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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO TOWNS AND CITIES -- LOCAL PLANNING BOARD OR COMMISSION--  
ZONING ORDINANCES

Introduced By: Senator Michael J. McCaffrey

Date Introduced: April 04, 2019

Referred To: Senate Housing & Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 45-22 of the General Laws entitled "Local Planning Board or  
2 Commission" is hereby amended by adding thereto the following section:

3 **45-22-10. Notice requirements.**

4 [Notwithstanding any municipal charter, municipal ordinance, general or public law to the](#)  
5 [contrary, whenever written notice shall be required pursuant to this chapter or for any matter](#)  
6 [relative to planning boards or commissions, the notice required shall be sent by first class mail.](#)

7 SECTION 2. Sections 45-24-53, 45-24-56 and 45-24-57 of the General Laws in Chapter  
8 45-24 entitled "Zoning Ordinances" are hereby amended to read as follows:

9 **45-24-53. Adoption -- Notice and hearing requirements.**

10 (a) No zoning ordinance shall be adopted, repealed, or amended until after a public  
11 hearing has been held upon the question before the city or town council. The city or town council  
12 shall first give notice of the public hearing by publication of notice in a newspaper of general  
13 circulation within the city or town at least once each week for three (3) successive weeks prior to  
14 the date of the hearing, which may include the week in which the hearing is to be held, at which  
15 hearing opportunity shall be given to all persons interested to be heard upon the matter of the  
16 proposed ordinance. Written notice, which may be a copy of the newspaper notice, shall be  
17 mailed to the statewide planning program of the department of administration, and, where  
18 applicable, to the parties specified in subsections (b), (c), (d), (e), and (f) of this section, at least

1 two (2) weeks prior to the hearing. The newspaper notice shall be published as a display  
2 advertisement, using a type size at least as large as the normal type size used by the newspaper in  
3 its news articles, and shall:

4 (1) Specify the place of the hearing and the date and time of its commencement;

5 (2) Indicate that adoption, amendment, or repeal of a zoning ordinance is under  
6 consideration;

7 (3) Contain a statement of the proposed amendments to the ordinance that may be printed  
8 once in its entirety, or summarize and describe the matter under consideration as long as the  
9 intent and effect of the proposed ordinance is expressly written in that notice;

10 (4) Advise those interested where and when a copy of the matter under consideration may  
11 be obtained or examined and copied; and

12 (5) State that the proposals shown on the ordinance may be altered or amended prior to  
13 the close of the public hearing without further advertising, as a result of further study or because  
14 of the views expressed at the public hearing. Any alteration or amendment must be presented for  
15 comment in the course of the hearing.

16 (b) Where a proposed general amendment to an existing zoning ordinance includes  
17 changes in an existing zoning map, public notice shall be given as required by subsection (a) of  
18 this section.

19 (c) Where a proposed text amendment to an existing zoning ordinance would cause a  
20 conforming lot of record to become nonconforming by lot area or frontage, written notice shall be  
21 given to all owners of the real property as shown on the current real estate tax assessment records  
22 of the city or town. The notice shall be given at least two (2) weeks prior to the hearing at which  
23 the text amendment is to be considered, with the content required by subsection (a). If the city or  
24 town zoning ordinance contains an existing merger clause to which the nonconforming lots would  
25 be subject, the notice shall include reference to the merger clause and the impacts of common  
26 ownership of nonconforming lots. ~~The sender of the notice shall utilize and obtain a United States~~  
27 ~~Postal Service certificate of mailing, and the certificate or an electronic copy thereof shall be~~  
28 ~~retained to demonstrate proof of the mailing.~~ Notice required pursuant to this section shall be sent  
29 by first class mail.

30 (d) Where a proposed amendment to an existing ordinance includes a specific change in a  
31 zoning district map, but does not affect districts generally, public notice shall be given as required  
32 by subsection (a) of this section, with the additional requirements that:

33 (1) Notice shall include a map showing the existing and proposed boundaries, zoning  
34 district boundaries, existing streets and roads and their names, and city and town boundaries

1 where appropriate; and

2 (2) Written notice of the date, time, and place of the public hearing and the nature and  
3 purpose of the hearing shall be sent to all owners of real property whose property is located in or  
4 within not less than two hundred feet (200') of the perimeter of the area proposed for change,  
5 whether within the city or town or within an adjacent city or town. Notice shall also be sent to any  
6 individual or entity holding a recorded conservation or preservation restriction on the property  
7 that is the subject of the amendment. The notice shall be sent by ~~registered, certified, or~~ first-class  
8 mail to the last known address of the owners, as shown on the current real estate tax assessment  
9 records of the city or town in which the property is located; ~~provided, for any notice sent by first-~~  
10 ~~class mail, the sender of the notice shall utilize and obtain a United States Postal Service~~  
11 ~~certificate of mailing, PS form 3817, or any applicable version thereof, to demonstrate proof of~~  
12 ~~such mailing.~~

13 (e) Notice of a public hearing shall be sent by first-class mail to the city or town council  
14 of any city or town to which one or more of the following pertain:

15 (1) That is located in or within not less than two hundred feet (200') of the boundary of  
16 the area proposed for change; or

17 (2) Where there is a public or quasi-public water source, or private water source that is  
18 used, or is suitable for use, as a public water source, within two thousand feet (2,000') of any real  
19 property that is the subject of a proposed zoning change, regardless of municipal boundaries.

20 (f) Notice of a public hearing shall be sent to the governing body of any state or  
21 municipal water department or agency, special water district, or private water company that has  
22 riparian rights to a surface water resource or surface watershed that is used, or is suitable for use,  
23 as a public water source and that is within two thousand feet (2,000') of any real property that is  
24 the subject of a proposed zoning change; provided, that the governing body of any state or  
25 municipal water department or agency, special water district, or private water company has filed  
26 with the building inspector in the city or town a map survey, that shall be kept as a public record,  
27 showing areas of surface water resources and/or watersheds and parcels of land within two  
28 thousand feet (2,000') thereof.

29 (g) Notwithstanding any of the requirements set forth in subsections (a) through (e), each  
30 municipality shall establish and maintain a public notice registry allowing any person or entity to  
31 register for electronic notice of any changes to the zoning ordinance. The city or town shall  
32 provide public notice annually of the existence of the electronic registry by publication of notice  
33 in a newspaper of general circulation within the city or town. In addition, each municipality is  
34 hereby encouraged to provide public notice of the existence of the public notice registry in all of

1 its current and future communications with the public, including, but not limited to, governmental  
2 websites, electronic newsletters, public bulletins, press releases, and all other means the  
3 municipality may use to impart information to the local community.

4 (1) Provided, however, notice pursuant to a public notice registry as per this section does  
5 not alone qualify a person or entity on the public notice registry as an "aggrieved party" under §  
6 45-24-31(4).

7 (h) No defect in the form of any notice under this section shall render any ordinance or  
8 amendment invalid, unless the defect is found to be intentional or misleading.

9 (i) Costs of any notice required under this section shall be borne by the applicant.

10 (j) In granting a zoning ordinance amendment, notwithstanding the provisions of § 45-24-  
11 37, the town or city council may limit the change to one of the permitted uses in the zone to  
12 which the subject land is rezoned and impose limitations, conditions, and restrictions, including,  
13 without limitation: (1) Requiring the petitioner to obtain a permit or approval from any and all  
14 state or local governmental agencies or instrumentalities having jurisdiction over the land and use  
15 that are the subject of the zoning change; (2) Those relating to the effectiveness or continued  
16 effectiveness of the zoning change; and/or (3) Those relating to the use of the land as it deems  
17 necessary. The responsible town or city official shall cause the limitations and conditions so  
18 imposed to be clearly noted on the zoning map and recorded in the land evidence records;  
19 provided, that in the case of a conditional zone change, the limitations, restrictions, and  
20 conditions shall not be noted on the zoning map until the zone change has become effective. If the  
21 permitted use for which the land has been rezoned is abandoned or if the land is not used for the  
22 requested purpose for a period of two (2) years or more after the zone change becomes effective,  
23 the town or city council may, after a public hearing, change the land to its original zoning use  
24 before the petition was filed. If any limitation, condition, or restriction in an ordinance is held to  
25 be invalid by a court in any action, that holding shall not cause the remainder of the ordinance to  
26 be invalid.

27 (k) The above requirements are to be construed as minimum requirements.

28 **45-24-56. Administration -- Zoning board of review -- Establishment and**  
29 **procedures.**

30 (a) A zoning ordinance adopted pursuant to this chapter shall provide for the creation of a  
31 zoning board of review and for the appointment of members, including alternate members, and  
32 for the organization of the board, as specified in the zoning ordinance, or, in cities and towns with  
33 home rule or legislative charters, as provided in the charter. A zoning ordinance may provide for  
34 remuneration to the zoning board of review members and for reimbursement for expenses

1 incurred in the performance of official duties. A zoning board of review may engage legal,  
2 technical, or clerical assistance to aid in the discharge of its duties. The board shall establish  
3 written rules of procedure, a mailing address to which appeals and correspondence to the zoning  
4 board of review are sent, and an office where records and decisions are filed.

5 (b) The zoning board of review consists of five (5) members, each to hold office for the  
6 term of five (5) years; provided, that the original appointments are made for terms of one, two (2),  
7 three (3), four (4), and five (5) years, respectively. The zoning board of review also includes two  
8 (2) alternates to be designated as the first and second alternate members, their terms to be set by  
9 the ordinance, but not to exceed five (5) years. These alternate members shall sit and may actively  
10 participate in hearings. The first alternate shall vote if a member of the board is unable to serve at  
11 a hearing and the second shall vote if two (2) members of the board are unable to serve at a  
12 hearing. In the absence of the first alternate member, the second alternate member shall serve in  
13 the position of the first alternate. A quorum shall consist of a majority of the number of members  
14 authorized by this section. Three (3) members to include alternate members shall form a duly  
15 constituted quorum. No member or alternate may vote on any matter before the board unless they  
16 have attended all hearings concerning that matter. Where not provided for in the city or town  
17 charter, the zoning ordinance shall specify procedures for filling vacancies in unexpired terms of  
18 zoning board members, and for removal of members for due cause.

19 (c) Notwithstanding the provisions of subsection (b), the zoning board of review of the  
20 town of Jamestown consists of five (5) members, each to hold office for the term of five (5)  
21 years; provided, that the original appointments are made for terms of one, two (2), three (3), four  
22 (4) and five (5) years respectively. The zoning board of review of the town of Jamestown also  
23 includes three (3) alternates to be designated as the first, second, and third alternate members,  
24 their terms to be set by the ordinance, but not to exceed five (5) years. These alternate members  
25 shall sit and may actively participate in hearings. The first alternate shall vote if a member of the  
26 board is unable to serve at a hearing; the second shall vote if two (2) members of the board are  
27 unable to serve at a hearing; and the third shall vote if three (3) members of the board are unable  
28 to serve at a hearing. In the absence of the first alternate member, the second alternate member  
29 shall serve in the position of the first alternate. No member or alternate may vote on any matter  
30 before the board unless they have attended all hearings concerning that matter. Where not  
31 provided for in the town charter, the zoning ordinance shall specify procedures for filling  
32 vacancies in unexpired terms of zoning board members, and for removal of members for due  
33 cause.

34 (d) Members of zoning boards of review serving on the effective date of adoption of a

1 zoning ordinance under this chapter are exempt from the provisions of this chapter respecting  
2 terms of originally appointed members until the expiration of their current terms.

3 (e) The chairperson, or in his or her absence, the acting chairperson, may administer  
4 oaths and compel the attendance of witnesses by the issuance of subpoenas.

5 (f) Notwithstanding the provisions of subsection (b) of this section, the zoning board of  
6 review for the town of Little Compton shall consist of five (5) members, each to hold office for  
7 the term of five (5) years. The zoning board of review for the town of Little Compton shall also  
8 include three (3) alternates to be designated as the first, second and third alternate members, their  
9 terms to be set by the ordinance, but not to exceed five (5) years. These alternate members shall  
10 sit and may actively participate in the hearings. The first alternate shall vote if a member of the  
11 board is unable to serve at a hearing; the second shall vote if two (2) members of the board are  
12 unable to serve at a hearing; and the third shall vote if three (3) members of the board are unable  
13 to serve at a hearing. In the absence of the first alternate member, the second alternate member  
14 shall serve in the position of the first alternate. No member or alternate may vote on any matter  
15 before the board unless they have attended all hearings concerning that matter. Where not  
16 provided for in the town charter, the zoning ordinance shall specify procedures for filling  
17 vacancies in unexpired terms of zoning board members, and for removal of members for due  
18 cause.

19 (g) Notwithstanding the provisions of subsection (b) of this section, the zoning board of  
20 review for the town of Charlestown shall consist of five (5) members, each to hold office for the  
21 term of five (5) years. The zoning board of review for the town of Charlestown shall also include  
22 three (3) alternates to be designated as the first, second, and third alternate members, their terms  
23 to be set by the ordinance, but not to exceed five (5) years. These alternate members shall sit and  
24 may actively participate in the hearings. The first alternate shall vote if a member of the board is  
25 unable to serve at a hearing; the second shall vote if two (2) members of the board are unable to  
26 serve at a hearing; and the third shall vote if three (3) members of the board are unable to serve at  
27 a hearing. In the absence of the first alternate member, the second alternate member shall serve in  
28 the position of the first alternate. No member or alternate may vote on any matter before the  
29 board unless they have attended all hearings concerning that matter. Where not provided for in  
30 the town charter, the zoning ordinance shall specify procedures for filling vacancies in unexpired  
31 terms of zoning board members, and for removal of members for due cause.

32 (h) Notwithstanding the provisions of subsection (b) of this section, the zoning board of  
33 review for the town of Scituate shall consist of five (5) members, each to hold office for the term  
34 of five (5) years. The zoning board of review for the town of Scituate shall also include three (3)

1 alternates to be designated as the first, second and third alternate members, their terms to be set  
2 by the ordinance, but not to exceed five (5) years. These alternate members shall sit and may  
3 actively participate in the hearings. The first alternate shall vote if a member of the board is  
4 unable to serve at a hearing; the second shall vote if two (2) members of the board are unable to  
5 serve at a hearing; and the third shall vote if three (3) members of the board are unable to serve at  
6 a hearing. In the absence of the first alternate member, the second alternate member shall serve in  
7 the position of the first alternate. No member or alternate may vote on any matter before the  
8 board unless they have attended all hearings concerning that matter. Where not provided for in  
9 the town charter, the zoning ordinance shall specify procedures for filling vacancies in unexpired  
10 terms of zoning board members, and for removal of members for due cause.

11 (i) Notwithstanding the provisions of subsection (b) of this section, the zoning board of  
12 review of the town of Middletown shall consist of five (5) members, each to hold office for a  
13 term of five (5) years. The zoning board of review of the town of Middletown shall also include  
14 three (3) alternates to be designated as the first (1st), second (2nd) and third (3rd) alternate  
15 members, their terms to be set by ordinance but not to exceed (5) years. These alternate members  
16 shall sit and may actively participate in the hearing. The first alternate shall vote if a member of  
17 the board is unable to serve at the hearing; the second alternate shall vote if two (2) members of  
18 the board are unable to serve at the hearing; and the third alternate shall vote if three (3) members  
19 of the board are unable to serve at the hearing. In the absence of the first alternate member, the  
20 second alternate member shall serve in the position of the first alternate. No member or alternate  
21 may vote on any matter before the board unless they have attended all hearings concerning that  
22 matter. Where not provided for in the town charter the zoning ordinance shall specify procedures  
23 for filling vacancies in unexpired terms of zoning board members and for removal of members  
24 for due cause.

25 (j) Notwithstanding the provisions of subsection (b) of this section, the zoning board of  
26 review of the city of Cranston shall consist of five (5) members, each to hold office for a term of  
27 five (5) years. The zoning board of review of the city of Cranston shall also include four (4)  
28 alternates to be designated as the first (1st), second (2nd), third (3rd), and fourth (4th), alternate  
29 members, to be appointed for a term of one year. These alternate members shall sit and may  
30 actively participate in all zoning hearings. The first alternate shall vote if a member of the board  
31 is unable to serve at the hearing; the second alternate shall vote if two (2) members of the board  
32 are unable to serve at the hearing; the third alternate shall vote if three (3) members of the board  
33 are unable to serve at the hearing; and the fourth alternate shall vote if four (4) members of the  
34 board are unable to serve at the hearing. In the absence of the first alternate member, the second

1 alternate member shall serve in the position of the first alternate. No member or alternate may  
2 vote on any matter before the board unless they have attended all hearings concerning that matter.  
3 Where not provided for in the city charter, the zoning ordinance shall specify procedures for  
4 filling vacancies during the unexpired terms of zoning board members and for removal of  
5 members for due cause.

6 **45-24-57. Administration -- Powers and duties of zoning board of review.**

7 A zoning ordinance adopted pursuant to this chapter shall provide that the zoning board  
8 of review shall:

9 (1) Have the following powers and duties:

10 (i) To hear and decide appeals within sixty-five (65) days of the date of the filing of the  
11 appeal where it is alleged there is an error in any order, requirement, decision, or determination  
12 made by an administrative officer or agency in the enforcement or interpretation of this chapter,  
13 or of any ordinance adopted pursuant hereto;

14 (ii) To hear and decide appeals from a party aggrieved by a decision of an historic district  
15 commission, pursuant to §§ 45-24.1-7.1 and 45-24.1-7.2;

16 (iii) To hear and decide appeals where the zoning board of review is appointed as the  
17 board of appeals for airport zoning regulations, pursuant to § 1-3-19;

18 (iv) To authorize, upon application, in specific cases of hardship, variances in the  
19 application of the terms of the zoning ordinance, pursuant to § 45-24-41;

20 (v) To authorize, upon application, in specific cases, special-use permits, pursuant to §  
21 45-24-42, where the zoning board of review is designated as a permit authority for special-use  
22 permits;

23 (vi) To refer matters to the planning board or commission, or to other boards or agencies  
24 of the city or town as the zoning board of review may deem appropriate, for findings and  
25 recommendations;

26 (vii) To provide for the issuance of conditional zoning approvals where a proposed  
27 application would otherwise be approved except that one or more state or federal agency  
28 approvals that are necessary are pending. A conditional zoning approval shall be revoked in the  
29 instance where any necessary state or federal agency approvals are not received within a specified  
30 time period; and

31 (viii) To hear and decide other matters, according to the terms of the ordinance or other  
32 statutes, and upon which the board may be authorized to pass under the ordinance or other  
33 statutes; and

34 (2) Be required to vote as follows:



1 (i) ~~Five (5)~~ Three (3) active members to include alternative members are necessary to  
2 conduct a hearing. As soon as a conflict occurs for a member, that member shall recuse himself or  
3 herself, shall not sit as an active member, and shall take no part in the conduct of the hearing.  
4 ~~Only~~ A maximum five (5) active members to include alternative members are entitled to vote on  
5 any issue;

6 (ii) The concurring vote of three (3) of the five (5) members of the zoning board of  
7 review sitting at a hearing are necessary to reverse any order, requirement, decision, or  
8 determination of any zoning administrative officer from whom an appeal was taken; and

9 (iii) The concurring vote of ~~four (4) of the five (5)~~ a majority of members of the zoning  
10 board of review sitting at a hearing is required to decide in favor of an applicant on any matter  
11 within the discretion of the board upon which it is required to pass under the ordinance, including  
12 variances and special-use permits.

13 SECTION 3. This act shall take effect on January 1, 2020 and shall be prospective only  
14 and not applicable to any current zoning or planning hearing or appeal.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO TOWNS AND CITIES -- LOCAL PLANNING BOARD OR COMMISSION--  
ZONING ORDINANCES

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1           This act would provide that notices of amendments to zoning ordinances or notice  
2 required from planning boards or commissions be sent first class mail. A quorum of the zoning  
3 board of review shall be a majority of the authorized members to vote, including alternates.

4           This act would take effect on January 1, 2020 and would be prospective only and not  
5 applicable to any current zoning or planning hearing or appeal.

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