

# NEW NOTICE RULES: CURRENT ONLINE PUBLICATION REQUIREMENTS AND A LOOK AHEAD

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The evolution in how the public consumes news and news media is now affecting land use practitioners, municipalities, property owners and developers. The *Newark Star Ledger's* announcement in 2024 that it would no longer publish in print<sup>[1]</sup> raised new questions for land use practitioners who are used to having their public notices printed in the “official newspaper of the municipality.” To tackle the new problem now facing municipalities whose “official newspaper” is no longer in print, on June 30, 2025, Governor Murphy signed P.L. 2025, Chapter 72, which, as of March 1, 2026, requires that public notices be provided in online media rather than in print media. Under the new statute, all notice requirements imposed by law are satisfied once the notice is published according to this new practice.<sup>[2]</sup>

“Public entities,” which include municipalities, public authorities and agencies, and other political subdivisions, must now have a free website where all notices are published. A link to the notices must be “conspicuously placed” on the website’s homepage.<sup>[3]</sup> Additionally, the New Jersey Secretary of State must maintain a publicly available master list with links to each public entity’s website where notices are published.<sup>[4]</sup> All public entities must maintain legal notices that are no longer displayed on their websites in an online archive for at least one year.<sup>[5]</sup> They may also publish notices in an online news publication but must post links to those notices on their websites if they do.<sup>[6]</sup>

Developers must also publish notices online, including those required by the Municipal Land Use Law (“MLUL”).<sup>[7]</sup> Unlike the prior regime, in which an applicant could rely on the municipality’s designation of a print publication as the “official newspaper” of the municipality, the new statute does not permit a developer to rely on such a designation by the municipality for online notices. Instead, to be an “eligible online news publication,” the publication must meet certain requirements, which include: (1) use of a domain name that is easily recognizable, (2) the website must be fully

accessible and searchable by the public, (3) notices must be retained in an archive for at least one year, (4) notices must be displayed for at least one week, (5) the publication must maintain the required insurance, and (6) there can be no required fee or registration to view the notices.<sup>[8]</sup> However, the requirement that is sure to provide the most angst for developers and practitioners is the number of online hits the publication must have in order to be eligible. For example, notices required for municipal-wide publication must be published in an online publication that receives at least 4,000 unique monthly visits on an annual basis, at least 50% of which must be from IP addresses within a 10-mile radius of the applicable municipality.<sup>[9]</sup>

Newspapers must now publish notices within 24 hours of receipt.<sup>[10]</sup> An online publication that falsely represents it meets the requirements of the statute is subject to enforcement proceedings under N.J.S.A. 56:8-1 et seq<sup>[11]</sup>



Certain safe harbors are introduced so that a notice is not deemed defective in certain circumstances: (1) where there is a clerical or administrative error outside the control of the entity seeking to publish the notice, (2) where there is a temporary outage or malfunction which disrupts internet service of the publication’s website, (3) the “operator” of the public entity’s website or the online news publication imposes standard restrictions that prevent access, (4) the website is subject to a cyberattack or cybersecurity incident, or (5) there is another circumstance outside the control of the public entity or developer seeking to publish the notice.<sup>[12]</sup>

However, other circumstances do not have safe harbor protection. For some municipalities located in western or southern portions of the state, there may be no eligible online news publication that has the required number of website hits. Additionally, if the online news publication unintentionally misrepresents the number of hits it receives, the notice is defective and the developer or the municipality responsible for publishing the notice will ultimately bear the consequences of that misrepresentation. Other requirements of the statute use subjective language, such as “easily recognizable” and “adequate security system,” which may be subject to litigation.

It appears that certain news media companies have started to publish the requisite data for each municipality to identify which publications in their portfolios qualify as “eligible online news publications” for each municipality. Additionally, certain publications have indicated they will be amending the affidavits they provide with each published notice to verify their compliance with the new statutory requirements for online publications.

Despite this transparency, it remains these authors’ view that the Legislature should step in to address gaps in the new statute. For example, the new law should be amended to allow a municipality or developer to rely on representations made by the online publisher concerning certain eligibility requirements, such that a notice is not deemed defective if a misrepresentation is made. This would allow reliance on a publication’s representation of its number monthly hits, which involves the review of web analytics, IP data, and other traffic metrics that are impractical and burdensome for practitioners to verify. This would also solve the problem presented by virtual public networks, which allow a user to disguise their geographic location when viewing a website.

Similarly, a publication’s status as “eligible” can fluctuate over time, which invites procedural challenges. A provision should be made that fixes a date on which eligibility is established for the ensuing year, which would allow eligibility status to be evaluated once annually rather than on an ongoing basis each month. The safe harbor allowing an applicant to rely on a municipality’s

designation of an online newspaper should be restored. In particular, provisions should be made to address municipalities that do not have an eligible online news publication. Additionally, as the Secretary of State is required to maintain a master link to provide access to each public entity’s notices, it should also be required to maintain a list of eligible online news publications for each municipality.

In the meantime, practitioners and developers should work with online news publications in order to make sure that notices are published according to the new notice requirements. Unfortunately, there remain eligibility requirements for online news publications which a planning board applicant will not be able to verify independently. Newspapers should be transparent and present their eligibility criteria, and affidavits of publication should also be updated to reference the publications’ satisfaction of the eligibility requirements. In the interest of best practices, it would remain wise for applicants to publish notices in print as well, in order to minimize challenges to an approval based on defective notice.

#### References:

- [1] “Star-ledger ending print edition and closing production facility in 2025,” NJ.com, October 30, 2024, <https://www.nj.com/news/2024/10/star-ledger-ending-print-edition-and-closing-production-facility-in-2025.html>.
- [2] N.J.S.A. 35:3-4(b).
- [3] N.J.S.A. 35:3-2(a).
- [4] N.J.S.A. 35:3-2(b).
- [5] N.J.S.A. 35:3-2(c).
- [6] N.J.S.A. 35:3-2(d).
- [7] N.J.S.A. 35:3-3(a).
- [8] A complete list of requirements to be an “eligible online news publication” can be found at N.J.S.A. 35:3-3(b)(11).
- [9] N.J.S.A. 35:3-3(b)(11)(b).
- [10] N.J.S.A. 35:3-3(d).
- [11] N.J.S.A. 35:3-3(e).
- [12] N.J.S.A. 35:3-4 (c).

## About the Authors



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