

Date Calculator

for zoning by-law amendments in towns.

This chart is a work in progress drafted by the Municipal Law Unit Staff as an informal guide to planning boards, zoning boards, and others who engage in the zoning by-law amendment process in towns. It is the work of its authors only and does not reflect the views or opinions of the Attorney General. Opinions of the Attorney General are formal documents rendered pursuant to specific statutory authority.
 - Bob Ritchie, MLU Director, April 29, 2003

[Note: dates that appear in BOLD are critical. Failure to comply can be fatal.]

Event	Event Date	Can be as early as	But no later than	Comments
Date #1 - Date on which the "proposed amendment" is submitted to the Select Board. The proposal can be submitted by any of the following: [1] Selectmen [2] Planning Board; [3] Local Board or Official; [4] Petitioner(s).	D1 = _____	n/a	n/a	<ul style="list-style-type: none"> Statute does not prescribe the form or format for a "proposal." It is the "proposal" and not the "warrant article" to which the PB Notices and Hearing relate.
Date #2 - Date on which the Select Board sends the "proposed amendment" to the Planning Board.	D2 = _____	D1	14 days after D1	<ul style="list-style-type: none"> Where "proposal" is made by PB, we deem D2 = D1.
Date #3 - Date on which the first notice of Planning Board Hearing is published in a newspaper of general circulation in the town.	D3 = _____	D2	14 days before D10	<ul style="list-style-type: none"> Need not be same newspaper as D4. Form 7-PBN is recommended. It covers all the bases. Notice must include: <ul style="list-style-type: none"> [1] Time and place of hearing [2] Subject matter sufficient for identification. [3] Place where text and maps may be inspected.
Date #4 - Date on which the second notice of Planning Board Hearing is published in a newspaper of general circulation in the town.	D4 = _____	any day in the next successive week after D2	the day before the hearing, but in the next successive week after D2	<ul style="list-style-type: none"> Need not be same newspaper as D3. Form 7-PBN is recommended. It covers all the bases. Notice must include: <ul style="list-style-type: none"> [1] Time and place of hearing. [2] Subject matter sufficient for identification. [3] Place where text and maps may be inspected.
Date #5 - Date on which Notice of Planning Board Hearing is posted in a conspicuous place in the Town Hall.	D5 = _____	D2	14 days before D10	<ul style="list-style-type: none"> Must remain posted continuously for 14 days prior to the hearing. Form 7-PBN is recommended. It covers all the bases. 48 hour Open Meeting Law Notice is not sufficient.

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<p>Date #6 - Date on which a copy of PB Notice is mailed to <u>DHCD</u></p>	<p>D6 = _____</p>	<p>_____ <i>D2</i></p>	<p>_____ <i>D10</i></p>	<ul style="list-style-type: none"> ● Notice date not prescribed but must be reasonably prior to D10. The notice is open to challenge if mailed so shortly before the hearing as to offer little or no opportunity to attend the hearing. ● Waiver of notice or affidavit of actual notice can cure a defect here. The statute states that the waiver or affidavit is to be submitted to the Town Clerk "prior to the town meeting." Practically speaking, however, if the waiver or affidavit is submitted after town meeting, a challenge by DHCD is foreclosed, and no other party has standing to assert this defect.
<p>Date #7 - Date on which a copy of PB Notice is mailed to <u>Regional Planning Agency</u>.</p>	<p>D7 = _____</p>	<p>_____ <i>D2</i></p>	<p>_____ <i>D10</i></p>	<ul style="list-style-type: none"> ● Notice date not prescribed but must be reasonably prior to D10. The notice is open to challenge if mailed so shortly before the hearing as to offer little or no opportunity to attend the hearing. ● Waiver of notice or affidavit of actual notice can cure a defect here. The statute states that the waiver or affidavit is to be submitted to the Town Clerk "prior to the town meeting." Practically speaking, however, if the waiver or affidavit is submitted after town meeting, a challenge by the RPA is foreclosed, and no other party has standing to assert this defect. ● (See attached list of RPAs and the cities and towns in each. Prepared by MMA)
<p>Date #8 - Date on which a copy of PB Notice is mailed to <u>planning boards of abutting cities/towns</u>.</p>	<p>D8 = _____</p>	<p>_____ <i>D2</i></p>	<p>_____ <i>D10</i></p>	<ul style="list-style-type: none"> ● Notice date not prescribed but must be reasonably prior to D10. The notice is open to challenge if mailed so shortly before the hearing as to offer little or no opportunity to attend the hearing. ● Waiver of notice or affidavit of actual notice can cure a defect here. The statute states that the waiver or affidavit is to be submitted to the Town Clerk "prior to the town meeting." Practically speaking, however, if the waiver or affidavit is submitted after town meeting, a challenge by an abutting planning board is foreclosed, and no other party has standing to assert this defect.

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<p>Date #9 - In cases involving boundary, density, or use changes within a district, the date on which a copy of the PB Notice is mailed to any <u>non-resident owner</u> who has filed a request with the town clerk and whose property lies in the district where the zoning change is sought.</p>	<p>D9 = _____</p>	<p>_____ D2</p>	<p>_____ D10</p>	<ul style="list-style-type: none"> • Notice date not prescribed but must be reasonably prior to D10. The notice is open to challenge if mailed so shortly before the hearing as to offer little or no opportunity to attend the hearing. • Waiver of notice or affidavit of actual notice can cure a defect here. The statute states that the waiver or affidavit is to be submitted to the Town Clerk "prior to the town meeting." Practically speaking, however, if the waiver or affidavit is submitted after town meeting, a challenge by the non-resident property owner is foreclosed, and no other party has standing to assert this defect.
<p>Date #10 - Date of Planning Board Hearing.</p>	<p>D10 = _____</p>	<p>_____ the day after D4</p>	<p>_____ 65 days after D2 (or D1 if there is no Planning Board)</p>	<ul style="list-style-type: none"> • It is possible for the hearing to be adjourned to one or more later dates if required to complete the hearing.
<p>Date #11 - Date on which the Select Board signs the TM warrant.</p>	<p>D11 = _____</p>	<p>_____ D1</p>	<p>_____ 14 days before D14 for STM - or - 7 days before D14 for ATM</p>	<ul style="list-style-type: none"> • The warrant can be signed before D1 or after D10. • Some Select Boards wait for the outcome of the PB Hearing before setting on the final language of the warrant article. • The adequacy of the PB Notice turns on the subject of the amendment proposed, not on the language of the warrant article, which may be fashioned after the PB hearing.
<p>Date #12 - Date on which the TM warrant is published/posited in the manner prescribed by the by-laws, or, if there are no by-laws, by a vote of the town, or in a manner approved by the Attorney General. [G.L. c. 39, § 10]</p>	<p>D12 = _____</p>	<p>_____ D1</p>	<p>_____ 14 days before D14 for STM - or - 7 days before D14 for ATM</p>	
<p>Date #13 - Planning Board Report with Recommendations.</p>	<p>D13 = _____</p>	<p>_____ D10</p>	<p>_____ D15</p>	<ul style="list-style-type: none"> • Can be oral or written. Written highly recommended. • This condition is satisfied both by favorable and unfavorable recommendations. • If not written, PB must make its report to TM.

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Date #14 - Date on which Town Meeting first convenes.	D14 = _____	14 days after publication for STM - or - 7 days after publication for ATM	the date specified in warrant	
Date #15 - Date on which Town Meeting votes on the proposed amendments.	D15 = _____	D10	6 months after D10	<ul style="list-style-type: none"> In the absence of a PB Report with Recommendations, 21 days must elapse after D10 (or after the date on which the PB Hearing relating to the amendment concludes) before TM can vote. The vote of TM must be on a motion that is within the scope of the article, as distinct from the subject matter originally proposed.
Date #16 - Date on which Town Meeting finally adjourns.	D16 = _____	D14	n/a	
Date #17 - Date on which any applicable referendum period ends.	D17 = _____	(determined by charter)	(determined by charter)	
Date #18 - Date on which AG receives amendments from Town Clerk for approval.	D18 = _____	D16	30 days after D16	<ul style="list-style-type: none"> Confusion – or worse – can result from by-law submissions made long after TM. This can possibly compromise the integrity of the town's by-laws.
Date #19 - Date on which AG approves (or disapproves) proposed amendments.	D19 = _____	D18	90 days after D18	<ul style="list-style-type: none"> Can be extended by AG for insufficient information or by agreement between AG and Town Counsel. Can be extended pending waiver of minor defects pursuant to G.L. c. 40, § 32.
Date #20 - Date on which Town Clerk posts/publishes the by-law or amendment as prescribed by G.L. c. 40, § 32.	D20 = _____	D19	(unspecified)	<ul style="list-style-type: none"> No exact date is prescribed, but uncertainty results where amendments approved by the AG are not posted/published pursuant to G.L. c. 40, § 32. The notice must include a statement that <u>claims of invalidity</u> by reason of any defect in the procedure of adoption or amendment may be made only within 90 days of the posting or within 90 days of the second publication. The notice must also include a statement indicating where copies of the by-law or amendment may be examined and obtained.

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<p>Date #21 - Date on which amendments take effect.</p>	<p>D21 = _____</p>	<p>_____ D15</p>	<p>_____ any later date as prescribed in the amendments.</p>	<ul style="list-style-type: none"> ● Only after all of the following are done: <ul style="list-style-type: none"> [1] TM votes the amendments (D15); [2] the AG approves the amendments (D19); and [3] the Town Clerk posts and publishes as required by law (D20). ● Zoning by-laws and amendments thereto are deemed to take effect on the date voted by TM, subject to the above conditions being satisfied.
<p>Date #22 - Date on which claims of invalidity for defect in procedures of adoption may be made.</p>	<p>D22 = _____</p>	<p>_____ D20</p>	<p>_____ within 90 days of D20</p>	