

**TOWNSHIP OF WEYMOUTH  
ATLANTIC COUNTY  
NEW JERSEY**

**ORDINANCE NO. 543-2015**

**AN ORDINANCE AMENDING ARTICLE III OF CHAPTER 155 (LAND USE) OF THE CODE OF THE TOWNSHIP OF WEYMOUTH TO EMPOWER THE EXISTING NINE-MEMBER PLANNING BOARD TO EXERCISE, PURSUANT TO N.J.S.A. 40:55D-25c., TO THE SAME EXTENT AND SUBJECT TO THE SAME RESTRICTIONS, ALL THE POWERS OF A ZONING BOARD OF ADJUSTMENT; AND TERMINATING THE EXISTENCE OF THE ZONING BOARD OF ADJUSTMENT OF THE TOWNSHIP OF WEYMOUTH**

**WHEREAS**, the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. provides in N.J.S.A. 40:55D-25c(1) that, “in a municipality having a population of 15,000 or less, a nine-member planning board, if so provided by ordinance, shall exercise, to the same extent and subject to the same restrictions, all the powers of a board of adjustment; but the Class I and the Class III members shall not participate in the consideration of applications which involve relief pursuant to subsection d. of section 57 of P.L. 1985 c. 291 (N.J.S.A. 40:55D-70)”; and

**WHEREAS**, the Township of Weymouth is a municipality having a population of less than 15,000; and

**WHEREAS**, the Weymouth Township Planning Board is currently a nine-member board and the purpose of this Ordinance is to amend the Township of Weymouth Land Use Ordinance to exercise, to the same extent and subject to the same restrictions, all the powers of a board of adjustment.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Weymouth in the County of Atlantic, State of New Jersey, that Article III of Chapter 155, namely the Land Use Ordinance of the Township of Weymouth, is amended as follows:

**§155-7A(2) Class II.** One of the officials of the Township other than a member of the Township Committee to be appointed by the Mayor;

**§155-7A(4) Class IV.** Seven others citizens of the Township to be appointed by the Mayor. The members of Class IV shall hold no other municipal office, except that one member may be a member of the Board of Education. A member of the Environmental Commission who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1 shall be a Class IV Planning Board member. For the purpose of this section, membership on a municipal board or commission whose function is advisory in nature, and the establishment is discretionary and not required by statute, shall not be considered the holding of municipal office.

**§155-7B(2).** The term of a Class IV member who is also a member of the Board of Education shall terminate whenever he or she is no longer a member of the Board of Education or at the completion of his or her Class IV term, whichever occurs first.

Section 155-8 “Zoning Board of Adjustment” is hereby repealed in its entirety and is replaced with the following:

**§155-8. Exercise of Powers of a Board of Adjustment:**

- A. The Township of Weymouth hereby exercises the option provided by N.J.S.A. 40:55D-25c(1) to have the Planning Board exercise all the powers of a Board of Adjustment. The Planning Board shall exercise, to the same extent and subject to the same restrictions, all the powers of a Board of Adjustment; but the Class I and Class III members shall not participate in the consideration of applications which involve relief pursuant to subsection d. of section 57 of P.L. 1985 c. 291 (N.J.S.A. 40:55D-70).
- B. Whenever relief is requested in a matter in which the Planning Board exercises, to the same extent and subject to the same restrictions, any of the powers and duties of a Board of Adjustment, pursuant to N.J.S.A. 40:55D-70d or otherwise, notice of a hearing on the application for development shall include reference to the request for variance, appeal, Ordinance interpretation, or direction for issuance of a permit, or other relief, as the case may be.
- C. The Township of Weymouth hereby exercises the option provided by N.J.S.A. 40:55D-25c(1) and accordingly, the Zoning Board of Adjustment is hereby terminated; provided, however, in accordance with N.J.S.A.

40:55D-70D-72.1, that any application for development submitted to the Zoning Board of Adjustment pursuant to lawful authority before the effective date of this ordinance may be continued at the option of the applicant, and the Board of Adjustment shall have every power which possessed before the effective date of the ordinance in regard to the application.

D. When necessary for the purposes of implementing this Ordinance and the election to have the Planning Board exercise, to the same extent and subject to the same restrictions, all the powers of a Board of Adjustment, the term “Planning Board” shall be substituted for the term “Zoning Board of Adjustment” or equivalent in each and every instance where “Zoning Board of Adjustment” or equivalent appears in any Ordinance, Resolution, Rule, Regulation or Amendments thereto of the Township of Weymouth.

E. Where the substitution of “Planning Board” for “Zoning Board of Adjustment” or equivalent results in an apparent duplication, redundancy, or conflict in any Ordinance, Resolution, Rule or Regulation, the same shall be liberally construed and interpreted in accordance with the intent and purpose of N.J.S.A. 40:55D-25c as adopted herein, whereby the Planning Board replaces and, to the same extent and subject to the same restrictions, exercise all powers of the Zoning Board of Adjustment.

**Severability.**

In any Article, section, subdivision, sentence, clause or phrase of this Ordinance shall be held to be invalid for any reason, such decision shall not affect the remaining portions of this Ordinance.

**Repealer; Exception.**

All Ordinances or parts thereof or Resolutions inconsistent with the provisions of this Ordinance are hereby repealed to the extent of their inconsistency. Nothing in this Ordinance, however, shall affect the rights and tenure of any elected official.

**When Effective.**

This Ordinance shall take effect immediately following its advertisement, public hearing and adoption in accordance with the law.

**WEYMOUTH TOWNSHIP**

By: \_\_\_\_\_

Kenneth R. Haeser, Mayor

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF WEYMOUTH, IN THE COUNTY OF ATLANTIC, STATE OF NEW JERSEY, HELD ON NOVEMBER 18, 2015, WAS PUBLISHED AND WAS FURTHER CONSIDERED FOR FINAL PASSAGE AT A PUBLIC HEARING AT A REGULAR MEETING OF SAID TOWNSHIP COMMITTEE HELD IN THE TOWNSHIP HALL, IN SAID TOWNSHIP, ON DECEMBER 2, 2015 WHERE IS WAS ADOPTED.

Attest: \_\_\_\_\_

Bonnie S. Yearsley, CMC

Township Clerk

1<sup>st</sup> Reading Date: November 18, 2015

Publication Date: November 23, 2015

2<sup>nd</sup> Reading: December 2, 2015

Adoption Date: December 2, 2015

Final Publication: December 7, 2015

