

## Rezoning Process in Tennessee

Zoning can be contentious, especially when a property's allowed use is changed through rezoning. In order to allay people's fears about proposed changes and give them a chance to express their concerns, the state requires a newspaper notice and public hearing about any rezonings. Some cities and counties go beyond these minimum statutory requirements; some post signs on the property to be rezoned, some send notice to property owners in the mail, and some hold more than one public meeting.

Adequate notice is particularly important in instances of downzoning—a zoning change that reduces the density of development, limits the kinds of permitted uses, or reduces the square footage that can be built on a parcel—since they can lower a parcel's value. A recent example of a contentious downzoning occurred in Knoxville when the Inskip neighborhood was rezoned, reducing the number of residential units that could be built on each parcel. The city advertised the proposed rezoning in the newspaper three times, held three public hearings, posted signs in the general area of the rezoning, and sent a post card notice to property owners at the same address where they receive tax notices.<sup>1</sup> The city also allowed owners to opt out before the rezoning was approved. One owner says he failed to get notice of the rezoning and, therefore, did not have an opportunity to opt out.<sup>2</sup> According to the owner, the rezoning reduced the value of his property by more than \$250,000, from \$400,000 to \$150,000.

The General Assembly this session considered legislation introduced in response to the complaints of the property owner in Knoxville and general concerns that property owners may not have adequate notice of rezonings and that those changes can result in a loss of property value. This legislation, Senate Bill 549 by Niceley and House Bill 775 by Daniel, would require the written consent of the owner for any rezoning affecting a parcel of private property. The Senate State and Local Committee amended the bill to direct the Commission to study this issue and submit its report by January 1, 2016. The House bill was taken off notice, but Chairman Wirgau of the House Local Government Committee requested by letter that the Commission study the legislation.

Requiring owner consent for rezonings would completely undo the dispute resolution process provided by zoning laws and the local government structure created to support them. Zoning begins with proposals by planning commissions appointed by elected officials. Though not required, many planning commissions invite public input through hearings and committees of citizens in order to ensure that their proposals reflect the will of the community. Local legislative bodies must hold hearings, notifying the public when and where they will occur, before adopting or amending zoning regulations. These hearings are intended to ensure that

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<sup>1</sup> Dan Kelly, Planning Commission Staff, City of Knoxville, phone interview with Bill Terry, May 11, 2015, and letter from Charles Swanson, Law Director, to Congressman John Duncan, December 8, 2014.

<sup>2</sup> Quint Bourgeois, Knoxville property owner, phone interview with Bill Terry, May 8, 2015.

affected property owners have an opportunity to speak directly to their elected officials and express their support or concern about the proposals. This structure and process largely replaced the more expensive, cumbersome, piecemeal, and unpredictable judicial process based on nuisance law.

This process, adopted by Tennessee and most states in the 1920s and 1930s, is consistent around the country. No state requires owner consent for rezoning, but some give owners more of a say in the process in different ways, including 21 states that authorize owners to petition for a supermajority vote of the legislative body to approve the rezoning. Two states, Ohio and West Virginia, allow them to petition for referendums. Neither of these would result in the checker board zoning map that requiring individual consent would. Giving individual property owners veto power over rezonings would destroy zoning plans based on community consent expressed through local, elected legislative bodies and could create problems for neighborhoods by allowing incompatible land uses next to each other.

Short of requiring the consent of owners for rezonings, some of the approaches already used by local governments in Tennessee to ensure that property owners are aware of rezonings could be required. For example, the number of newspaper notices could be increased from one to two. Or signs could be required on the property proposed for rezoning, with multiple signs required when more than one parcel is to be considered. Notice could also be required by mail, either first-class or registered, to owners of affected properties. Notice by mail might also be required for surrounding property owners. Local governments could be authorized to require the party requesting the rezoning to pay for notification requirements.

## **Striking a Balance between what is best for the community and what is best for the individual**

The Commission's 2013 report *Land Use in Tennessee: Striking a Balance*, characterized zoning as a more efficient and less costly way to resolve land-use conflicts between neighbors, and it is. But the real support for zoning, and the reason that zoning became so widespread so quickly in the early twentieth century, was that it provided an effective way for entire communities to protect the character and quality of life of its neighborhoods and its business districts. Zoning was also quickly recognized as an effective way to protect property values.

Zoning is a participatory process through which communities make land use decisions for an entire city or county. Because zoning covers an entire community, it is more effective at protecting neighborhoods and business districts from incompatible land uses than deed restrictions or covenants that control what individuals in a particular development can do on their property and selective regulations that prohibit certain noxious businesses in residential areas. Zoning is a community-wide process that involves developers, property owners, concerned citizens, planning commissions, and elected legislative bodies. It begins with proposals developed by planning commissions appointed by elected officials and supported by professional staff. Rezoning is often initiated by developers or property owners, but may be part of a periodic reevaluation of the community or parts of the community by planning commissions and their staffs. Though not required, many planning commissions invite public input through hearings and committees of citizens in order to ensure that their proposals reflect the will of the community, not just the wishes of a particular developer or individual landowner.

Once the planning commission approves a proposal, it goes to the local legislative body, which must hold a public hearing after advertising it in a newspaper of general circulation at least 15 days before the hearing.<sup>3</sup> These hearings are intended to ensure that affected property owners have an opportunity to speak directly to their elected officials and express their support or concern about the proposal. After the hearing, the legislative body elected by the people decides whether to accept the proposal recommended by the planning commission.

Rezoning may involve upzoning or downzoning. Downzoning may reduce the density of development or the square footage or height of a building or further restrict permitted uses. Upzoning does the reverse. While adjoining or nearby property owners may support or be indifferent toward downzoning proposals, a landowner or developer who owns property already zoned for higher intensity use will often fight downzoning because of the potential reduction in the value of their property as happened recently in Knoxville. A property owner who bought land in the city 12 years ago as an investment when the property was zoned R2, a classification that allows up to a maximum of 24 single-family and multi-family housing units

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<sup>3</sup> Tennessee Code Annotated Sections, 13-7-105 (counties) and 13-7-203 and 13-7-204 (cities). Notice must be published 30 days before the hearing in Metropolitan Nashville and Davidson County.

per acre, stands to lose a considerable sum because his property has been downzoned. The property owner, Mr. B, estimates the value of the property when purchased at between \$350,000 and \$400,000, has spent \$53,000 on plans to develop it, and claims it is now worth only about \$150,000.

The city downzoned the property in 2013 after revising the land use plan for the area where the property is located. The new classification, R1A, permits no more than six units per acre and requires larger lots. Although the city says it mailed two notices to property owners at their addresses of record, posted signs in the area, published three notices in the newspaper, and held three public meetings, the owner says he never received notice of the rezoning. The city agreed not to downzone the property of owners who requested not to be downzoned. A later application by Mr. B to rezone his property back to R2 was denied.

In response to the Knoxville instance and to general concerns that property owners may not have adequate notice of rezonings and that those changes can result in a loss of property value, Senate Bill 549 by Niceley and House Bill 775 by Daniel, were introduced to require written consent from a property owner before his or her property could be rezoned by a city or county. The Senate State and Local Government Committee amended the bill at the request of the sponsor to require written consent from the owner before any rezoning that changes the land-use classification of any single parcel can take effect and to ask the Commission to study this issue and submit its report by January 1, 2016. The amendment specifically directed the Commission to study the procedures governing how local legislative bodies may amend zoning ordinance provisions and the effects of any change to the current law that would require the written consent of the owner of private property prior to any zoning amendment that would affect such parcel of private property.

Similar legislation has been introduced in the past but has never been presented to a committee. Representative Walley introduced legislation in 1995 to require initial zonings to authorize existing uses and rezonings only with written consent of the property owners. The bill had no Senate sponsor and was withdrawn.<sup>4</sup> Legislation more similar to the bill calling for this study was introduced in 2011 by Representative Casada and Senator Ketron.<sup>5</sup> The bill was assigned to the General Subcommittees of the Senate and House State and Local Government Committees.

Opposition to the bills stems from concerns about making it difficult for local governments to adopt or revise zoning ordinances and prohibit incompatible land uses. For example, a community may call for downzoning to protect a residential neighborhood from the more intense development allowed by current zoning, but if an individual withholds consent to rezone, a high rise apartment could be built in that area. Requiring owner consent for rezonings could make land use plans based on input from citizens, developers, and others

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<sup>4</sup> House Bill 15.

<sup>5</sup> Senate Bill 1272 and House Bill 1345.

irrelevant. Finally, requiring owner consent could make rezonings more difficult if owners live out of state or outside the country and it is difficult to contact them. There may also be problems if multiple owners own a parcel and they cannot agree on whether to consent to the rezoning.

## **Other States' Efforts to Give Property Owners More Control over Rezonings**

No other state requires individual owners' consent for rezoning, but twenty-three give owners and residents more of a say in the process in different ways, including by authorizing them to protest rezonings through petitions or to call for referendums on proposed rezonings.

### **Petition for Approval of Rezoning By Supermajority**

Twenty-one states allow owners of property being rezoned to petition for a supermajority vote on the rezoning by the local legislative body making it harder to approve a rezoning that isn't broadly supported by the community. Owners within a certain distance of the property to be rezoned are authorized to petition for a vote in all of those states except Kansas.<sup>6</sup> Only five states authorize owners to protest rezonings by both city and county governments.<sup>7</sup> Sixteen states allow property owners to protest only city rezonings.<sup>8</sup> Most states require the petition to be signed by 20% of the eligible owners but three require larger percentages: 25% in Montana, 30% in Missouri, and 50% in Oklahoma.

In order to approve a rezoning after the petition has been filed, ten states<sup>9</sup> requires approval by three-fourths of the local legislative body, and nine<sup>10</sup> require approval by two-thirds. Oklahoma requires a three-fourths majority if there are more than seven members of the legislative body and three-fifths if there are seven or fewer. Iowa requires approval by a three-fourths majority when a petition is filed by owners of property to be rezoned and by three-fifths when filed by surrounding owners.

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<sup>6</sup> Kansas's limit is immediately surrounding property owners. Colorado, Delaware, Michigan, New Hampshire, North Carolina, New York, and Wisconsin set a limit of 100 feet. Wyoming's limit is 140 feet; Missouri's limit is 185 feet. Arizona, Montana, and North Dakota set a limit of 150 feet. Iowa (cities only), Louisiana, New Jersey, and Texas set a limit of 200 feet. Nebraska and Oklahoma set a limit of 300 feet. Connecticut and Iowa (counties only) set a limit of 500 feet.

<sup>7</sup> Arizona, Iowa, Kansas, Michigan, and New Hampshire.

<sup>8</sup> Colorado, Connecticut, Delaware, Illinois, Louisiana, Missouri, Montana, Nebraska, New Jersey, New Mexico, New York, North Carolina, North Dakota, Texas, Wisconsin, and Wyoming.

<sup>9</sup> Arizona, Delaware, Kansas, Nebraska, New York, North Carolina, North Dakota, Texas, Wisconsin, and Wyoming.

<sup>10</sup> Connecticut, Colorado, Illinois, Michigan, Missouri, Montana, New Hampshire, New Jersey, and New Mexico.

## **Petition for Rezoning by Referendum**

Two states, Ohio and West Virginia, allow voters to petition for a referendum on proposed rezonings, with majority approval required for passage. In Ohio, voters residing in the unincorporated areas of a township<sup>11</sup> affected by a rezoning can petition for a referendum. The petition must be signed by at least 8% of the number of voters in the last gubernatorial election. The referendum must be held on the day of the next primary or general election. West Virginia requires the petition to be signed by at least 10% of the voters in the area to be rezoned and allows for a special election. Cities there also have authority to submit the question to voters on their own initiative.

## **Notifying Property Owners of Pending Zoning Actions**

Recognizing that a single notice in a newspaper and one public hearing is often not enough to ensure community involvement, some local governments in Tennessee go beyond the minimum statutory requirements, and a few states require it. Based on a survey for the Commission by six of Tennessee's nine development districts, some local governments post signs on the property to be rezoned, some mail notices to property owners, and some hold more than one public hearing. These cities and counties recognize that no single method is sufficient to ensure that people are aware of pending actions by their local governments.

All states require notice before zonings and rezonings.<sup>12</sup> Most like Tennessee require local governments to publish notices in newspapers. Those that don't, require notice by mail or by posting signs either on the property or in a public place. One state, Utah, allows posting of notices on the internet. Some states require notice by multiple methods.

## **Newspaper Notices**

Thirty states including Tennessee require both cities and counties to publish at least one notice of zoning and rezoning hearings in the newspaper.<sup>13</sup> West Virginia doesn't require notice of a public hearing but does require cities and counties to publish notice in the newspaper 30 days before rezoning referendums or enactment of zoning or rezoning ordinances. Seven require only cities to publish newspaper notices, and seven<sup>14</sup> require only counties to publish them.

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<sup>11</sup> In Ohio, a township is similar to a county. It provides local services outside the limits of municipal areas. See <http://www.ohiotownships.org/sites/default/files/Report.pdf>.

<sup>12</sup> Maine does not require counties to provide notice and Vermont does not require cities to provide notice.

<sup>13</sup> California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Texas, Utah, and Virginia.

<sup>14</sup> Alaska, Arizona, Hawaii, New Jersey, Oregon, Vermont, and Washington

A fair number of states require more than one newspaper notice at least under certain circumstances. Eleven states require two newspaper notices,<sup>15</sup> and two require three.<sup>16</sup> Ohio requires cities and counties to publish two notices only if ten or fewer parcels are involved in the rezoning. Florida requires two notices only when a city initiates a rezoning involving ten or more parcels.

Newspapers are not as widely read as they once were. According to a publication by Communications Management Inc., "In 1950, the average daily total paid circulation for U.S. daily newspapers was 53.8 million (equivalent to 123.6 per cent of households); the total paid circulation for U.S. Sunday newspapers was 46.6 million (equivalent to 107.0 per cent of households). By 2010, the average daily total paid circulation for U.S. daily newspapers was about 43.4 million (equivalent to 36.7 per cent of households); the total paid circulation for U.S. Sunday newspapers was about 44.1 million (equivalent to 37.3 per cent of households)."<sup>17</sup>

### **Posting of Signs on Property to Be Rezoned**

The American Planning Association's (APA) model land use planning legislation recommends allowing local governments to provide notice by posting signs on the property being rezoned. Four states (Georgia, Idaho, Nevada, and South Carolina) require both cities and counties to post notice on the property to be rezoned. Pennsylvania and Utah require only cities to post signs, while North Carolina requires only counties to do so. In Utah, cities and counties can post notices on their websites rather than posting signs. Three of these seven require posting of signs only under certain conditions. Georgia requires a sign to be posted if the property owner initiates the rezoning. Nevada requires it in only Clark County. Pennsylvania requires signs if the zoning map will be changed.

The Commission's survey of local governments found that many cities and counties in Tennessee require signs. Of the 168 respondents, fifty-nine cities and seventeen counties post signs notifying residents of rezonings. Some pay for them themselves, while others charge the applicant. Of the survey respondents, forty-one cities and ten counties pay for the signs and five cities and four counties require the applicants or property owners to pay for the signs. Bradley County pays for them but charges a refundable \$50 sign deposit.

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<sup>15</sup> Maryland, Massachusetts, Nebraska, North Carolina, North Dakota, Virginia, and Wisconsin. Maine requires cities to publish two notices, and Montana requires counties to publish two. Alabama requires cities to publish two notices in the city newspaper and three in the county newspaper. Kansas also requires notices in both the city and county newspapers. Two notices are required in New Castle County in Delaware but only one notice is required in the other counties.

<sup>16</sup> Louisiana requires cities and counties to publish three notices. Rhode Island requires cities to publish three as well.

<sup>17</sup> Communications Management Inc. 2011.

## **Notice by Mail**

The APA recommends requiring local governments to send notice by certified mail both to owners and to surrounding owners.<sup>18</sup> The value of surrounding property can be negatively affected by rezonings if the rezoning allows a different use, for example if property near a residential area were rezoned to allow a rock quarry. Providing notice to the surrounding property owners helps ensure that they can voice their opinions on the matter at the public hearing or contact their elected representatives.

Fourteen states follow the APA recommendation.<sup>19</sup> Nine others require notice only to owners of the property being rezoned.<sup>20</sup> One state, Nevada, requires only surrounding owners to be sent notice.<sup>21</sup> A number of local governments in Tennessee also follow the APA recommendation or at least notify owners of surrounding properties. Sending notice by mail makes it possible for local governments to include more detailed information about rezonings with the notification. Sending notice by certified or registered mail or with return receipt requested, which is required by a few states, documents that the notice was received.

### ***Notice to Owners of Property Being Rezoned***

Among the respondents to the Commission's survey, one county and five cities send notice to owners of property proposed for rezoning. The county and three of the cities send notice by first-class mail; the other two cities send notice by certified mail. Twenty-eight states require cities, counties, or both to notify property owners by mail when property is to be rezoned, twelve in all circumstances and sixteen under certain circumstances.<sup>22</sup> Four of the twelve (Kansas, Michigan, New Jersey, and West Virginia) require both cities and counties to send notice; seven (Florida, New Mexico, New Jersey, Oregon, Rhode Island, Texas, and Utah) require only cities to send notice. Delaware requires only counties to send notice.

Sixteen states also require notice by mail but only in certain circumstances. Idaho and Nevada require both cities and counties to mail notice only if a zoning amendment changes the zoning map or a district boundary; Minnesota and Pennsylvania require only cities to mail notice in these situations. Arizona and Kentucky require notice by mail if the city or county initiates the

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<sup>18</sup> Section 8-103 (7).

<sup>19</sup> Arizona, California, Delaware, Idaho, Kansas, Michigan, Minnesota, Missouri, New Jersey, New Mexico, North Carolina, Rhode Island, Texas, and Virginia.

<sup>20</sup> Florida, Kentucky, Louisiana, New Hampshire, Ohio, Oregon, Pennsylvania, Utah, and West Virginia.

<sup>21</sup> Only if amendment involves a zoning district boundary change in a county with a population of over 100,000, notice must be mailed to owners located within 750 feet of the boundary to be changed and the owners of the 30 separately owned parcels nearest the boundary.

<sup>22</sup> Delaware, Florida, Kansas, Michigan, New Jersey, New Mexico, North Carolina, Oregon, Rhode Island, Texas, Utah, and West Virginia.

zoning change. Two states, Ohio and Virginia,<sup>23</sup> require cities and counties to send notice by mail only if a certain number of parcels are involved; Louisiana<sup>24</sup> requires the same but only for counties. Louisiana also requires notices in cities with a population of less than 475,000 regardless of parcel count. California requires cities and counties to send notice if there will be a change in the permitted use. New Hampshire requires cities and counties to provide notice by mail if there are 100 or fewer properties, a boundary change, and change in permitted uses or in minimum lot sizes. Florida requires notice by mail if the county initiates the rezoning and it involves less than ten contiguous acres. Missouri requires notice by mail in all counties except 17.<sup>25</sup> In three states, Connecticut, South Carolina, and Wisconsin, people may ask to be put on a list to receive notice by mail from the cities.

### ***Notice to Surrounding Property Owners***

Thirty-four cities and fourteen counties in Tennessee send notice of rezonings to surrounding property owners. Twenty-five cities and eight counties send notice by first-class mail; eight cities and three counties send notice by certified mail. One county sends notice by registered mail. Twelve states require local governments to send notice to surrounding property owners by mail. Seven states require both cities and counties to send notice to these owners.<sup>26</sup> Two require only counties<sup>27</sup> to send notice, and three<sup>28</sup> require only cities to send notice. Two states, North Carolina and Virginia, require cities and counties to send notice to owners whose property is abutting the property to be rezoned; Delaware requires counties to send notice to abutting property owners. Laws in the other nine states require notice to be sent to all owners within anywhere from 100 to 1000 feet of the property to be rezoned. The specific distance varies from state to state.

### **Comparing the Cost of Notice Methods**

The cost to provide notice of public hearings for zonings and rezonings varies with the method used and can vary with the number of parcels involved or because of local differences in advertising costs. For example, the cost of newspaper notices is only \$6.75 per column inch in Mountain City's *Tomahawk* but is \$9 per column inch in the *Nashville Ledger*, \$38.50 per inch (\$45.51 on Sundays) in the *Jackson Sun*, and \$140 per inch (\$177.10 on Sundays) in Nashville's *The Tennessean*. The cost for a single sign at about \$30 to \$40 would be a more expensive option than newspaper notice in Mountain City but potentially less expensive in other

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<sup>23</sup> Ohio (10 or fewer parcels) and Virginia (25 or fewer lots).

<sup>24</sup> Louisiana (10 or fewer parcels).

<sup>25</sup> Missouri requires notice by mail in 2nd and 3rd class counties. (2nd class counties have assessed valuation of between \$600 to \$900 million and 3rd class counties have assessed valuation of less than \$600 million. See Missouri Revised Statute Section 48.020.1.)

<sup>26</sup> Arizona, California Idaho, Kansas, Michigan, Nevada, North Carolina, and Virginia.

<sup>27</sup> Missouri and Delaware.

<sup>28</sup> New Mexico, Rhode Island, and Texas.

markets.<sup>29</sup> The cost of providing notice using signs, however, increases when larger areas are rezoned and multiple signs are used.

The cost of sending notice by mail also depends on the number of parcels involved. For example, a postcard sent to a single property being rezoned would cost only 35 cents plus the price of the postcard itself, but a first-class mailing to a hundred parcels would cost \$49 (49 cents in postage each) plus the cost of the letter and envelope.<sup>30</sup> If confirmation of delivery is required, the cost goes up dramatically: certified mail (proof that the letter was sent) costs \$3.45 plus postage; registered mail (the post office tracks proof of delivery) costs \$12.20 plus postage; and return receipt (the sender receives proof of delivery; available with either certified or registered mail) costs an additional \$2.80 if confirmation is sent by mail or \$1.40 if sent electronically. Only a few states require local governments to send notices by certified or registered mail or with return receipt requested.<sup>31</sup>

## Public Hearings

The APA's *Growing Smart Legislative Guidebook* recommends requiring local governments to hold at least one public hearing.<sup>32</sup> In order to help raise the public's awareness of rezoning, some local governments in Tennessee hold more than one hearing. Among those responding to the survey, six cities and two counties hold one additional hearing and three cities hold two additional hearings. In some of these cities and counties, the additional hearing or hearings is held by the planning commission, though the number that do this is unclear. There are little if any additional costs associated with a second meeting if the hearing is on the agenda of an already scheduled meeting.

Four Tennessee cities always require developers to hold public meetings, and six sometimes require them. For example, one county requires developers to hold meetings only for planned unit developments. Fifteen cities and eight counties recommend that developers hold public meetings but don't require them to. These meetings provide the public with an opportunity to get additional information about the project and give developers an opportunity to get feedback from the neighbors. All of this is done at no additional cost to local governments, but there may be some expenses for the developer (e.g., the cost of renting a meeting space or paying staff).

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<sup>29</sup> A one-sided 12" x 18" corrugated plastic sign from FedEx Office costs \$29.99; an 18" x 24" sign costs \$37.99 <http://www.fedex.com/us/office/sign-printing.html>.

<sup>30</sup> United States Postal Service Price List Effective May 31, 2015. <http://pe.usps.com/cpim/ftp/manuals/dmm300/Notice123.pdf>

<sup>31</sup> Louisiana and Missouri require counties to send notice by certified mail. Three states require cities to send notice with some form of confirmation: Rhode Island requires notices be sent by certified or registered mail, New Jersey requires they be sent by certified mail and regular mail, and New Mexico requires notices be sent by certified mail with return receipt requested.

<sup>32</sup> Section 8-103(3).

No state requires developers to hold public meetings on rezoning requests, but most states require one public hearing before the local legislative body. Twenty-five states require both counties and cities to hold one public hearing;<sup>33</sup> eleven require only cities to hold one.<sup>34</sup> Eight states require cities and counties to hold two hearings. California, Idaho, Nebraska, and Ohio require two hearings in all circumstances. Four require two hearings only in certain circumstances. New Hampshire requires cities and counties to hold a second hearing only if substantial changes were made at the first hearing. Pennsylvania requires the same thing but only of cities. Florida requires a second hearing if the city initiates the rezoning and it involves ten or more acres. Arizona requires cities and counties to hold a second hearing only if the owner requests one.

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<sup>33</sup> Alaska, Arkansas, Colorado, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Mississippi, Missouri, Montana, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, Utah, Washington, West Virginia, and Wisconsin.

<sup>34</sup> Alabama, Maine, Minnesota, Nevada, New Jersey, New Mexico, New York, Rhode Island, South Dakota, Texas, and Wyoming. There are no county governments in Connecticut and Rhode Island. There are no cities in Hawaii. Michigan doesn't require a public hearing unless the owner requests it.

## References

American Planning Association. 2002. *Growing Smart Legislative Guidebook: Model Statutes for Planning and the Management of Change*, edited by Stuart Meck. Chicago, Illinois: American Planners Association Planners Press

<https://www.planning.org/growingsmart/guidebook/eight01.htm#8103> (accessed August 17, 2015).

Communications Management Inc. 2011. "Sixty Years of Daily Newspaper Circulation Trends."

[http://media-cmi.com/downloads/Sixty\\_Years\\_Daily\\_Newspaper\\_Circulation\\_Trends\\_050611.pdf](http://media-cmi.com/downloads/Sixty_Years_Daily_Newspaper_Circulation_Trends_050611.pdf) (accessed August 18, 2015).

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## Persons Interviewed

Quint Bourgeois  
Property Owner,  
City of Knoxville

David Ripple  
Planning Director  
Clarksville/Montgomery County

John Bridger  
Director  
Chattanooga Hamilton County  
Regional Planning Agency

Ambre Torbett  
Director of Planning and Codes  
Sullivan County

Fred Congdon  
Executive Director  
Association of County Mayors

Representative Tim Wirgau  
District 75

David Conner  
Executive Director  
Tennessee County Services Association

Senator Ken Yager  
District 12

George Dean, Esq.  
Tune, Entekin and White

Doug Demosi  
Planning Director  
Rutherford County

Sam Edwards  
Executive Director and Chief Legal Counsel  
Greater Nashville Regional Council

Chad Jenkins  
Assistant Director  
Tennessee Municipal League

Beth Jones  
Executive Director  
Southeast Tennessee Development District

Dan Kelly  
Planning Commission Staff  
City of Knoxville

Senator Frank Niceley  
District 8

# Appendix A: Senate Bill 549 and Amendments

SENATE BILL 549

By Niceley

AN ACT to amend Tennessee Code Annotated, Title 13,  
Chapter 7, relative to zoning.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 13-7-105, is amended by adding the following language as a new subsection:

( ) Notwithstanding any law to the contrary, any zoning amendment affecting a parcel of private property shall only take effect upon written consent of the owner of that property.

SECTION 2. Tennessee Code Annotated, Section 13-7-204, is amended by adding the following language at the end of the section:

Notwithstanding this section to the contrary, any zoning amendment affecting a parcel of private property shall only take effect upon written consent of the owner of that property.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

SB0549  
002631  
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Amendment No. 1

\_\_\_\_\_  
Signature of Sponsor

<b>FILED</b>
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

**AMEND Senate Bill No. 549\***

**House Bill No. 775**

by deleting the language "affecting a parcel of private property" in the amendatory language of SECTION 1 and SECTION 2 of the bill and substituting instead the language "affecting only a single parcel of private property" in both sections.

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Amendment No. \_\_\_\_\_

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Signature of Sponsor

**AMEND Senate Bill No. 549\***

**House Bill No. 775**

<b>FILED</b>
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

by deleting all language after the enacting clause and substituting instead:

SECTION 1. The Tennessee advisory commission on intergovernmental relations shall study the procedures governing how local legislative bodies may amend zoning ordinance provisions and the effects of any change to the current law that would require the written consent of the owner of private property prior to any zoning amendment that would affect such parcel of private property and shall submit a written report to the members of the general assembly no later than January 1, 2016 .

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.



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## Appendix B: Letter from Representative Wirgau



TIM WIRGAU  
STATE REPRESENTATIVE  
75<sup>th</sup> LEGISLATIVE DISTRICT  
204 WAR MEMORIAL BUILDING  
NASHVILLE, TN 37243  
(615) 741-6804  
FAX: (615) 253-0239  
rep.tim.wirgau@capitol.tn.gov

### House of Representatives State of Tennessee

NASHVILLE

CHAIRMAN  
LOCAL GOVERNMENT  
COMMITTEE  
COMMITTEES:  
LOCAL GOVERNMENT SUB  
BUSINESS & UTILITIES  
CALENDAR & RULES  
JOINT COMMITTEES:  
FISCAL REVIEW

DISTRICT ADDRESS:  
245 SAVANNAH DRIVE  
BUCHANAN, TN 38222

April 20, 2015

Ms. Lynnis Roehrich-Patrick  
Executive Director  
Tennessee Advisory Commission on Intergovernmental Relations  
226 Capitol Boulevard, Suite 508  
Nashville, TN 37243

Re: HB 775 by Daniel/SB 549 by Niceley

Director Roehrich-Patrick:

This letter is to respectfully request that HB 775/SB 549 be taken up for study this summer by TACIR. Please call me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Wirgau", written over a large, light gray "DRAFT" watermark.

Tim Wirgau