall not be deprived of the right to assert a claim of invalidity arising out of any possible defect in the procedure of adoption or amendment as provided in this section and in section 5 of chapter 40A.

Notwithstanding the provisions of the first paragraph of this section, the attorney general and the town counsel may, by an agreement in writing setting forth the reasons therefor and filed with the town clerk before the end of the 90-day period, extend the 90-day period provided for the attorney general's review pursuant to this section for not more than an additional 90 days.

Approved October 18, 2000.