

SUMMARY OF THE 2015 LEGISLATIVE SESSION

Legislation that Affects Local, Regional and Statewide Planning

Several bills were enacted during the 2015 legislative session that will have an impact on local, regional and statewide land use planning. Below is a brief synopsis of the bills identified by the Division of Planning that may need your attention, accompanied by links to the associated bills and the affected Rhode Island General Laws. If you should have any questions regarding the enactments listed below, please contact Kevin Flynn, Associate Director of the Division of Planning, at kevin.flynn@doa.ri.gov or 222-6496, Jared Rhodes, Chief of the Statewide Planning Program, at jared.rhodes@doa.ri.gov or 222-5772 or Chelsea Siefert, Principal Planner, at chelsea.siefert@doa.ri.gov or 222-4721.

FRESHWATER WETLAND SETBACK REGULATIONS

Bills: S-737 Sub B

Rhode Island General Laws Affected: "Agricultural Functions of Department of Environmental Management", sections 2-1-18 through 2-1-28; and "The Rhode Island Zoning Enabling Act", sections 45-24-29, 45-24-30 and 45-24-33

The RI Department of Environmental Management (RI DEM) and the RI Coastal Resources Management Council (RI CRMC) have been directed to develop and adopt statewide standards for freshwater wetland buffers and setbacks into state rules and regulations pursuant to their respective authorities. Such standards are to be promulgated within twelve (12) months of the enactment of the legislation, or by July 10, 2016. The new regulations are to apply within the jurisdictional areas defined by RIGL section 2-1-20, including the following lands and waters:

- Freshwater wetlands;
- Buffers;
- Areas subject to storm flowage;
- Areas subject to flooding; and
- Contiguous areas that extend outward:
 - 200' from the edge of a river or stream;
 - 200' from the edge of a drinking water supply reservoir; and
 - 100' from the edge of all other freshwater wetlands.

In developing the standards, RI DEM and RI CRMC are to take into account existing land use, watershed and

wetland resource characteristics, and the type of activity proposed, including acceptable best management practices. Additionally, the Director of RI DEM is to appoint an advisory work group to facilitate input on the criteria relative to considering agricultural activities and plant-based green infrastructure.

The law requires the new regulations to include a procedure by which a municipality may petition RI DEM or RI CRMC to increase the size of a buffer. Also, RI DEM and RI CRMC will be required to establish procedures that will provide municipalities and the public with information regarding freshwater wetland permit applications and facilitate municipal input during the application review process.

With enactment of the new law, municipalities are now prohibited from adopting, as a provision of a zoning ordinance, new requirements that specify buffers or setbacks in relation to freshwater wetlands, freshwater wetlands in the vicinity of the coast, or coastal wetlands, or that specify setback distances between an on-site wastewater treatment system and such wetlands. Once the new state regulations described above have been adopted, municipalities shall also be prohibited from applying the wetland setback requirements of existing zoning ordinances to development applications. All applications for development that were submitted to a municipality prior to the effective date of the new state regulations are to be held to the setback requirements of the zoning ordinance that was in effect at the time that the application was originally filed or granted approval.

Pursuant to the law, municipalities are required to amend their ordinances and regulations to conform with

the law within twelve (12) months of the effective date of the new state regulations. As municipalities will be prohibited from applying wetland setback regulations to development applications, zoning ordinances and subdivision and land development regulations must be amended to remove such requirements and procedures.

TOLLING OF EXPIRATION PERIODS

Bills: S-817 and H-6012

Rhode Island General Laws Affected: "Department of Environmental Management," section 42-17.1-2.5, "The Rhode Island Subdivision and Land Development Review Enabling Act," section 45-23-63.1, "The Rhode Island Zoning Enabling Act," section 45-24-61.1 and "Coastal Resources Management Council," 46-23-6.3

The expiration of approvals or permits pertaining to the development of property issued by the RI Department of Environmental Management and the RI Coastal Resources Management Council, and approvals given pursuant to local zoning ordinances and/or land development and subdivision regulations, have been tolled until June 30, 2016. Tolling shall only apply to approvals or permits in effect on November 9, 2009 and those issued between November 9, 2009 and June 30, 2016.

The expiration dates for all permits and approvals issued before the tolling period began will be recalculated as of July 1, 2016 by adding thereto the number of days between November 9, 2009 and the day on which the permit or approval would otherwise have expired. The expiration dates for all permits and approvals issued during the tolling period will be recalculated as of July 1, 2016 by adding thereto the number of days between the day the permit or approval was issued and the day the permit or approval otherwise would have expired. See the examples, below, using different issuance dates for a permit that has a 1-year expiration period.

PUBLIC NOTICE OF A ZONING ORDINANCE AMENDMENT

Bills: S-788 as amended and H-5815 Sub A

Rhode Island General Laws Affected: "The Rhode Island Zoning Enabling Act", section 45-24-53

Public notice of zoning ordinance amendments may now be delivered via first-class mail, rather than by certified mail. Senders are now also required to obtain a United States Postal Service certificate of mailing, PS form 3817, to demonstrate proof of mailing.

EXAMPLE TOLLING FOR APPROVALS ISSUED PRIOR TO NOVEMBER 9, 2009

Date Permit Issued	Original Expiration Date (365 Days)	Days between	
		November 9, 2009 and Original Expiration Date	New Expiration Date
12/01/2008	11/30/2009	21 days	July 1, 2016 + 21 days, or July 22, 2016
11/01/2009	10/31/2010	356 days	July 1, 2016 + 356 days or June 22, 2017

EXAMPLE TOLLING FOR APPROVALS ISSUED AFTER NOVEMBER 9, 2009

Date Permit Issued	Original Expiration Date (365 Days)	Days between Issue	
		Date and Original Expiration Date	New Expiration Date
03/01/2014	02/28/2015	365 days	July 1, 2016 + 365 days, or June 30, 2017
06/01/2016	05/31/2015	365 days	July 1, 2016 + 365 days, or June 30, 2017

