

2023 -- H 6059 SUBSTITUTE A

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

Introduced By: Representatives Craven, Shekarchi, McGaw, Shanley, Dawson, and O'Brien

Date Introduced: March 03, 2023

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-24-31, 45-24-38, 45-24-40, 45-24-41, 45-24-42 and 45-24-46 of
2 the General Laws in Chapter 45-24 entitled "Zoning Ordinances" are hereby amended to read as
3 follows:

4 **45-24-31. ~~Definitions.~~ Definitions – Effective January 1, 2024.**

5 Where words or terms used in this chapter are defined in § 45-22.2-4 or 45-23-32, they
6 have the meanings stated in that section. In addition, the following words have the following
7 meanings. Additional words and phrases may be used in developing local ordinances under this
8 chapter; however, the words and phrases defined in this section are controlling in all local
9 ordinances created under this chapter:

10 (1) Abutter. One whose property abuts, that is, adjoins at a border, boundary, or point with
11 no intervening land.

12 (2) Accessory dwelling unit (ADU). A residential living unit on the same parcel where the
13 primary use is a legally established single-unit or multi-unit dwelling. An ADU provides complete
14 independent living facilities for one or more persons. It may take various forms including, but not
15 limited to: a detached unit; a unit that is part of an accessory structure, such as a detached garage;
16 or a unit that is part of an expanded or remodeled primary dwelling.

17 (3) Accessory use. A use of land or of a building, or portion thereof, customarily incidental
18 and subordinate to the principal use of the land or building. An accessory use may be restricted to
19 the same lot as the principal use. An accessory use shall not be permitted without the principal use

1 to which it is related.

2 (4) Aggrieved party. An aggrieved party, for purposes of this chapter, shall be:

3 (i) Any person, or persons, or entity, or entities, who or that can demonstrate that his, her,
4 or its property will be injured by a decision of any officer or agency responsible for administering
5 the zoning ordinance of a city or town; or

6 (ii) Anyone requiring notice pursuant to this chapter.

7 (5) Agricultural land. "Agricultural land," as defined in § 45-22.2-4.

8 (6) Airport hazard area. "Airport hazard area," as defined in § 1-3-2.

9 (7) Applicant. An owner, or authorized agent of the owner, submitting an application or
10 appealing an action of any official, board, or agency.

11 (8) Application. The completed form, or forms, and all accompanying documents, exhibits,
12 and fees required of an applicant by an approving authority for development review, approval, or
13 permitting purposes.

14 (9) Buffer. Land that is maintained in either a natural or landscaped state, and is used to
15 screen or mitigate the impacts of development on surrounding areas, properties, or rights-of-way.

16 (10) Building. Any structure used or intended for supporting or sheltering any use or
17 occupancy.

18 (11) Building envelope. The three-dimensional space within which a structure is permitted
19 to be built on a lot and that is defined by regulations governing building setbacks, maximum height,
20 and bulk; by other regulations; or by any combination thereof.

21 (12) Building height. For a vacant parcel of land, building height shall be measured from
22 the average, existing-grade elevation where the foundation of the structure is proposed. For an
23 existing structure, building height shall be measured from average grade taken from the outermost
24 four (4) corners of the existing foundation. In all cases, building height shall be measured to the top
25 of the highest point of the existing or proposed roof or structure. This distance shall exclude spires,
26 chimneys, flag poles, and the like. For any property or structure located in a special flood hazard
27 area, as shown on the official FEMA Flood Insurance Rate Maps (FIRMs), or depicted on the
28 Rhode Island coastal resources management council (CRMC) suggested design elevation three foot
29 (3') sea level rise (CRMC SDE 3 SLR) map as being inundated during a one-hundred-year (100)
30 storm, the greater of the following amounts, expressed in feet, shall be excluded from the building
31 height calculation:

32 (i) The base flood elevation on the FEMA FIRM plus up to five feet (5') of any utilized or
33 proposed freeboard, less the average existing grade elevation; or

34 (ii) The suggested design elevation as depicted on the CRMC SDE 3 SLR map during a

1 one-hundred-year (100) storm, less the average existing grade elevation. CRMC shall reevaluate
2 the appropriate suggested design elevation map for the exclusion every ten (10) years, or as
3 otherwise necessary.

4 (13) Cluster. A site-planning technique that concentrates buildings in specific areas on the
5 site to allow the remaining land to be used for recreation, common open space, and/or preservation
6 of environmentally, historically, culturally, or other sensitive features and/or structures. The
7 techniques used to concentrate buildings shall be specified in the ordinance and may include, but
8 are not limited to, reduction in lot areas, setback requirements, and/or bulk requirements, with the
9 resultant open land being devoted by deed restrictions for one or more uses. Under cluster
10 development, there is no increase in the number of lots that would be permitted under conventional
11 development except where ordinance provisions include incentive bonuses for certain types or
12 conditions of development.

13 (14) Common ownership. Either:

14 (i) Ownership by one or more individuals or entities in any form of ownership of two (2)
15 or more contiguous lots; or

16 (ii) Ownership by any association (ownership may also include a municipality) of one or
17 more lots under specific development techniques.

18 (15) Community residence. A home or residential facility where children and/or adults
19 reside in a family setting and may or may not receive supervised care. This does not include halfway
20 houses or substance-use-disorder-treatment facilities. This does include, but is not limited to, the
21 following:

22 (i) Whenever six (6) or fewer children or adults with intellectual and/or developmental
23 disability reside in any type of residence in the community, as licensed by the state pursuant to
24 chapter 24 of title 40.1. All requirements pertaining to local zoning are waived for these community
25 residences;

26 (ii) A group home providing care or supervision, or both, to not more than eight (8) persons
27 with disabilities, and licensed by the state pursuant to chapter 24 of title 40.1;

28 (iii) A residence for children providing care or supervision, or both, to not more than eight
29 (8) children, including those of the caregiver, and licensed by the state pursuant to chapter 72.1 of
30 title 42;

31 (iv) A community transitional residence providing care or assistance, or both, to no more
32 than six (6) unrelated persons or no more than three (3) families, not to exceed a total of eight (8)
33 persons, requiring temporary financial assistance, and/or to persons who are victims of crimes,
34 abuse, or neglect, and who are expected to reside in that residence not less than sixty (60) days nor

1 more than two (2) years. Residents will have access to, and use of, all common areas, including
2 eating areas and living rooms, and will receive appropriate social services for the purpose of
3 fostering independence, self-sufficiency, and eventual transition to a permanent living situation.

4 (16) Comprehensive plan. The comprehensive plan adopted and approved pursuant to
5 chapter 22.2 of this title and to which any zoning adopted pursuant to this chapter shall be in
6 compliance.

7 (17) Day care — Daycare center. Any other daycare center that is not a family daycare
8 home.

9 (18) Day care — Family daycare home. Any home, other than the individual's home, in
10 which day care in lieu of parental care or supervision is offered at the same time to six (6) or less
11 individuals who are not relatives of the caregiver, but may not contain more than a total of eight
12 (8) individuals receiving day care.

13 (19) Density, residential. The number of dwelling units per unit of land.

14 (20) Development. The construction, reconstruction, conversion, structural alteration,
15 relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance;
16 or any change in use, or alteration or extension of the use, of land.

17 (21) Development plan review. The process whereby authorized, local officials review the
18 site plans, maps, and other documentation of a development to determine the compliance with the
19 stated purposes and standards of the ordinance.

20 (22) District. See "zoning-use district."

21 (23) Drainage system. A system for the removal of water from land by drains, grading, or
22 other appropriate means. These techniques may include runoff controls to minimize erosion and
23 sedimentation during and after construction or development; the means for preserving surface and
24 groundwaters; and the prevention and/or alleviation of flooding.

25 (24) Dwelling unit. A structure, or portion of a structure, providing complete, independent
26 living facilities for one or more persons, including permanent provisions for living, sleeping, eating,
27 cooking, and sanitation, and containing a separate means of ingress and egress.

28 (25) Extractive industry. The extraction of minerals, including: solids, such as coal and
29 ores; liquids, such as crude petroleum; and gases, such as natural gases. The term also includes
30 quarrying; well operation; milling, such as crushing, screening, washing, and flotation; and other
31 preparation customarily done at the extraction site or as a part of the extractive activity.

32 (26) Family member. A person, or persons, related by blood, marriage, or other legal
33 means, including, but not limited to, a child, parent, spouse, mother-in-law, father-in-law,
34 grandparents, grandchildren, domestic partner, sibling, care recipient, or member of the household.

1 (27) Floating zone. An unmapped zoning district adopted within the ordinance that is
2 established on the zoning map only when an application for development, meeting the zone
3 requirements, is approved.

4 (28) Floodplains, or Flood hazard area. As defined in § 45-22.2-4.

5 (29) Freeboard. A factor of safety expressed in feet above the base flood elevation of a
6 flood hazard area for purposes of floodplain management. Freeboard compensates for the many
7 unknown factors that could contribute to flood heights, such as wave action, bridge openings, and
8 the hydrological effect of urbanization of the watershed.

9 (30) Groundwater. "Groundwater" and associated terms, as defined in § 46-13.1-3.

10 (31) Halfway house. A residential facility for adults or children who have been
11 institutionalized for criminal conduct and who require a group setting to facilitate the transition to
12 a functional member of society.

13 (32) Hardship. See § 45-24-41.

14 (33) Historic district or historic site. As defined in § 45-22.2-4.

15 (34) Home occupation. Any activity customarily carried out for gain by a resident,
16 conducted as an accessory use in the resident's dwelling unit.

17 (35) Household. One or more persons living together in a single-dwelling unit, with
18 common access to, and common use of, all living and eating areas and all areas and facilities for
19 the preparation and storage of food within the dwelling unit. The term "household unit" is
20 synonymous with the term "dwelling unit" for determining the number of units allowed within any
21 structure on any lot in a zoning district. An individual household shall consist of any one of the
22 following:

23 (i) A family, which may also include servants and employees living with the family; or

24 (ii) A person or group of unrelated persons living together. The maximum number may be
25 set by local ordinance, but this maximum shall not be less than three (3).

26 (36) Incentive zoning. The process whereby the local authority may grant additional
27 development capacity in exchange for the developer's provision of a public benefit or amenity as
28 specified in local ordinances.

29 (37) Infrastructure. Facilities and services needed to sustain residential, commercial,
30 industrial, institutional, and other activities.

31 (38) Land-development project. A project in which one or more lots, tracts, or parcels of
32 land are developed or redeveloped as a coordinated site for one or more uses, units, or structures,
33 including, but not limited to, planned development or cluster development for residential,
34 commercial, institutional, recreational, open space, or mixed uses as provided in the zoning

1 ordinance.

2 (39) Lot. Either:

3 (i) The basic development unit for determination of lot area, depth, and other dimensional
4 regulations; or

5 (ii) A parcel of land whose boundaries have been established by some legal instrument,
6 such as a recorded deed or recorded map, and that is recognized as a separate legal entity for
7 purposes of transfer of title.

8 (40) Lot area. The total area within the boundaries of a lot, excluding any street right-of-
9 way, usually reported in acres or square feet.

10 (41) Lot area, minimum. The smallest land area established by the local zoning ordinance
11 upon which a use, building, or structure may be located in a particular zoning district.

12 (42) Lot building coverage. That portion of the lot that is, or may be, covered by buildings
13 and accessory buildings.

14 (43) Lot depth. The distance measured from the front lot line to the rear lot line. For lots
15 where the front and rear lot lines are not parallel, the lot depth is an average of the depth.

16 (44) Lot frontage. That portion of a lot abutting a street. A zoning ordinance shall specify
17 how noncontiguous frontage will be considered with regard to minimum frontage requirements.

18 (45) Lot line. A line of record, bounding a lot, that divides one lot from another lot or from
19 a public or private street or any other public or private space and shall include:

20 (i) Front: the lot line separating a lot from a street right-of-way. A zoning ordinance shall
21 specify the method to be used to determine the front lot line on lots fronting on more than one
22 street, for example, corner and through lots;

23 (ii) Rear: the lot line opposite and most distant from the front lot line, or in the case of
24 triangular or otherwise irregularly shaped lots, an assumed line at least ten feet (10') in length
25 entirely within the lot, parallel to and at a maximum distance from, the front lot line; and

26 (iii) Side: any lot line other than a front or rear lot line. On a corner lot, a side lot line may
27 be a street lot line, depending on requirements of the local zoning ordinance.

28 (46) Lot size, minimum. Shall have the same meaning as "minimum lot area" defined
29 herein.

30 (47) Lot, through. A lot that fronts upon two (2) parallel streets, or that fronts upon two
31 (2) streets that do not intersect at the boundaries of the lot.

32 (48) Lot width. The horizontal distance between the side lines of a lot measured at right
33 angles to its depth along a straight line parallel to the front lot line at the minimum front setback
34 line.

1 (49) Mere inconvenience. See § 45-24-41.

2 (50) Mixed use. A mixture of land uses within a single development, building, or tract.

3 (51) Modification. Permission granted and administered by the zoning enforcement officer
4 of the city or town, and pursuant to the provisions of this chapter to grant a dimensional variance
5 other than lot area requirements from the zoning ordinance to a limited degree as determined by
6 the zoning ordinance of the city or town, but not to exceed twenty-five percent (25%) of each of
7 the applicable dimensional requirements.

8 (52) Nonconformance. A building, structure, or parcel of land, or use thereof, lawfully
9 existing at the time of the adoption or amendment of a zoning ordinance and not in conformity with
10 the provisions of that ordinance or amendment. Nonconformance is of only two (2) types:

11 (i) Nonconforming by use: a lawfully established use of land, building, or structure that is
12 not a permitted use in that zoning district. A building or structure containing more dwelling units
13 than are permitted by the use regulations of a zoning ordinance is nonconformity by use; or

14 (ii) Nonconforming by dimension: a building, structure, or parcel of land not in compliance
15 with the dimensional regulations of the zoning ordinance. Dimensional regulations include all
16 regulations of the zoning ordinance, other than those pertaining to the permitted uses. A building
17 or structure containing more dwelling units than are permitted by the use regulations of a zoning
18 ordinance is nonconforming by use; a building or structure containing a permitted number of
19 dwelling units by the use regulations of the zoning ordinance, but not meeting the lot area per
20 dwelling unit regulations, is nonconforming by dimension.

21 (53) Overlay district. A district established in a zoning ordinance that is superimposed on
22 one or more districts or parts of districts. The standards and requirements associated with an overlay
23 district may be more or less restrictive than those in the underlying districts consistent with other
24 applicable state and federal laws.

25 (54) Performance standards. A set of criteria or limits relating to elements that a particular
26 use or process must either meet or may not exceed.

27 (55) Permitted use. A use by right that is specifically authorized in a particular zoning
28 district.

29 (56) Planned development. A "land-development project," as defined in subsection (38),
30 and developed according to plan as a single entity and containing one or more structures or uses
31 with appurtenant common areas.

32 (57) Plant agriculture. The growing of plants for food or fiber, to sell or consume.

33 (58) Preapplication conference. A review meeting of a proposed development held
34 between applicants and reviewing agencies as permitted by law and municipal ordinance, before

1 formal submission of an application for a permit or for development approval.

2 (59) Setback line or lines. A line, or lines, parallel to a lot line at the minimum distance of
3 the required setback for the zoning district in which the lot is located that establishes the area within
4 which the principal structure must be erected or placed.

5 (60) Site plan. The development plan for one or more lots on which is shown the existing
6 and/or the proposed conditions of the lot.

7 (61) Slope of land. The grade, pitch, rise, or incline of the topographic landform or surface
8 of the ground.

9 (62) Special use. A regulated use that is permitted pursuant to the special-use permit issued
10 by the authorized governmental entity, pursuant to § 45-24-42. Formerly referred to as a special
11 exception.

12 (63) Structure. A combination of materials to form a construction for use, occupancy, or
13 ornamentation, whether installed on, above, or below the surface of land or water.

14 (64) Substandard lot of record. Any lot lawfully existing at the time of adoption or
15 amendment of a zoning ordinance and not in conformance with the dimensional or area provisions
16 of that ordinance.

17 (65) Use. The purpose or activity for which land or buildings are designed, arranged, or
18 intended, or for which land or buildings are occupied or maintained.

19 (66) Variance. Permission to depart from the literal requirements of a zoning ordinance.
20 An authorization for the construction or maintenance of a building or structure, or for the
21 establishment or maintenance of a use of land, that is prohibited by a zoning ordinance. There are
22 only two (2) categories of variance, a use variance or a dimensional variance.

23 (i) Use variance. Permission to depart from the use requirements of a zoning ordinance
24 where the applicant for the requested variance has shown by evidence upon the record that the
25 subject land or structure cannot yield any beneficial use if it is to conform to the provisions of the
26 zoning ordinance.

27 (ii) Dimensional variance. Permission to depart from the dimensional requirements of a
28 zoning ordinance, ~~where the applicant for the requested relief has shown, by evidence upon the~~
29 ~~record, that there is no other reasonable alternative way to enjoy a legally permitted beneficial use~~
30 ~~of the subject property unless granted the requested relief from the dimensional regulations.~~
31 ~~However, the fact that a use may be more profitable or that a structure may be more valuable after~~
32 ~~the relief is granted are not grounds for relief~~ under the applicable standards set forth in § 45-24-
33 41.

34 (67) Waters. As defined in § 46-12-1(23).

1 (68) Wetland, coastal. As defined in § 45-22.2-4.

2 (69) Wetland, freshwater. As defined in § 2-1-20.

3 (70) Zoning certificate. A document signed by the zoning-enforcement officer, as required
4 in the zoning ordinance, that acknowledges that a use, structure, building, or lot either complies
5 with, or is legally nonconforming to, the provisions of the municipal zoning ordinance or is an
6 authorized variance or modification therefrom.

7 (71) Zoning map. The map, or maps, that are a part of the zoning ordinance and that
8 delineate the boundaries of all mapped zoning districts within the physical boundary of the city or
9 town.

10 (72) Zoning ordinance. An ordinance enacted by the legislative body of the city or town
11 pursuant to this chapter and in the manner providing for the adoption of ordinances in the city or
12 town's legislative or home rule charter, if any, that establish regulations and standards relating to
13 the nature and extent of uses of land and structures; that is consistent with the comprehensive plan
14 of the city or town as defined in chapter 22.2 of this title; that includes a zoning map; and that
15 complies with the provisions of this chapter.

16 (73) Zoning-use district. The basic unit in zoning, either mapped or unmapped, to which
17 a uniform set of regulations applies, or a uniform set of regulations for a specified use. Zoning-use
18 districts include, but are not limited to: agricultural, commercial, industrial, institutional, open
19 space, and residential. Each district may include sub-districts. Districts may be combined.

20 ~~45-24-38. General provisions — Substandard lots of record~~ **General provisions --**
21 **Substandard lots of record -- Effective January 1, 2024.**

22 (a) Any city or town adopting or amending a zoning ordinance under this chapter shall
23 regulate the ~~use or uses~~ development of any single substandard lot of record or contiguous lots of
24 record at the effective date of adoption or amendment of the zoning ordinance.

25 (b) Notwithstanding ~~notwithstanding~~ the failure of that lot or those lots to meet the
26 dimensional and/or quantitative requirements, and/or road frontage or other access requirements,
27 applicable in the district as stated in the ordinance, a substandard lot of record shall not be required
28 to seek any zoning relief based solely on the failure to meet minimum lot size requirements of the
29 district in which such lot is located. The setback, frontage, and/or lot width requirements for a
30 structure under this section shall be reduced and the maximum building coverage requirements
31 shall be increased by the same proportion as the lot area of the substandard lot is to the minimum
32 lot area requirement of the zoning district in which the lot is located. All proposals exceeding such
33 reduced requirement shall proceed with a modification request under § 45-24-46 or a dimensional
34 variance request under § 45-24-41, whichever is applicable.

1 (c) Provisions may be made for the merger of contiguous unimproved, or improved and
2 unimproved, substandard lots of record in the same ownership to create dimensionally conforming
3 lots or to reduce the extent of dimensional nonconformance. The ordinance shall specify the
4 standards, on a district by district basis, which determine the mergers. The standards include, but
5 are not to be limited to, the availability of infrastructure, the character of the neighborhood, and the
6 consistency with the comprehensive plan. The merger of lots shall not be required when the
7 substandard lot of record has an area equal to or greater than the area of fifty percent (50%) of the
8 lots within two hundred feet (200') of the subject lot, as confirmed by the zoning enforcement
9 officer.

10 **45-24-40. General provisions—Alteration of nonconforming development. General**
11 **provisions — Alteration of nonconforming development; Alteration of uses established by**
12 **variance or special use permit — Effective January 1, 2024.**

13 (a) A zoning ordinance may permit a nonconforming development to be altered under
14 either of the following conditions:

15 (1) The ordinance may establish a special-use permit, authorizing the alteration, which
16 must be approved by the zoning board of review following the procedure established in this chapter
17 and in the zoning ordinance; or

18 (2) The ordinance may allow the addition and enlargement, expansion, intensification, or
19 change in use, of nonconforming development either by permit or by right and may distinguish
20 between the foregoing actions by zoning districts.

21 (b) The ordinance may require that the alteration more closely adheres to the intent and
22 purposes of the zoning ordinance.

23 (c) A use established by variance or special use permit shall not acquire the rights of this
24 section, unless allowed by specific provisions of a municipal zoning ordinance.

25 **45-24-41. General provisions—Variances. General provisions -Variances – Effective**
26 **January 1, 2024.**

27 (a) An application for relief from the literal requirements of a zoning ordinance because of
28 hardship may be made by any person, group, agency, or corporation by filing with the zoning
29 enforcement officer or agency an application describing the request and supported by any data and
30 evidence as may be required by the zoning board of review or by the terms of the ordinance. The
31 zoning enforcement officer or agency shall immediately transmit each application received to the
32 zoning board of review and a copy of each application to the planning board or commission.

33 (b) A zoning ordinance provides that the zoning board of review, immediately upon receipt
34 of an application for a variance in the application of the literal terms of the zoning ordinance, may

1 request that the planning board or commission and/or staff report its findings and recommendations,
2 including a statement on the general consistency of the application with the goals and purposes of
3 the comprehensive plan of the city or town, in writing, to the zoning board of review within thirty
4 (30) days of receipt of the application from that board. The zoning board shall hold a public hearing
5 on any application for variance in an expeditious manner, after receipt, in proper form, of an
6 application, and shall give public notice at least fourteen (14) days prior to the date of the hearing
7 in a newspaper of general circulation in the city or town. Notice of hearing shall be sent by first-
8 class mail to the applicant, and to at least all those who would require notice under § 45-24-53. The
9 notice shall also include the street address of the subject property. A zoning ordinance may require
10 that a supplemental notice, that an application for a variance is under consideration, be posted at
11 the location in question. The posting is for information purposes only and does not constitute
12 required notice of a public hearing. The cost of notification shall be borne by the applicant.

13 (c) A zoning ordinance may provide for unified development review, pursuant to § 45-24-
14 46.4. Requests for dimensional and use variances submitted under a unified development review
15 provision of a zoning ordinance shall be submitted as part of the subdivision or land-development
16 application to the administrative officer of the planning board or commission, pursuant to § 45-24-
17 46.4(a). All subdivision or land-development applications submitted under the unified development
18 review provisions of a zoning ordinance shall have a public hearing, which shall meet the
19 requirements of § 45-23-50.1(c).

20 (d) In granting a variance, the zoning board of review, or, where unified development
21 review is enabled pursuant to § 45-24-46.4, the planning board or commission, shall require that
22 evidence to the satisfaction of the following standards is entered into the record of the proceedings:

23 (1) That the hardship from which the applicant seeks relief is due to the unique
24 characteristics of the subject land or structure and not to the general characteristics of the
25 surrounding area; and is not due to a physical or economic disability of the applicant, excepting
26 those physical disabilities addressed in § 45-24-30(a)(16);

27 (2) That the hardship is not the result of any prior action of the applicant ~~and does not result~~
28 ~~primarily from the desire of the applicant to realize greater financial gain;~~ and

29 (3) That the granting of the requested variance will not alter the general character of the
30 surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan
31 upon which the ordinance is based; ~~and~~

32 ~~(4) That the relief to be granted is the least relief necessary.~~

33 (e) The zoning board of review, or, where unified development review is enabled pursuant
34 to § 45-24-46.4, the planning board or commission, shall, in addition to the above standards, require

1 that evidence is entered into the record of the proceedings showing that:

2 (1) In granting a use variance, the subject land or structure cannot yield any beneficial use
3 if it is required to conform to the provisions of the zoning ordinance. Nonconforming use of
4 neighboring land or structures in the same district and permitted use of lands or structures in an
5 adjacent district shall not be considered in granting a use variance; and

6 (2) In granting a dimensional variance, that the hardship suffered by the owner of the
7 subject property if the dimensional variance is not granted amounts to more than a mere
8 inconvenience, meaning that relief sought is minimal to a reasonable enjoyment of the permitted
9 use to which the property is proposed to be devoted. The fact that a use may be more profitable or
10 that a structure may be more valuable after the relief is granted is not grounds for relief. The zoning
11 board of review, or, where unified development review is enabled pursuant to § 45-24-46.4, the
12 planning board or commission has the power to grant dimensional variances where the use is
13 permitted by special-use permit ~~if provided for in the special-use permit sections of the zoning~~
14 ~~ordinance~~.

15 ~~45-24-42. General provisions—Special-use permits~~ **General provisions -- Special-use**
16 **permits -- Effective January 1, 2024.**

17 (a) A zoning ordinance shall provide for the issuance of special-use permits approved by
18 the zoning board of review, or, where unified development review is enabled pursuant to § 45-24-
19 46.4, the planning board or commission.

20 (b) The ordinance shall:

21 (1) Specify the uses requiring special-use permits in each district. The ordinance ~~may~~ shall
22 provide for a procedure under which a proposed land use that is not specifically listed may be
23 presented by the property owner to the zoning board of review or to a local official or agency
24 charged with administration and enforcement of the ordinance for an evaluation and determination
25 of whether the proposed use is of a similar type, character, and intensity as a listed use requiring a
26 special-use permit. Upon such determination, the proposed use may be considered to be a use
27 requiring a special-use permit;

28 (2) Describe the conditions and procedures under which special-use permits, of each of the
29 various categories of special-use permits established in the zoning ordinance, ~~may~~ shall be issued;

30 (3) Establish specific and objective criteria for the issuance of each type of use category of
31 special-use permit ~~that~~, which criteria shall be in conformance with the purposes and intent of the
32 comprehensive plan and the zoning ordinance of the city or town; however, in no case shall any
33 specific and objective criteria for a special use permit include a determination of consistency with
34 the comprehensive plan;

1 (4) Provide for public hearings and notification of the date, time, place, and purpose of
2 those hearings to interested parties. Special-use permit requests submitted under a zoning
3 ordinance's unified development review provisions shall be heard and noticed in conjunction with
4 the subdivision or land-development application, according to the requirements of § 45-23-50.1.
5 Public notice for special-use permits that are not submitted under a zoning ordinance's unified
6 development review provisions shall be given at least fourteen (14) days prior to the date of the
7 hearing in a newspaper of general circulation in the city or town. Notice of hearing shall be sent by
8 first-class mail to the applicant, and to all those who would require notice under § 45-24-53. The
9 notice shall also include the street address of the subject property. A zoning ordinance may require
10 that a supplemental notice, that an application for a special-use permit is under consideration, be
11 posted at the location in question. The posting is for information purposes only and does not
12 constitute required notice of a public hearing. The cost of notification shall be borne by the
13 applicant;

14 (5) Provide for the recording of findings of fact and written decisions; and

15 (6) Provide that appeals may be taken pursuant to § 45-24-70 or § 45-23-66, dependent on
16 the board to which application was made.

17 (c) If an ordinance does not expressly provide for specific and objective criteria for the
18 issuance of a category of special use permit such category shall be deemed to be permitted use.

19 ~~(e)~~(d) The ordinance additionally ~~may~~ shall provide that an applicant ~~may~~ apply for, and
20 be issued, a dimensional variance in conjunction with a special-use permit. If the special use could
21 not exist without the dimensional variance, the zoning board of review, or, where unified
22 development review is enabled pursuant to § 45-24-46.4(b), the planning board or commission shall
23 consider the special-use permit and the dimensional variance together to determine if granting the
24 special use is appropriate based on both the special use criteria and the dimensional variance
25 evidentiary standards.

26 ~~45-24-46. Special provisions — Modification~~ **Special provisions -- Modification --**
27 **Effective January 1 2024.**

28 (a) A zoning ordinance ~~may~~ shall provide for the issuance of modifications ~~or adjustments~~
29 from the literal dimensional requirements of the zoning ordinance in the instance of the
30 construction, alteration, or structural modification of a structure or lot of record. ~~If the ordinance~~
31 ~~allows modifications then the~~ The zoning enforcement officer is authorized to grant modification
32 permits. The zoning ordinance ~~establishes the maximum percent allowed for a modification, which~~
33 ~~shall not exceed twenty five percent (25%), of any of~~ shall permit modifications that are fifteen
34 percent (15%) or less of the dimensional requirements specified in the zoning ordinance but may

1 permit modification up to twenty-five percent (25%). A modification does not permit moving of
2 lot lines. ~~The zoning ordinance shall specify which dimensional requirements or combinations of~~
3 ~~these requirements are allowable under a modification. These requirements may differ by use or~~
4 ~~zoning district.~~ Within ten (10) days of the receipt of a request for a modification, the zoning
5 enforcement officer shall make a decision as to the suitability of the requested modification based
6 on the following determinations:

7 (1) The modification requested is reasonably necessary for the full enjoyment of the
8 permitted use;

9 (2) If the modification is granted, neighboring property will neither be substantially injured
10 nor its appropriate use substantially impaired;

11 (3) The modification requested ~~is in harmony with the purposes and intent of the~~
12 ~~comprehensive plan and zoning ordinance of the city or town~~ does not require a variance of a flood
13 hazard requirement, unless the building is built in accordance with applicable regulations; and

14 (4) The modification requested does not ~~require a variance of a flood hazard requirement~~
15 violate any rules or regulations with respect to freshwater or coastal wetlands.

16 (b) Upon an affirmative determination, in the case of a modification of five percent (5%)
17 or less, the zoning enforcement officer shall have the authority to issue a permit approving the
18 modification, without any public notice requirements. In the case of a modification of greater than
19 five percent (5%), the zoning enforcement officer shall notify, by ~~registered or certified~~ first class
20 mail, all property owners abutting the property which is the subject of the modification request, and
21 shall indicate the street address of the subject property in the notice, and shall publish in a
22 newspaper of ~~general~~ local circulation within the city or town that the modification will be granted
23 unless written objection is received within ~~thirty (30)~~ fourteen (14) days of the public notice. If
24 written objection is received within ~~thirty (30)~~ fourteen (14) days, the request for a modification
25 shall be ~~denied.~~ scheduled for the next available hearing before the zoning board of review on
26 application for a dimensional variance ~~In that case the changes requested will be considered a~~
27 ~~request for a variance and may only be issued by the zoning board of review~~ following the standard
28 procedures for such variances, including notice requirements provided for under this chapter. If no
29 written objections are received within ~~thirty (30)~~ fourteen (14) days, the zoning enforcement officer
30 shall grant the modification. The zoning enforcement officer may apply any special conditions to
31 the permit as may, in the opinion of the officer, be required to conform to the intent and purposes
32 of the zoning ordinance. The zoning enforcement officer shall keep public records of all requests
33 for modifications, and of findings, determinations, special conditions, and any objections received.
34 Costs of any notice required under this subsection shall be borne by the applicant requesting the

1 modification.

2 SECTION 2. This act shall take effect on January 1, 2024.

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LC002094/SUB A
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

1 This act would amend certain general laws relative to zoning ordinance and variances,
2 special use permits, modifications thereto and also amend provisions relative to substandard lots of
3 record and the merger of such lots.

4 This act would take effect on January 1, 2024.

=====
LC002094/SUB A
=====

2023 -- H 6090 SUBSTITUTE A

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LC002438/SUB A/2
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

Introduced By: Representatives Alzate, Shekarchi, Tanzi, Donovan, Shallcross Smith,
and McNamara

Date Introduced: March 03, 2023

Referred To: House Municipal Government & Housing

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-24-31 and 45-24-37 of the General Laws in Chapter 45-24
2 entitled "Zoning Ordinances" are hereby amended to read as follows:

3 **45-24-31. Definitions.**

4 Where words or terms used in this chapter are defined in § 45-22.2-4 or 45-23-32, they
5 have the meanings stated in that section. In addition, the following words have the following
6 meanings. Additional words and phrases may be used in developing local ordinances under this
7 chapter; however, the words and phrases defined in this section are controlling in all local
8 ordinances created under this chapter:

9 (1) Abutter. One whose property abuts, that is, adjoins at a border, boundary, or point with
10 no intervening land.

11 (2) Accessory dwelling unit (ADU). A residential living unit on the same parcel where the
12 primary use is a legally established single-unit or multi-unit dwelling. An ADU provides complete
13 independent living facilities for one or more persons. It may take various forms including, but not
14 limited to: a detached unit; a unit that is part of an accessory structure, such as a detached garage;
15 or a unit that is part of an expanded or remodeled primary dwelling.

16 (3) Accessory use. A use of land or of a building, or portion thereof, customarily incidental
17 and subordinate to the principal use of the land or building. An accessory use may be restricted to
18 the same lot as the principal use. An accessory use shall not be permitted without the principal use
19 to which it is related.

1 [\(4\) Adaptive reuse. "adaptive reuse," as defined in § 42-64.22-2.](#)

2 ~~(4)~~[\(5\)](#) Aggrieved party. An aggrieved party, for purposes of this chapter, shall be:

3 (i) Any person, or persons, or entity, or entities, who or that can demonstrate that his, her,
4 or its property will be injured by a decision of any officer or agency responsible for administering
5 the zoning ordinance of a city or town; or

6 (ii) Anyone requiring notice pursuant to this chapter.

7 ~~(5)~~[\(6\)](#) Agricultural land. "Agricultural land," as defined in § 45-22.2-4.

8 ~~(6)~~[\(7\)](#) Airport hazard area. "Airport hazard area," as defined in § 1-3-2.

9 ~~(7)~~[\(8\)](#) Applicant. An owner, or authorized agent of the owner, submitting an application
10 or appealing an action of any official, board, or agency.

11 ~~(8)~~[\(9\)](#) Application. The completed form, or forms, and all accompanying documents,
12 exhibits, and fees required of an applicant by an approving authority for development review,
13 approval, or permitting purposes.

14 ~~(9)~~[\(10\)](#) Buffer. Land that is maintained in either a natural or landscaped state, and is used
15 to screen or mitigate the impacts of development on surrounding areas, properties, or rights-of-
16 way.

17 [\(10\)](#)~~(11)~~ Building. Any structure used or intended for supporting or sheltering any use or
18 occupancy.

19 ~~(11)~~[\(12\)](#) Building envelope. The three-dimensional space within which a structure is
20 permitted to be built on a lot and that is defined by regulations governing building setbacks,
21 maximum height, and bulk; by other regulations; or by any combination thereof.

22 ~~(12)~~[\(13\)](#) Building height. For a vacant parcel of land, building height shall be measured
23 from the average, existing-grade elevation where the foundation of the structure is proposed. For
24 an existing structure, building height shall be measured from average grade taken from the
25 outermost four (4) corners of the existing foundation. In all cases, building height shall be measured
26 to the top of the highest point of the existing or proposed roof or structure. This distance shall
27 exclude spires, chimneys, flag poles, and the like. For any property or structure located in a special
28 flood hazard area, as shown on the official FEMA Flood Insurance Rate Maps (FIRMs), or depicted
29 on the Rhode Island coastal resources management council (CRMC) suggested design elevation
30 three foot (3') sea level rise (CRMC SDE 3 SLR) map as being inundated during a one-hundred-
31 year (100) storm, the greater of the following amounts, expressed in feet, shall be excluded from
32 the building height calculation:

33 (i) The base flood elevation on the FEMA FIRM plus up to five feet (5') of any utilized or
34 proposed freeboard, less the average existing grade elevation; or

1 (ii) The suggested design elevation as depicted on the CRMC SDE 3 SLR map during a
2 one-hundred-year (100) storm, less the average existing grade elevation. CRMC shall reevaluate
3 the appropriate suggested design elevation map for the exclusion every ten (10) years, or as
4 otherwise necessary.

5 ~~(13)~~(14) Cluster. A site-planning technique that concentrates buildings in specific areas
6 on the site to allow the remaining land to be used for recreation, common open space, and/or
7 preservation of environmentally, historically, culturally, or other sensitive features and/or
8 structures. The techniques used to concentrate buildings shall be specified in the ordinance and may
9 include, but are not limited to, reduction in lot areas, setback requirements, and/or bulk
10 requirements, with the resultant open land being devoted by deed restrictions for one or more uses.
11 Under cluster development, there is no increase in the number of lots that would be permitted under
12 conventional development except where ordinance provisions include incentive bonuses for certain
13 types or conditions of development.

14 ~~(14)~~(15) Common ownership. Either:

15 (i) Ownership by one or more individuals or entities in any form of ownership of two (2)
16 or more contiguous lots; or

17 (ii) Ownership by any association (ownership may also include a municipality) of one or
18 more lots under specific development techniques.

19 ~~(15)~~(16) Community residence. A home or residential facility where children and/or adults
20 reside in a family setting and may or may not receive supervised care. This does not include halfway
21 houses or substance-use-disorder-treatment facilities. This does include, but is not limited to, the
22 following:

23 (i) Whenever six (6) or fewer children or adults with intellectual and/or developmental
24 disability reside in any type of residence in the community, as licensed by the state pursuant to
25 chapter 24 of title 40.1. All requirements pertaining to local zoning are waived for these community
26 residences;

27 (ii) A group home providing care or supervision, or both, to not more than eight (8) persons
28 with disabilities, and licensed by the state pursuant to chapter 24 of title 40.1;

29 (iii) A residence for children providing care or supervision, or both, to not more than eight
30 (8) children, including those of the caregiver, and licensed by the state pursuant to chapter 72.1 of
31 title 42;

32 (iv) A community transitional residence providing care or assistance, or both, to no more
33 than six (6) unrelated persons or no more than three (3) families, not to exceed a total of eight (8)
34 persons, requiring temporary financial assistance, and/or to persons who are victims of crimes,

1 abuse, or neglect, and who are expected to reside in that residence not less than sixty (60) days nor
2 more than two (2) years. Residents will have access to, and use of, all common areas, including
3 eating areas and living rooms, and will receive appropriate social services for the purpose of
4 fostering independence, self-sufficiency, and eventual transition to a permanent living situation.

5 ~~(16)~~(17) Comprehensive plan. The comprehensive plan adopted and approved pursuant to
6 chapter 22.2 of this title and to which any zoning adopted pursuant to this chapter shall be in
7 compliance.

8 ~~(17)~~(18) Day care — Daycare center. Any other daycare center that is not a family daycare
9 home.

10 ~~(18)~~(19) Day care — Family daycare home. Any home, other than the individual's home,
11 in which day care in lieu of parental care or supervision is offered at the same time to six (6) or less
12 individuals who are not relatives of the caregiver, but may not contain more than a total of eight
13 (8) individuals receiving day care.

14 ~~(19)~~(20) Density, residential. The number of dwelling units per unit of land.

15 ~~(20)~~(21) Development. The construction, reconstruction, conversion, structural alteration,
16 relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance;
17 or any change in use, or alteration or extension of the use, of land.

18 ~~(21)~~(22) Development plan review. The process whereby authorized, local officials review
19 the site plans, maps, and other documentation of a development to determine the compliance with
20 the stated purposes and standards of the ordinance.

21 ~~(22)~~(23) District. See “zoning-use district.”

22 ~~(23)~~(24) Drainage system. A system for the removal of water from land by drains, grading,
23 or other appropriate means. These techniques may include runoff controls to minimize erosion and
24 sedimentation during and after construction or development; the means for preserving surface and
25 groundwaters; and the prevention and/or alleviation of flooding.

26 ~~(24)~~(25) Dwelling unit. A structure, or portion of a structure, providing complete,
27 independent living facilities for one or more persons, including permanent provisions for living,
28 sleeping, eating, cooking, and sanitation, and containing a separate means of ingress and egress.

29 ~~(25)~~(26) Extractive industry. The extraction of minerals, including: solids, such as coal
30 and ores; liquids, such as crude petroleum; and gases, such as natural gases. The term also includes
31 quarrying; well operation; milling, such as crushing, screening, washing, and flotation; and other
32 preparation customarily done at the extraction site or as a part of the extractive activity.

33 ~~(26)~~(27) Family member. A person, or persons, related by blood, marriage, or other legal
34 means, including, but not limited to, a child, parent, spouse, mother-in-law, father-in-law,

1 grandparents, grandchildren, domestic partner, sibling, care recipient, or member of the household.

2 ~~(27)~~(28) Floating zone. An unmapped zoning district adopted within the ordinance that is
3 established on the zoning map only when an application for development, meeting the zone
4 requirements, is approved.

5 ~~(28)~~(29) Floodplains, or Flood hazard area. As defined in § 45-22.2-4.

6 ~~(29)~~(30) Freeboard. A factor of safety expressed in feet above the base flood elevation of
7 a flood hazard area for purposes of floodplain management. Freeboard compensates for the many
8 unknown factors that could contribute to flood heights, such as wave action, bridge openings, and
9 the hydrological effect of urbanization of the watershed.

10 ~~(30)~~(31) Groundwater. “Groundwater” and associated terms, as defined in § 46-13.1-3.

11 ~~(31)~~(32) Halfway house. A residential facility for adults or children who have been
12 institutionalized for criminal conduct and who require a group setting to facilitate the transition to
13 a functional member of society.

14 ~~(32)~~(33) Hardship. See § 45-24-41.

15 ~~(33)~~(34) Historic district or historic site. As defined in § 45-22.2-4.

16 ~~(34)~~(35) Home occupation. Any activity customarily carried out for gain by a resident,
17 conducted as an accessory use in the resident’s dwelling unit.

18 ~~(35)~~(36) Household. One or more persons living together in a single-dwelling unit, with
19 common access to, and common use of, all living and eating areas and all areas and facilities for
20 the preparation and storage of food within the dwelling unit. The term “household unit” is
21 synonymous with the term “dwelling unit” for determining the number of units allowed within any
22 structure on any lot in a zoning district. An individual household shall consist of any one of the
23 following:

24 (i) A family, which may also include servants and employees living with the family; or

25 (ii) A person or group of unrelated persons living together. The maximum number may be
26 set by local ordinance, but this maximum shall not be less than three (3).

27 ~~(36)~~(37) Incentive zoning. The process whereby the local authority may grant additional
28 development capacity in exchange for the developer’s provision of a public benefit or amenity as
29 specified in local ordinances.

30 ~~(37)~~(38) Infrastructure. Facilities and services needed to sustain residential, commercial,
31 industrial, institutional, and other activities.

32 ~~(38)~~(39) Land-development project. A project in which one or more lots, tracts, or parcels
33 of land are developed or redeveloped as a coordinated site for one or more uses, units, or structures,
34 including, but not limited to, planned development or cluster development for residential,

1 commercial, institutional, recreational, open space, or mixed uses as provided in the zoning
2 ordinance.

3 ~~(39)~~(40) Lot. Either:

4 (i) The basic development unit for determination of lot area, depth, and other dimensional
5 regulations; or

6 (ii) A parcel of land whose boundaries have been established by some legal instrument,
7 such as a recorded deed or recorded map, and that is recognized as a separate legal entity for
8 purposes of transfer of title.

9 ~~(40)~~(41) Lot area. The total area within the boundaries of a lot, excluding any street right-
10 of-way, usually reported in acres or square feet.

11 ~~(41)~~(42) Lot area, minimum. The smallest land area established by the local zoning
12 ordinance upon which a use, building, or structure may be located in a particular zoning district.

13 ~~(42)~~(43) Lot building coverage. That portion of the lot that is, or may be, covered by
14 buildings and accessory buildings.

15 (43)(44) Lot depth. The distance measured from the front lot line to the rear lot line. For
16 lots where the front and rear lot lines are not parallel, the lot depth is an average of the depth.

17 ~~(44)~~(45) Lot frontage. That portion of a lot abutting a street. A zoning ordinance shall
18 specify how noncontiguous frontage will be considered with regard to minimum frontage
19 requirements.

20 ~~(45)~~(46) Lot line. A line of record, bounding a lot, that divides one lot from another lot or
21 from a public or private street or any other public or private space and shall include:

22 (i) Front: the lot line separating a lot from a street right-of-way. A zoning ordinance shall
23 specify the method to be used to determine the front lot line on lots fronting on more than one
24 street, for example, corner and through lots;

25 (ii) Rear: the lot line opposite and most distant from the front lot line, or in the case of
26 triangular or otherwise irregularly shaped lots, an assumed line at least ten feet (10') in length
27 entirely within the lot, parallel to and at a maximum distance from, the front lot line; and

28 (iii) Side: any lot line other than a front or rear lot line. On a corner lot, a side lot line may
29 be a street lot line, depending on requirements of the local zoning ordinance.

30 ~~(46)~~(47) Lot size, minimum. Shall have the same meaning as “minimum lot area” defined
31 herein.

32 ~~(47)~~(48) Lot, through. A lot that fronts upon two (2) parallel streets, or that fronts upon
33 two (2) streets that do not intersect at the boundaries of the lot.

34 (48)(49) Lot width. The horizontal distance between the side lines of a lot measured at

1 right angles to its depth along a straight line parallel to the front lot line at the minimum front
2 setback line.

3 ~~(49)~~(50) Mere inconvenience. See § 45-24-41.

4 ~~(50)~~(51) Mixed use. A mixture of land uses within a single development, building, or tract.

5 ~~(51)~~(52) Modification. Permission granted and administered by the zoning enforcement
6 officer of the city or town, and pursuant to the provisions of this chapter to grant a dimensional
7 variance other than lot area requirements from the zoning ordinance to a limited degree as
8 determined by the zoning ordinance of the city or town, but not to exceed twenty-five percent (25%)
9 of each of the applicable dimensional requirements.

10 ~~(52)~~(53) Nonconformance. A building, structure, or parcel of land, or use thereof, lawfully
11 existing at the time of the adoption or amendment of a zoning ordinance and not in conformity with
12 the provisions of that ordinance or amendment. Nonconformance is of only two (2) types:

13 (i) Nonconforming by use: a lawfully established use of land, building, or structure that is
14 not a permitted use in that zoning district. A building or structure containing more dwelling units
15 than are permitted by the use regulations of a zoning ordinance is nonconformity by use; or

16 (ii) Nonconforming by dimension: a building, structure, or parcel of land not in compliance
17 with the dimensional regulations of the zoning ordinance. Dimensional regulations include all
18 regulations of the zoning ordinance, other than those pertaining to the permitted uses. A building
19 or structure containing more dwelling units than are permitted by the use regulations of a zoning
20 ordinance is nonconforming by use; a building or structure containing a permitted number of
21 dwelling units by the use regulations of the zoning ordinance, but not meeting the lot area per
22 dwelling unit regulations, is nonconforming by dimension.

23 ~~(53)~~(54) Overlay district. A district established in a zoning ordinance that is superimposed
24 on one or more districts or parts of districts. The standards and requirements associated with an
25 overlay district may be more or less restrictive than those in the underlying districts consistent with
26 other applicable state and federal laws.

27 ~~(54)~~(55) Performance standards. A set of criteria or limits relating to elements that a
28 particular use or process must either meet or may not exceed.

29 ~~(55)~~(56) Permitted use. A use by right that is specifically authorized in a particular zoning
30 district.

31 ~~(56)~~(57) Planned development. A “land-development project,” as defined in subsection
32 (38), and developed according to plan as a single entity and containing one or more structures or
33 uses with appurtenant common areas.

34 ~~(57)~~(58) Plant agriculture. The growing of plants for food or fiber, to sell or consume.

1 ~~(58)~~(59) Preapplication conference. A review meeting of a proposed development held
2 between applicants and reviewing agencies as permitted by law and municipal ordinance, before
3 formal submission of an application for a permit or for development approval.

4 ~~(59)~~(60) Setback line or lines. A line, or lines, parallel to a lot line at the minimum distance
5 of the required setback for the zoning district in which the lot is located that establishes the area
6 within which the principal structure must be erected or placed.

7 ~~(60)~~(61) Site plan. The development plan for one or more lots on which is shown the
8 existing and/or the proposed conditions of the lot.

9 ~~(61)~~(62) Slope of land. The grade, pitch, rise, or incline of the topographic landform or
10 surface of the ground.

11 ~~(62)~~(63) Special use. A regulated use that is permitted pursuant to the special-use permit
12 issued by the authorized governmental entity, pursuant to § 45-24-42. Formerly referred to as a
13 special exception.

14 ~~(63)~~(64) Structure. A combination of materials to form a construction for use, occupancy,
15 or ornamentation, whether installed on, above, or below the surface of land or water.

16 ~~(64)~~(65) Substandard lot of record. Any lot lawfully existing at the time of adoption or
17 amendment of a zoning ordinance and not in conformance with the dimensional or area provisions
18 of that ordinance.

19 ~~(65)~~(66) Use. The purpose or activity for which land or buildings are designed, arranged,
20 or intended, or for which land or buildings are occupied or maintained.

21 ~~(66)~~(67) Variance. Permission to depart from the literal requirements of a zoning
22 ordinance. An authorization for the construction or maintenance of a building or structure, or for
23 the establishment or maintenance of a use of land, that is prohibited by a zoning ordinance. There
24 are only two (2) categories of variance, a use variance or a dimensional variance.

25 (i) Use variance. Permission to depart from the use requirements of a zoning ordinance
26 where the applicant for the requested variance has shown by evidence upon the record that the
27 subject land or structure cannot yield any beneficial use if it is to conform to the provisions of the
28 zoning ordinance.

29 (ii) Dimensional variance. Permission to depart from the dimensional requirements of a
30 zoning ordinance, where the applicant for the requested relief has shown, by evidence upon the
31 record, that there is no other reasonable alternative way to enjoy a legally permitted beneficial use
32 of the subject property unless granted the requested relief from the dimensional regulations.
33 However, the fact that a use may be more profitable or that a structure may be more valuable after
34 the relief is granted are not grounds for relief.

1 ~~(67)~~(68) Waters. As defined in § 46-12-1(23).

2 ~~(68)~~(69) Wetland, coastal. As defined in § 45-22.2-4.

3 ~~(69)~~(70) Wetland, freshwater. As defined in § 2-1-20.

4 ~~(70)~~(71) Zoning certificate. A document signed by the zoning-enforcement officer, as
5 required in the zoning ordinance, that acknowledges that a use, structure, building, or lot either
6 complies with, or is legally nonconforming to, the provisions of the municipal zoning ordinance or
7 is an authorized variance or modification therefrom.

8 ~~(71)~~(72) Zoning map. The map, or maps, that are a part of the zoning ordinance and that
9 delineate the boundaries of all mapped zoning districts within the physical boundary of the city or
10 town.

11 ~~(72)~~(73) Zoning ordinance. An ordinance enacted by the legislative body of the city or
12 town pursuant to this chapter and in the manner providing for the adoption of ordinances in the city
13 or town's legislative or home rule charter, if any, that establish regulations and standards relating
14 to the nature and extent of uses of land and structures; that is consistent with the comprehensive
15 plan of the city or town as defined in chapter 22.2 of this title; that includes a zoning map; and that
16 complies with the provisions of this chapter.

17 ~~(73)~~(74) Zoning-use district. The basic unit in zoning, either mapped or unmapped, to
18 which a uniform set of regulations applies, or a uniform set of regulations for a specified use.
19 Zoning-use districts include, but are not limited to: agricultural, commercial, industrial,
20 institutional, open space, and residential. Each district may include sub-districts. Districts may be
21 combined.

22 **45-24-37. General provisions — Permitted uses.**

23 (a) The zoning ordinance shall provide a listing of all land uses and/or performance
24 standards for uses that are permitted within the zoning use districts of the municipality. The
25 ordinance may provide for a procedure under which a proposed land use that is not specifically
26 listed may be presented by the property owner to the zoning board of review or to a local official
27 or agency charged with administration and enforcement of the ordinance for an evaluation and
28 determination of whether the proposed use is of a similar type, character, and intensity as a listed
29 permitted use. Upon such determination, the proposed use may be considered to be a permitted use.

30 (b) Notwithstanding any other provision of this chapter, the following uses are permitted
31 uses within all residential zoning use districts of a municipality and all industrial and commercial
32 zoning use districts except where residential use is prohibited for public health or safety reasons:

33 (1) Households;

34 (2) Community residences; and

1 (3) Family daycare homes.

2 (c) Any time a building or other structure used for residential purposes, or a portion of a
3 building containing residential units, is rendered uninhabitable by virtue of a casualty such as fire
4 or flood, the owner of the property is allowed to park, temporarily, mobile and manufactured home,
5 or homes, as the need may be, elsewhere upon the land, for use and occupancy of the former
6 occupants for a period of up to twelve (12) months, or until the building or structure is rehabilitated
7 and otherwise made fit for occupancy. The property owner, or a properly designated agent of the
8 owner, is only allowed to cause the mobile and manufactured home, or homes, to remain
9 temporarily upon the land by making timely application to the local building official for the
10 purposes of obtaining the necessary permits to repair or rebuild the structure.

11 (d) Notwithstanding any other provision of this chapter, appropriate access for people with
12 disabilities to residential structures is allowed as a reasonable accommodation for any person(s)
13 residing, or intending to reside, in the residential structure.

14 (e) Notwithstanding any other provision of this chapter, an accessory dwelling unit in an
15 owner-occupied residence that complies with §§ 45-24-31 and 45-24-73 shall be permitted as a
16 reasonable accommodation for family members with disabilities or who are sixty-two (62) years of
17 age or older, or to accommodate other family members.

18 (f) When used in this section the terms “people with disabilities” or “member, or members,
19 with disabilities” means a person(s) who has a physical or mental impairment that substantially
20 limits one or more major life activities, as defined in § 42-87-1(7).

21 (g) Notwithstanding any other provisions of this chapter, plant agriculture is a permitted
22 use within all zoning districts of a municipality, including all industrial and commercial zoning
23 districts, except where prohibited for public health or safety reasons or the protection of wildlife
24 habitat.

25 (h)(1) Adaptive reuse. Notwithstanding any other provisions of this chapter, adaptive reuse
26 for the conversion of any commercial building, including offices, schools, religious facilities,
27 medical buildings, and malls into residential units or mixed use developments which include the
28 development of at least fifty percent (50%) of the existing gross floor area into residential units,
29 shall be a permitted use and allowed by specific and objective provisions of a zoning ordinance,
30 except where such is prohibited by environmental land use restrictions recorded on the property by
31 the state of Rhode Island department of environmental management or the United States
32 Environmental Protection Agency preventing the conversion to residential use.

33 (i) The specific zoning ordinance provisions for adaptive reuse shall exempt adaptive reuse
34 developments from off-street parking requirements of over one space per dwelling unit.

1 (ii) Density. (A) For projects that meet the following criteria, zoning ordinances shall allow
2 for high density development and shall not limit the density to less than fifteen (15) dwelling units
3 per acre:

4 (I) Where the project is limited to the existing footprint, except that the footprint is allowed
5 to be expanded to accommodate upgrades related to the building and fire codes and utilities; and

6 (II) The development includes at least twenty percent (20%) low- and moderate-income
7 housing; and

8 (III) The development has access to public sewer and water service or has access to
9 adequate private water, such as a well and and/or wastewater treatment system(s) approved by the
10 relevant state agency for the entire development as applicable.

11 (B) For all other adaptive reuse projects, the residential density permitted in the converted
12 structure shall be the maximum allowed that otherwise meets all standards of minimum housing
13 and has access to public sewer and water service or has access to adequate private water, such as a
14 well, and wastewater treatment system(s) approved by the relevant state agency for the entire
15 development, as applicable, The density proposed shall be determined to meet all public health and
16 safety standards.

17 (iii) Notwithstanding any other provisions of this chapter, for adaptive reuse projects,
18 existing building setbacks shall remain and shall be considered legal nonconforming, but no
19 additional encroachments shall be permitted into any nonconforming setback, unless otherwise
20 allowed by zoning ordinance or relief is granted by the applicable authority.

21 (iv) For adaptive reuse projects, notwithstanding any other provisions of this chapter, the
22 height of the existing structure, if it exceeds the maximum height of the zoning district, may remain
23 and shall be considered legal nonconforming, and any rooftop construction shall be included within
24 the height exemption

25 SECTION 2. This act shall take effect on January 1, 2024.

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LC002438/SUB A/2
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

1 This act would provide that adaptive reuse for the conversion of commercial property into
2 residential or mixed-use developments shall be a permitted use and allowable by specific and
3 objective provisions of a zoning ordinance, subject to certain restrictions.

4 This act would take effect on January 1, 2024.

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LC002438/SUB A/2
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2023 -- H 6084 SUBSTITUTE B

LC002193/SUB B

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

Introduced By: Representatives Felix, Shekarchi, Azzinaro, Hull, Kazarian, and Tanzi

Date Introduced: March 03, 2023

Referred To: House Municipal Government & Housing

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 45-24 of the General Laws entitled "Zoning Ordinances" is hereby
2 amended by adding thereto the following section:

3 **45-24-77. Transit-oriented development pilot program - Effective January 1, 2024.**

4 (a) Findings and declarations. The general assembly finds and declares that in order to
5 increase the availability of residential housing near convenient public transportation, alleviate
6 traffic congestion and further the goals of chapter 6.2 of title 42, the Act on Climate, enacted in
7 2021, there is a need to identify growth centers for higher density housing, considering the capacity
8 for water service, sewer service, transit connections, and employment centers.

9 (b) Establishment. To fulfill the findings and declarations of this section, a transit-oriented
10 development pilot program is hereby established which shall allow municipalities to apply for funds
11 for residential development.

12 (c) Applicability. Effective January 1, 2024, in addition to the criteria to be established by
13 the department of housing as set forth in subsection (d) of this section, to qualify for the pilot
14 program, a municipality must have developable land or properties which is within a one-quarter
15 (1/4) mile radius of a regional mobility hub or a one-eighth (1/8) mile radius of a frequent transit
16 stop as such terms are defined in the 2020 Rhode Island transit master plan or its successor
17 document.

18 (d) Authority. The department of housing, in conjunction with input and data from the
19 department of transportation and division of statewide planning, is hereby authorized to promulgate

1 rules and regulations consistent with this section which establish:

2 (1) The criteria to qualify for consideration into the pilot program;

3 (2) The process for the application, submission requirements and pre-requisites, including,
4 but not limited to, an established zoning overlay district or other provisions which provide increased
5 density for residential development at a minimum of ten units per acre (10 U/A), mandates for the
6 development of affordable housing, and the easing of dimensional restrictions and parking
7 requirements for such development;

8 (3) Criteria for acceptance into the pilot program;

9 (4) Reporting requirements for municipalities accepted into the pilot program; and

10 (5) Penalties for lack of compliance with the pilot program regulations.

11 (e) Reporting. Beginning on December 31, 2024, the department of housing shall publish
12 an annual report regarding development under this pilot program, funds distributed and/or
13 committed, and such report shall include categories of metrics and data agreed upon by the
14 department of housing, department of transportation, and the participating municipalities.

15 SECTION 2. Section 42-64.19-3 of the General Laws in Chapter 42-64.19 entitled
16 "Executive Office of Commerce" is hereby amended to read as follows:

17 **42-64.19-3. Executive office of commerce.**

18 (a) There is hereby established within the executive branch of state government an
19 executive office of commerce effective February 1, 2015, to serve as the principal agency of the
20 executive branch of state government for managing the promotion of commerce and the economy
21 within the state and shall have the following powers and duties in accordance with the following
22 schedule:

23 (1) On or about February 1, 2015, to operate functions from the department of business
24 regulation;

25 (2) On or about April 1, 2015, to operate various divisions and functions from the
26 department of administration;

27 (3) On or before September 1, 2015, to provide to the Senate and the House of
28 Representatives a comprehensive study and review of the roles, functions, and programs of the
29 department of administration and the department of labor and training to devise recommendations
30 and a business plan for the integration of these entities with the office of the secretary of commerce.
31 The governor may include such recommendations in the Fiscal Year 2017 budget proposal; and

32 (4) On or before July 1, 2021, to provide for the hiring of a deputy secretary of commerce
33 and housing who shall report directly to the secretary of commerce. On July 1, 2022, the deputy
34 secretary of commerce and housing shall succeed to the position of secretary of housing, and the

1 position of deputy secretary of commerce and housing shall cease to exist under this chapter. All
2 references in the general laws to the deputy secretary of commerce and housing shall be construed
3 to mean the secretary of housing. The secretary of housing shall be appointed by and report directly
4 to the governor and shall assume all powers, duties, and responsibilities formerly held by the deputy
5 secretary of commerce and housing. Until the formation of the new department of housing pursuant
6 to chapter 64.34 of this title, the secretary of housing shall reside within the executive office of
7 commerce for administrative purposes only. The secretary of housing shall:

8 (i) Prior to hiring, have completed and earned a minimum of a master's graduate degree in
9 the field of urban planning, economics, or a related field of study or possess a juris doctor law
10 degree. Preference shall be provided to candidates having earned an advanced degree consisting of
11 an L.L.M. law degree or Ph.D. in urban planning or economics. Qualified candidates must have
12 documented five (5) years' full-time experience employed in the administration of housing policy
13 and/or development;

14 (ii) Be responsible for overseeing all housing initiatives in the state of Rhode Island and
15 developing a housing plan, including, but not limited to, the development of affordable housing
16 opportunities to assist in building strong community efforts and revitalizing neighborhoods;

17 (iii) Coordinate with all agencies directly related to any housing initiatives and participate
18 in the promulgation of any regulation having an impact on housing including, but not limited to,
19 the Rhode Island housing and mortgage finance corporation, the coastal resources management
20 council (CRMC), and state departments including, but not limited to: the department of
21 environmental management (DEM), the department of business regulation (DBR), the department
22 of transportation (DOT) and statewide planning, and the Rhode Island housing resources
23 commission;

24 (iv) Coordinate with the housing resources commission to formulate an integrated housing
25 report to include findings and recommendations to the governor, speaker of the house, senate
26 president, each chamber's finance committee, and any committee whose purview is reasonably
27 related to, including, but not limited to, issues of housing, municipal government, and health on or
28 before December 31, 2021, and annually thereafter which report shall include, but not be limited
29 to, the following:

30 (A) The total number of housing units in the state with per community counts, including
31 the number of Americans with Disabilities Act compliant special needs units;

32 (B) The occupancy and vacancy rate of the units referenced in subsection (a)(4)(iv)(A);

33 (C) The change in the number of units referenced in subsection (a)(4)(iv)(A), for each of
34 the prior three (3) years in figures and as a percentage;

- 1 (D) The number of net new units in development and number of units completed since the
2 prior report;
- 3 (E) For each municipality the number of single-family, two-family (2), and three-family
4 (3) units, and multi-unit housing delineated sufficiently to provide the lay reader a useful
5 description of current conditions, including a statewide sum of each unit type;
- 6 (F) The total number of units by income type;
- 7 (G) A projection of the number of status quo units;
- 8 (H) A projection of the number of units required to meet housing formation trends;
- 9 (I) A comparison of regional and other similarly situated state funding sources that support
10 housing development including a percentage of private, federal, and public support;
- 11 (J) A reporting of unit types by number of bedrooms for rental properties including an
12 accounting of all:
- 13 (I) Single-family units;
- 14 (II) Accessory dwelling units;
- 15 (III) Two-family (2) units;
- 16 (IV) Three-family (3) units;
- 17 (V) Multi-unit sufficiently delineated units;
- 18 (VI) Mixed use sufficiently delineated units; and
- 19 (VII) Occupancy and vacancy rates for the prior three (3) years;
- 20 (K) A reporting of unit types by ownership including an accounting of all:
- 21 (I) Single-family units;
- 22 (II) Accessory dwelling units;
- 23 (III) Two-family (2) units;
- 24 (IV) Three-family (3) units;
- 25 (V) Multi-unit sufficiently delineated units;
- 26 (VI) Mixed use sufficiently delineated units; and
- 27 (VII) Occupancy and vacancy rates for the prior three (3) years;
- 28 (L) A reporting of the number of applications submitted or filed for each community
29 according to unit type and an accounting of action taken with respect to each application to include,
30 approved, denied, appealed, approved upon appeal, and if approved, the justification for each
31 approval;
- 32 (M) A reporting of permits for each community according to affordability level that were
33 sought, approved, denied, appealed, approved upon appeal, and if approved, the justification for
34 each approval;

1 (N) A reporting of affordability by municipality that shall include the following:

2 (I) The percent and number of units of extremely low-, very low-, low-, moderate-, fair-
3 market rate, and above-market-rate units; including the average and median costs of those units;

4 (II) The percent and number of units of extremely low-, very low-, low-, and moderate-
5 income housing units required to satisfy the ten percent (10%) requirement pursuant to chapter 24
6 of title 45; including the average and median costs of those units;

7 (III) The percent and number of units for the affordability levels above moderate-income
8 housing, including a comparison to fair-market rent and fair-market homeownership; including the
9 average and median costs of those units;

10 (IV) The percentage of cost burden by municipality with population equivalent;

11 (V) The percentage and number of home financing sources, including all private, federal,
12 state, or other public support; and

13 (VI) The cost growth for each of the previous five (5) years by unit type at each
14 affordability level, by unit type;

15 (O) A reporting of municipal healthy housing stock by unit type and number of bedrooms
16 and providing an assessment of the state's existing housing stock and enumerating any risks to the
17 public health from that housing stock, including, but not limited to: the presence of lead, mold, safe
18 drinking water, disease vectors (insects and vermin), and other conditions that are an identifiable
19 health detriment. Additionally, the report shall provide the percentage of the prevalence of health
20 risks by age of the stock for each community by unit type and number of bedrooms; and

21 (P) A recommendation shall be included with the report required under this section that
22 shall provide consideration to any and all populations, ethnicities, income levels, and other relevant
23 demographic criteria determined by the secretary, and with regard to any and all of the criteria
24 enumerated elsewhere in the report separately or in combination, provide recommendations to
25 resolve any issues that provide an impediment to the development of housing, including specific
26 data and evidence in support of the recommendation. All data and methodologies used to present
27 evidence are subject to review and approval of the chief of revenue analysis, and that approval shall
28 include an attestation of approval by the chief to be included in the report;

29 (v) Have direct oversight over the office of housing and community development (OHCD)
30 and shall be responsible for coordinating with the secretary of commerce a shared staffing
31 arrangement until June 30, 2023, to carry out the provisions of this chapter;

32 (vi) On or before November 1, 2022, develop a housing organizational plan to be provided
33 to the general assembly that includes a review, analysis, and assessment of functions related to
34 housing of all state departments, quasi-public agencies, boards, and commissions. Provided,

1 further, the secretary, with the input from each department, agency, board, and commission, shall
2 include in the plan comprehensive options, including the advantages and disadvantages of each
3 option and recommendations relating to the functions and structure of the new department of
4 housing.

5 [\(viii\) Establish rules and regulations as set forth in § 45-24-77.](#)

6 (b) In this capacity, the office shall:

7 (1) Lead or assist state departments and coordinate business permitting processes in order
8 to:

9 (i) Improve the economy, efficiency, coordination, and quality of the business climate in
10 the state;

11 (ii) Design strategies and implement best practices that foster economic development and
12 growth of the state's economy;

13 (iii) Maximize and leverage funds from all available public and private sources, including
14 federal financial participation, grants, and awards;

15 (iv) Increase public confidence by conducting customer centric operations whereby
16 commercial enterprises are supported and provided programs and services that will grow and
17 nurture the Rhode Island economy; and

18 (v) Be the state's lead agency for economic development.

19 (2) [Deleted by P.L. 2022, ch. 388, § 1 and P.L. 2022, ch. 442, § 1.]

20 (c) The office shall include the office of regulatory reform and other administration
21 functions that promote, enhance, or regulate various service and functions in order to promote the
22 reform and improvement of the regulatory function of the state.

23 SECTION 3. Section 42-64.34-1 of the General Laws in Chapter 42-64.34 entitled "The
24 Department of Housing" is hereby amended to read as follows:

25 **42-64.34-1. Department established.**

26 Effective January 1, 2023, there is hereby established within the executive branch of the
27 state government a department of housing. The head of the department shall be the secretary of
28 housing, who shall be appointed by the governor [with the advice and consent of the senate. The](#)
29 [position of secretary is hereby created in the unclassified service. The secretary shall hold office at](#)
30 [the pleasure of the governor. Before entering upon the discharge of duties, the secretary shall take](#)
31 [an oath to faithfully execute the duties of the office.](#)

32 SECTION 4. This act shall take effect on January 1, 2024.

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

1 This act would create the transit-oriented development pilot program to encourage
2 residential housing near convenient public transportation.

3 This act would take effect on January 1, 2024.

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LC002193/SUB B
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2023 -- H 6085 SUBSTITUTE A

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LC002439/SUB A
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO TOWNS AND CITIES -- RHODE ISLAND COMPREHENSIVE PLANNING
AND LAND USE ACT

Introduced By: Representatives Casey, Shekarchi, Corvese, J. Brien, Noret, Speakman,
Potter, Marszalkowski, Kazarian, and Costantino

Date Introduced: March 03, 2023

Referred To: House Municipal Government & Housing

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-22.2-6, 45-22.2-12 and 45-22.2-13 of the General Laws in
2 Chapter 45-22.2 entitled "Rhode Island Comprehensive Planning and Land Use Act" are hereby
3 amended to read as follows:

4 **45-22.2-6. Required content of a comprehensive plan.**

5 (a) ~~The~~ [Except as set forth herein, the](#) comprehensive plan must utilize a minimum twenty
6 (20) year planning timeframe in considering forecasts, goals, and policies.

7 (b) The comprehensive plan must be internally consistent in its policies, forecasts, and
8 standards, and shall include the content described within this section. The content described in
9 subdivisions (1) through (10) may be organized and presented as deemed suitable and appropriate
10 by the municipality. The content described in subdivisions (11) and (12) must be included as
11 individual sections of the plan.

12 (1) Goals and policies. The plan must identify the goals and policies of the municipality
13 for its future growth and development and for the conservation of its natural and cultural resources.
14 The goals and policies of the plan shall be consistent with the goals and intent of this chapter and
15 embody the goals and policies of the state guide plan.

16 (2) Maps. The plan must contain maps illustrating the following as appropriate to the
17 municipality:

18 (i) Existing conditions:

- 1 (A) Land use, including the range of residential housing densities;
- 2 (B) Zoning;
- 3 (C) Key infrastructure such as, but not limited to, roads, public water, and sewer;
- 4 (D) Service areas for public water and sewer;
- 5 (E) Historical and cultural resource areas and sites;
- 6 (F) Open space and conservation areas (public and private); and
- 7 (G) Natural resources such as, but not limited to, surface water, wetlands, floodplains, soils,
- 8 and agricultural land;
- 9 (ii) Future land use illustrating the desired patterns of development, density, and
- 10 conservation as defined by the comprehensive plan; and
- 11 (iii) Identification of discrepancies between future land uses and existing zoning use
- 12 categories.
- 13 (3) Natural resource identification and conservation. The plan must be based on an
- 14 inventory of significant natural resource areas such as, but not limited to, water, soils, prime
- 15 agricultural lands, forests, wildlife, wetlands, aquifers, coastal features, and floodplains. The plan
- 16 must include goals, policies, and implementation techniques for the protection and management of
- 17 these areas.
- 18 (4) Open space and outdoor recreation identification and protection. The plan must be
- 19 based on an inventory of outdoor recreational resources, open space areas, and recorded access to
- 20 these resources and areas. The plan must contain an analysis of forecasted needs, policies for the
- 21 management and protection of these resources and areas, and identification of areas for potential
- 22 expansion. The plan must include goals, policies, and implementation techniques for the protection
- 23 and management of existing resources and acquisition of additional resources if appropriate.
- 24 (5) Historical and cultural resources identification and protection. The plan must be based
- 25 on an inventory of significant historical and cultural resources such as historical buildings, sites,
- 26 landmarks, and scenic views. The plan must include goals, policies, and implementation techniques
- 27 for the protection of these resources.
- 28 (6) Housing. The plan must include the identification of existing housing patterns, an
- 29 analysis of existing and forecasted housing needs, and identification of areas suitable for future
- 30 housing development or rehabilitation. The plan shall include an affordable housing program that
- 31 meets the requirements of § 42-128-8.1, the “Comprehensive Housing Production and
- 32 Rehabilitation Act of 2004” and chapter 53 of this title, the “Rhode Island Low and Moderate
- 33 Income Housing Act.” The plan must include goals and policies that further the goal of § 45-22.2-
- 34 3(c)(3) and implementation techniques that identify specific programs to promote the preservation,

1 production, and rehabilitation of housing, as well as specific goals, implementation actions, and
2 time frames for development of low- and moderate-income housing, as defined in § 45-53-3.

3 (7) Economic development. The plan must include the identification of existing types and
4 patterns of economic activities including, but not limited to, business, commercial, industrial,
5 agricultural, and tourism. The plan must also identify areas suitable for future economic expansion
6 or revitalization. The plan must include goals, policies, and implementation techniques reflecting
7 local, regional, and statewide concerns for the expansion and stabilization of the economic base
8 and the promotion of quality employment opportunities and job growth.

9 (8) Services and facilities. The plan must be based on an inventory of existing physical
10 infrastructure such as, but not limited to, educational facilities, public safety facilities, libraries,
11 indoor recreation facilities, and community centers. The plan must describe services provided to
12 the community such as, but not limited to, water supply and the management of wastewater, storm
13 water, and solid waste. The plan must consider energy production and consumption. The plan must
14 analyze the needs for future types and levels of services and facilities, including, in accordance
15 with § 46-15.3-5.1, water supply system management planning, which includes demand
16 management goals as well as plans for water conservation and efficient use of water concerning
17 any water supplier providing service in the municipality, and contain goals, policies, and
18 implementation techniques for meeting future demands.

19 (9) Circulation/Transportation. The plan must be based on an inventory and analysis of
20 existing and proposed major circulation systems, including transit and bikeways; street patterns;
21 and any other modes of transportation, including pedestrian, in coordination with the land use
22 element. Goals, policies, and implementation techniques for the provision of fast, safe, efficient,
23 and convenient transportation that promotes conservation and environmental stewardship must be
24 identified.

25 (10) Natural hazards. The plan must include an identification of areas that could be
26 vulnerable to the effects of sea-level rise, flooding, storm damage, drought, or other natural hazards.
27 Goals, policies, and implementation techniques must be identified that would help to avoid or
28 minimize the effects that natural hazards pose to lives, infrastructure, and property.

29 (11) Land use. In conjunction with the future land use map as required in subsection
30 (b)(2)(ii) of this section, the plan must contain a land use component that designates the proposed
31 general distribution and general location and interrelationships of land uses including, but not
32 limited to, residential, commercial, industrial, open space, agriculture, recreation facilities, and
33 other categories of public and private uses of land. The land use component shall be based upon
34 the required plan content as stated in this section. It shall relate the proposed standards of population

1 density and building intensity to the capacity of the land and available or planned facilities and
2 services. The land use component must contain an analysis of the inconsistency of existing zoning
3 districts, if any, with planned future land use. The land use component shall specify the process and
4 schedule by which the zoning ordinance and zoning map shall be amended to conform to the
5 comprehensive plan and shall be included as part of the implementation program, but in no event
6 shall it take longer than eighteen (18) months for a zoning map to be brought into compliance with
7 the future land use map. The future land use map in a valid comprehensive plan updated in
8 accordance with this chapter shall govern all local municipal land use decisions.

9 (12) Implementation program.

10 (i) A statement which defines and schedules the specific public actions to be undertaken in
11 order to achieve the goals and objectives of each component of the comprehensive plan. Scheduled
12 expansion or replacement of public facilities, and the anticipated costs and revenue sources
13 proposed to meet those costs reflected in a municipality's capital improvement program, must be
14 included in the implementation program.

15 (ii) The implementation program identifies the public actions necessary to implement the
16 objectives and standards of each component of the comprehensive plan that require the adoption or
17 amendment of codes and ordinances by the governing body of the municipality.

18 (iii) The implementation program identifies other public authorities or agencies owning
19 water supply facilities or providing water supply services to the municipality, and coordinates the
20 goals and objectives of the comprehensive plan with the actions of public authorities or agencies
21 with regard to the protection of watersheds as provided in § 46-15.3-1 et seq.

22 (iv) The implementation program must detail the timing and schedule of municipal actions
23 required to amend the zoning ordinance and map to conform to the comprehensive plan.

24 (v) The implementation program shall contain a concise strategic plan that details the
25 actions to be taken annually to achieve the goals and policies of the plan. The strategic plan shall
26 be reviewed annually by a municipality and the annual review shall be accomplished in the
27 following manner: a municipal planning department shall submit a report to the municipal planning
28 board for the board's review, comment and findings. The planning board shall submit to the
29 respective city or town council, a report summarizing the status of the implementation of the
30 strategic plan which report shall be reviewed by the city or town council at a public meeting.

31 **45-22.2-12. Maintaining and re-adopting the plan.**

32 (a) A municipality must maintain a single version of the comprehensive plan including all
33 amendments, appendices, and supplements. One or more complete copies of the comprehensive
34 plan including, all amendments, shall be made available for review by the public. Availability shall

1 include print, digital formats, and placement on the internet.

2 (b) A municipality shall periodically review and amend its plan in a timely manner to
3 account for changing conditions. At a minimum, a municipality shall fully update and re-adopt its
4 entire comprehensive plan, including supplemental plans, such as, but not limited to, special area
5 plans, that may be incorporated by reference, at least once every ten (10) years from the date of
6 municipal adoption. A minimum twenty (20) year planning timeframe in considering forecasts,
7 goals, and policies must be utilized for an update. [If a municipality fails to fully update and re-
8 adopt its comprehensive plan within twelve \(12\) years from the date of the previous plan's adoption,
9 such municipality shall not be able to utilize the comprehensive plan as a basis for denial of a
10 municipal land use decision.](#)

11 (c) A newly adopted plan shall supersede all previous versions.

12 (d) A municipality shall file an informational report on the status of the comprehensive
13 plan implementation program with the chief not more than five (5) years from the date of municipal
14 approval.

15 **45-22.2-13. Compliance and implementation.**

16 (a) The municipality is responsible for the administration and enforcement of the plan.

17 (b) All municipal land use decisions shall be in conformance with the locally adopted
18 municipal comprehensive plan [subject to § 45-22.2-12\(b\).](#)

19 (c) Each municipality shall amend its zoning ordinance and map to conform to the
20 comprehensive plan in accordance with the implementation program as required by § 45-22.2-
21 6(b)(11) and § 45-22.2-6(b)(12)(iv). The zoning ordinance and map in effect at the time of plan
22 adoption shall remain in force until amended. ~~In~~ [Except with respect to comprehensive plans which
23 have failed to be updated within twelve \(12\) years, as set forth in § 45-22.2-6\(b\)\(11\), in](#) instances
24 where the zoning ordinance is in conflict with an adopted comprehensive plan, the zoning ordinance
25 in effect at the time of the comprehensive plan adoption shall direct municipal land use decisions
26 until such time as the zoning ordinance is amended to achieve consistency with the comprehensive
27 plan and its implementation schedule. In instances of uncertainty in the internal construction or
28 application of any section of the zoning ordinance or map, the ordinance or map shall be construed
29 in a manner that will further the implementation of, and not be contrary to, the goals and policies
30 and applicable content of the adopted comprehensive plan.

31 (d) Limitations on land use approvals may be imposed according to the following
32 provisions in addition to any other provision that may be required by law.

33 (1) Nothing in the chapter shall be deemed to preclude municipalities from imposing
34 limitations on the number of building permits or other land use approvals to be issued at any time,

1 provided such limitations are consistent with the municipality's comprehensive plan in accordance
2 with this chapter and are based on a reasonable, rational assessment of the municipality's
3 sustainable capacity for growth.

4 (2) In the event of a dire emergency not reasonably foreseeable as part of the
5 comprehensive planning process, a municipality may impose a limitation on the number of building
6 permits or other land use approvals to be issued at any time, provided that such limitation is
7 reasonably necessary to alleviate the emergency and is limited to the time reasonably necessary to
8 alleviate the emergency.

9 (e) A one-time moratorium, for the purpose of providing interim protection for a planned
10 future land use or uses, may be imposed during the twelve (12) months subsequent to the adoption
11 of the local comprehensive plan provided that a change to the zoning ordinance and map has been
12 identified and scheduled for implementation within twelve (12) months of plan adoption. The
13 moratorium shall be enacted as an ordinance and may regulate, restrict, or prohibit any use,
14 development, or subdivisions under the following provisions:

15 (1) The moratorium is restricted to those areas identified on the map or maps as required
16 by § 45-22.2-6(b)(2)(iii).

17 (2) A notice of the moratorium must be provided by first class mail to property owners
18 affected by said moratorium at least fourteen (14) days in advance of the public hearing.

19 (3) The ordinance shall specify:

20 (i) The purpose of the moratorium;

21 (ii) The date it shall take effect and the date it shall end;

22 (iii) The area covered by the moratorium; and

23 (iv) The regulations, restrictions, or prohibitions established by the moratorium.

24 (4) The moratorium may be extended up to an additional ninety (90) days if necessary to
25 complete a zoning ordinance and map change provided that: (i) The public hearing as required by
26 § 45-24-53 has commenced; and (ii) The chief approves the extension based on a demonstration of
27 good cause. Said extension shall not be deemed as non-conformance to the implementation
28 schedule.

29 (f) A moratorium enacted under the provisions of subsection (e) shall not apply to state
30 agencies until such time that the municipal comprehensive plan receives approval from the chief
31 or superior court.

32 (g) In the event a municipality fails to amend its zoning ordinance and map to conform to
33 the comprehensive plan within the implementation schedule, or by the expiration of the moratorium
34 period, a municipality must amend either their implementation schedule or, if the future land use is

1 no longer desirable or feasible, amend the future land use map.

2 (1) Failure to comply with this provision within one hundred twenty (120) days of the date
3 of the implementation schedule or the expiration of the moratorium period shall result in the denial
4 or rescission, in whole or in part, of state approval of the comprehensive plan and of all benefits
5 and incentives conditioned on state approval.

6 (2) An implementation schedule amended under this provision shall not be eligible for an
7 additional moratorium as provided for in subsection (e).

8 SECTION 2. This act shall take effect on March 1, 2024.

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LC002439/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO TOWNS AND CITIES -- RHODE ISLAND COMPREHENSIVE PLANNING
AND LAND USE ACT

1 This act would amend the required contents of a comprehensive plan, providing that the
2 "implementation program" component of the requirements include a strategic plan to ensure that
3 the comprehensive plan goals and policies are implemented in a timely fashion.

4 This act would take effect on March 1, 2024.

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LC002439/SUB A
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2023 -- H 6061 SUBSTITUTE A AS AMENDED

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LC002437/SUB A
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO TOWNS AND CITIES -- SUBDIVISION OF LAND

Introduced By: Representatives Craven, Shekarchi, McGaw, Shanley, Dawson, and O'Brien

Date Introduced: March 03, 2023

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-23-27, 45-23-32, 45-23-36, 45-23-38, 45-23-39, 45-23-42, 45-
2 23-50, 45-23-50.1, 45-23-55, 45-23-56, 45-23-62, 45-23-67 and 45-23-71 of the General Laws in
3 Chapter 45-23 entitled "Subdivision of Land" are hereby amended to read as follows:

4 **45-23-27. ~~Applicability~~ Applicability -- Effective January 1, 2024.**

5 (a) Sections 45-23-25 — 45-23-74 and all local regulations are applicable to all
6 applications under this chapter in all of the following instances:

7 ~~(1) In all cases of subdivision of land, including re-subdivision, as defined in § 45-23-32,~~
8 ~~all provisions of §§ 45-23-25 — 45-23-74 apply;~~

9 ~~(2) In all cases of land development projects, as provided for in § 45-24-47 of the Zoning~~
10 ~~Enabling Act of 1991, where a municipality has allowed for the land development projects in its~~
11 ~~local zoning ordinance; and/or~~

12 ~~(3) In all cases of development plan review, as provided for in § 45-24-49 of the Zoning~~
13 ~~Enabling Act of 1991, where a municipality has established, within their zoning ordinance, the~~
14 ~~procedures for planning board review of applications.~~

15 (b) Plats required.

16 (1) All activity defined as a subdivision requires a new plat, drawn to the specifications of
17 the local regulations, and reviewed and approved by the planning board or its agents as provided in
18 this chapter; and

19 (2) Prior to recording, the approved plat shall be submitted for signature and recording as

1 specified in § 45-23-64.

2 **45-23-32. Definitions Definitions -- Effective January 1, 2024.**

3 Where words or phrases used in this chapter are defined in the definitions section of either
4 the Rhode Island Comprehensive Planning and Land Use Regulation Act, § 45-22.2-4, or the Rhode
5 Island Zoning Enabling Act of 1991, § 45-24-31, they have the meanings stated in those acts.
6 Additional words and phrases may be defined in local ordinances, regulations and rules under this
7 act in a manner that does not conflict or alter the terms or mandates in this act, the Rhode Island
8 Comprehensive Planning and Land Use Regulation Act § 45-22.2-4, and the Rhode Island Zoning
9 Enabling Act of 1991. The words and phrases defined in this section, however, shall be controlling
10 in all local ordinances, regulations, and rules created under this chapter. ~~See also § 45-23-34.~~ In
11 addition, the following words and phrases have the following meanings:

12 (1) Administrative officer. The municipal official(s) designated by the local regulations to
13 administer the land development and subdivision regulations ~~and~~ to review and approve qualified
14 applications and/or coordinate with local boards and commissions, municipal staff and state
15 agencies as set forth herein. The administrative officer may be a member of, or the chair, of the
16 planning board, an employee of the municipal planning or zoning departments, or an appointed
17 official of the municipality. See § 45-23-55.

18 (2) ~~Administrative subdivision. Re-subdivision of existing lots which yields no additional~~
19 ~~lots for development, and involves no creation or extension of streets. The re-subdivision only~~
20 ~~involves divisions, mergers, mergers and division, or adjustments of boundaries of existing lots.~~

21 (3) Board of appeal. The local review authority for appeals of actions of the administrative
22 officer ~~and the planning board on matters of land development or subdivision~~, which shall be the
23 local zoning board of review constituted as the board of appeal. See § 45-23-57.

24 (4) Bond. See improvement guarantee.

25 (5) Buildable lot. A lot where construction for the use(s) permitted on the site under the
26 local zoning ordinance is considered practicable by the planning board, considering the physical
27 constraints to development of the site as well as the requirements of the pertinent federal, state and
28 local regulations. See § 45-23-60(4).

29 (6) Certificate of completeness. A notice issued by the administrative officer informing an
30 applicant that the application is complete and meets the requirements of the municipality's
31 regulations, and that the applicant may proceed with the ~~approval~~ review process.

32 (7) Concept plan. A drawing with accompanying information showing the basic elements
33 of a proposed land development plan or subdivision as used for pre-application meetings and early
34 discussions, and classification of the project within the approval process.

1 (8) Consistency with the comprehensive plan. A requirement of all local land use
2 regulations which means that all these regulations and subsequent actions are in accordance with
3 the public policies arrived at through detailed study and analysis and adopted by the municipality
4 as the comprehensive community plan as specified in § 45-22.2-3.

5 (9) Dedication, fee-in-lieu-of. Payments of cash which are authorized in the local
6 regulations when requirements for mandatory dedication of land are not met because of physical
7 conditions of the site or other reasons. The conditions under which the payments will be allowed
8 and all formulas for calculating the amount shall be specified in advance in the local regulations.
9 See § 45-23-47.

10 (10) Development plan review. Design or site plan review of a development of a permitted
11 use. A municipality may utilize development plan review under limited circumstances to encourage
12 development to comply with design and/or performance standards of the community under specific
13 and objective guidelines, for developments including, but not limited to:

14 (i) A change in use at the property where no extensive construction of improvements is
15 sought;

16 (ii) An adaptive reuse project located in a commercial zone where no extensive exterior
17 construction of improvements is sought;

18 (iii) An adaptive reuse project located in a residential zone which results in less than nine
19 (9) residential units;

20 (iv) Development in a designated urban or growth center;

21 (v) Institutional development design review for educational or hospital facilities; or

22 (vi) Development in a historic district.

23 ~~(10)~~(11) Development regulation. Zoning, subdivision, land development plan,
24 development plan review, historic district, official map, flood plain regulation, soil erosion control
25 or any other governmental regulation of the use and development of land.

26 ~~(11)~~(12) Division of land. A subdivision.

27 ~~(12)~~(13) Environmental constraints. Natural features, resources, or land characteristics that
28 are sensitive to change and may require conservation measures or the application of special
29 development techniques to prevent degradation of the site, or may require limited development, or
30 in certain instances, may preclude development. See also physical constraints to development.

31 ~~(13)~~(14) Final plan. The final stage of land development and subdivision review. See § 45-
32 23-43.

33 ~~(14)~~(15) Final plat. The final drawing(s) of all or a portion of a subdivision to be recorded
34 after approval by the planning board and any accompanying material as described in the

1 community's regulations and/or required by the planning board.

2 ~~(15)~~(16) Floor area, gross. See R.I. State Building Code.

3 ~~(16)~~(17) Governing body. The body of the local government, generally the city or town
4 council, having the power to adopt ordinances, accept public dedications, release public
5 improvement guarantees, and collect fees.

6 ~~(17)~~(18) Improvement. Any natural or built item which becomes part of, is placed upon, or
7 is affixed to, real estate.

8 ~~(18)~~(19) Improvement guarantee. A security instrument accepted by a municipality to
9 ensure that all improvements, facilities, or work required by the land development and subdivision
10 regulations, or required by the municipality as a condition of approval, will be completed in
11 compliance with the approved plans and specifications of a development. See § 45-23-46.

12 (20) Land-development project. A project in which one or more lots, tracts, or parcels of
13 land or a portion thereof are developed or redeveloped as a coordinated site for one or more uses,
14 units, or structures, including but not limited to, planned development or cluster development for
15 residential commercial, institutional, recreational, open space, or mixed uses. The local regulations
16 shall include all requirements, procedures and standards necessary for proper review and approval
17 of land development projects to ensure consistency with this chapter and the Rhode Island zoning
18 enabling act.

19 (i) Minor land development project. A land development project involving any one the
20 following:

21 (A) Seven thousand five hundred (7,500) gross square feet of floor area of new commercial,
22 manufacturing or industrial development; or less, or

23 (B) An expansion of up to fifty percent (50%) of existing floor area or up to ten thousand
24 (10,000) square feet for commercial, manufacturing or industrial structures; or

25 (C) Mixed-use development consisting of up to six (6) dwelling units and two thousand
26 five hundred (2,500) gross square feet of commercial space or less; or

27 (D) Multi-family residential or residential condominium development of nine (9) units or
28 less; or

29 (E) Change in use at the property where no extensive construction of improvements are
30 sought;

31 (F) An adaptive reuse project of up to twenty-five thousand (25,000) square feet of gross
32 floor area located in a commercial zone where no extensive exterior construction of improvements
33 is sought;

34 (G) An adaptive reuse project located in a residential zone which results in less than nine

1 (9) residential units;

2 A community can increase, but not decrease the thresholds for minor land development set
3 forth above if specifically set forth in the local ordinance and/or regulations. The process by which
4 minor land development projects are reviewed by the local planning board, commission, technical
5 review committee and/or administrative officer is set forth in § 45-23-38.

6 (ii) Major land development project. A land development project which exceeds the
7 thresholds for a minor land development project as set forth in this section and local ordinance or
8 regulation. The process by which major land development projects are reviewed by the local
9 planning board, commission, technical review committee or administrative officer is set forth in §
10 45-23-39.

11 (21) Local regulations. The land development and subdivision review regulations adopted
12 under the provisions of this act. For purposes of clarification, throughout this act, where reference
13 is made to local regulations, it is to be understood as the land development and subdivision review
14 regulations and all related ordinances and rules properly adopted pursuant to this chapter.

15 ~~(20)~~(22) Maintenance guarantee. Any security instrument which may be required and
16 accepted by a municipality to ensure that necessary improvements will function as required for a
17 specific period of time. See improvement guarantee.

18 ~~(21) Major land development plan. Any land development plan not classified as a minor~~
19 ~~land development plan.~~

20 ~~(22) Major subdivision. Any subdivision not classified as either an administrative~~
21 ~~subdivision or a minor subdivision.~~

22 (23) Master plan. An overall plan for a proposed project site outlining general, rather than
23 detailed, development intentions. It describes the basic parameters of a major development
24 proposal, rather than giving full engineering details. Required in major land development or major
25 subdivision review only. It is the first formal review step of the major land development or major
26 subdivision process and the step in the process in which the public hearing is held . See § 45-23-40
27 45-23-39.

28 ~~(24) Minor land development plan. A development plan for a residential project as defined~~
29 ~~in local regulations, provided that the development does not require waivers or modifications as~~
30 ~~specified in this act. All nonresidential land development projects are considered major land~~
31 ~~development plans.~~

32 ~~(25) Minor subdivision. A plan for a subdivision of land consisting of five (5) or fewer~~
33 ~~units or lots, provided that the subdivision does not require waivers or modifications as specified~~
34 ~~in this chapter.~~

1 ~~(26)~~(24) Modification of requirements. See § 45-23-62.

2 ~~(27)~~(25) Parcel. A lot, or contiguous group of lots in single ownership or under single
3 control, and usually considered a unit for purposes of development. Also referred to as a tract.

4 ~~(28)~~(26) Parking area or lot. All that portion of a development that is used by vehicles, the
5 total area used for vehicular access, circulation, parking, loading and unloading.

6 ~~(29)~~(27) Permitting authority. The local agency of government, meaning any board,
7 commission or administrative officer specifically empowered by state enabling law and local
8 regulation or ordinance to hear and decide on specific matters pertaining to local land use.

9 ~~(30)~~(28) Phased development. Development, usually for large-scale projects, where
10 construction of public and/or private improvements proceeds by sections subsequent to approval
11 of a master plan for the entire site. See § 45-23-48.

12 ~~(31)~~(29) Physical constraints to development. Characteristics of a site or area, either natural
13 or man-made, which present significant difficulties to construction of the uses permitted on that
14 site, or would require extraordinary construction methods. See also environmental constraints.

15 ~~(32)~~(30) Planning board. The official planning agency of a municipality, whether
16 designated as the plan commission, planning commission, plan board, or as otherwise known.

17 ~~(33)~~(31) Plat. A drawing or drawings of a land development or subdivision plan showing
18 the location, boundaries, and lot lines of individual properties, as well as other necessary
19 information as specified in the local regulations.

20 ~~(34)~~(32) Pre-application conference. An initial meeting between developers and municipal
21 representatives which affords developers the opportunity to present their proposals informally and
22 to receive comments and directions from the municipal officials and others. See § 45-23-35.

23 ~~(35)~~(33) Preliminary plan. ~~The~~ A required stage of land development and subdivision
24 review which generally requires detailed engineered drawings ~~and all required state and federal~~
25 ~~permits~~. See § ~~45-23-41~~ 45-23-39.

26 (34) Public hearing. A hearing before the planning board which is duly noticed in
27 accordance with § 45-23-42 and which allows public comment. A public hearing is not required
28 for an application or stage of approval unless otherwise stated in this chapter.

29 ~~(36)~~(35) Public improvement. Any street or other roadway, sidewalk, pedestrian way, tree,
30 lawn, off-street parking area, drainage feature, or other facility for which the local government or
31 other governmental entity either is presently responsible, or will ultimately assume the
32 responsibility for maintenance and operation upon municipal acceptance.

33 ~~(37) Public informational meeting. A meeting of the planning board or governing body~~
34 ~~preceded by a notice, open to the public and at which the public is heard.~~

1 ~~(38) Re-subdivision. Any change of an approved or recorded subdivision plat or in a lot~~
2 ~~recorded in the municipal land evidence records, or that affects the lot lines of any areas reserved~~
3 ~~for public use, or that affects any map or plan legally recorded prior to the adoption of the local~~
4 ~~land development and subdivision regulations. For the purposes of this act any action constitutes a~~
5 ~~subdivision.~~

6 ~~(39)~~(36) Slope of land. The grade, pitch, rise or incline of the topographic landform or
7 surface of the ground.

8 ~~(40)~~(37) Storm water detention. A provision for storage of storm water runoff and the
9 controlled release of the runoff during and after a flood or storm.

10 ~~(41)~~(38) Storm water retention. A provision for storage of storm water runoff.

11 ~~(42)~~(39) Street. A public or private thoroughfare used, or intended to be used, for passage
12 or travel by motor vehicles. Streets are further classified by the functions they perform. See street
13 classification.

14 ~~(43)~~(40) Street, access to. An adequate and permanent way of entering a lot. All lots of
15 record shall have access to a public street for all vehicles normally associated with the uses
16 permitted for that lot.

17 ~~(44)~~(41) Street, alley. A public or private thoroughfare primarily designed to serve as
18 secondary access to the side or rear of those properties whose principal frontage is on some other
19 street.

20 ~~(45)~~(42) Street, cul-de-sac. A local street with only one outlet and having an appropriate
21 vehicular turnaround, either temporary or permanent, at the closed end.

22 ~~(46)~~(43) Street, limited access highway. A freeway or expressway providing for through
23 traffic. Owners or occupants of abutting property on lands and other persons have no legal right to
24 access, except at the points and in the manner as may be determined by the public authority having
25 jurisdiction over the highway.

26 ~~(47)~~(44) Street, private. A thoroughfare established as a separate tract for the benefit of
27 multiple, adjacent properties and meeting specific, municipal improvement standards. This
28 definition does not apply to driveways.

29 ~~(48)~~(45) Street, public. All public property reserved or dedicated for street traffic.

30 ~~(49)~~(46) Street, stub. A portion of a street reserved to provide access to future development,
31 which may provide for utility connections.

32 ~~(50)~~(47) Street classification. A method of roadway organization which identifies a street
33 hierarchy according to function within a road system, that is, types of vehicles served and
34 anticipated volumes, for the purposes of promoting safety, efficient land use and the design

1 character of neighborhoods and districts. Local classifications use the following as major
2 categories:

3 (a) Arterial. A major street that serves as an avenue for the circulation of traffic into, out
4 of, or around the municipality and carries high volumes of traffic.

5 (b) Collector. A street whose principal function is to carry traffic between local streets and
6 arterial streets but that may also provide direct access to abutting properties.

7 (c) Local. Streets whose primary function is to provide access to abutting properties.

8 ~~(51)~~(48) Subdivider. Any person who (1) having an interest in land, causes it, directly or
9 indirectly, to be divided into a subdivision or who (2) directly or indirectly sells, leases, or develops,
10 or offers to sell, lease, or develop, or advertises to sell, lease, or develop, any interest, lot, parcel,
11 site, unit, or plat in a subdivision, or who (3) engages directly or through an agent in the business
12 of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any
13 interest, lot, parcel, site, unit, or plat in a subdivision.

14 ~~(52)~~(49) Subdivision. The division ~~or re-division~~, of a lot, tract or parcel of land into two
15 or more lots, tracts, or parcels. ~~Any or any~~ adjustment to existing lot lines ~~of a recorded lot by any~~
16 ~~means~~ is considered a subdivision. ~~All re-subdivision activity is considered a subdivision. The~~
17 ~~division of property for purposes of financing constitutes a subdivision.~~

18 (i) Administrative subdivision. Subdivision of existing lots which yields no additional lots
19 for development, and involves no creation or extension of streets. This subdivision only involves
20 division, mergers, mergers and division, or adjustments of boundaries of existing lots. The process
21 by which an administrative officer or municipal planning board or commission reviews any
22 subdivision qualifying for this review is set forth in § 45-23-37.

23 (ii) Minor subdivision. A subdivision creating nine (9) or fewer buildable lots. The process
24 by which a municipal planning board, commission, technical review committee, and/or
25 administrative officer reviews a minor subdivision is set forth in § 45-23-38.

26 (iii) Major subdivision. A subdivision creating ten (10) or more buildable lots. The process
27 by which a municipal planning board or commission reviews any subdivision qualifying for this
28 review under § 45-23-39.

29 ~~(53)~~(50) Technical review committee. A committee or committees appointed by the
30 ~~planning board~~ municipality for the purpose of reviewing, commenting, ~~and approving and/or~~
31 making recommendations to the planning board ~~with respect to approval of land development and~~
32 ~~subdivision applications~~ or administrative officer, as set forth in this chapter.

33 ~~(54)~~(51) Temporary improvement. Improvements built and maintained by a developer
34 during construction of a development project and prior to release of the improvement guarantee,

1 but not intended to be permanent.

2 ~~(55)~~(52) Vested rights. The right to initiate or continue the development of an approved
3 project for a specified period of time, under the regulations that were in effect at the time of
4 approval, even if, after the approval, the regulations change prior to the completion of the project.

5 ~~(56)~~(53) Waiver of requirements. See § 45-23-62.

6 ~~45-23-36. General provisions — Application for development and certification of~~
7 ~~completeness~~ **General provisions -- Authority and application for development and**
8 **certification of completeness -- Effective January 1, 2024.**

9 (a) Authority. Municipalities shall provide for the submission and approval of land
10 development projects and subdivisions, as such terms are defined in the Rhode Island Zoning
11 Enabling Act of 1991, and/or this chapter, and such are subject to the local regulations which
12 shall be consistent with the requirements of this chapter. The local regulations must include all
13 requirements, procedures and standards necessary for proper review and approval of applications
14 made under this chapter to ensure consistency with the intent and purposes of this chapter and
15 with § 45-24-47 of the Rhode Island Zoning Enabling Act of 1991.

16 (b) Classification. ~~The~~ In accordance with this chapter, the administrative officer shall
17 advise the applicant as to which ~~approvals are~~ category of approval is required ~~and the appropriate~~
18 ~~board for hearing an application~~ for a ~~land development or subdivision~~ project. An applicant shall
19 not be required to obtain both land development and development plan review, for the same project.

20 The following ~~types~~ categories of applications, as defined in ~~§ 45-23-32~~ this chapter, may be filed:

- 21 (1) Subdivisions. Administrative subdivision, minor subdivision or major subdivision;
22 (2) ~~Minor subdivision or minor land development plan; and~~ Land development projects.
23 Minor land development or major land development; and
24 (3) Development plan review.

25 ~~(3) Major subdivision or major land development plan.~~

26 ~~(b)~~(c) Certification of a complete application. An application shall be complete for
27 purposes of commencing the applicable time period for action when so certified by the
28 administrative officer. Every certification of completeness required by this chapter shall be in
29 writing. In the event the certification of the application is not made within the time specified in this
30 chapter for the type of plan, the application is deemed complete for purposes of commencing the
31 review period unless the application lacks information required for these applications as specified
32 in the local regulations and the administrative officer has notified the applicant, in writing, of the
33 deficiencies in the application. See §§ 45-23-38, 45-23-39 and 45-23-50 for applicable certification
34 timeframes and requirements.

1 ~~(e)~~(d) Notwithstanding ~~subsections (a) and (b)~~ other provisions of this section, the planning
2 board may subsequently require correction of any information found to be in error and submission
3 of additional information specified in the regulations but not required by the administrative officer
4 prior to certification, as is necessary to make an informed decision.

5 ~~(d)~~(e) Where the review is postponed with the consent of the applicant, pending further
6 information or revision of information, the time period for review is stayed and resumes when the
7 administrative officer or the planning board determines that the required application information is
8 complete.

9 **45-23-38. General provisions — Minor land development and minor subdivision**
10 **review General provisions -- Minor land development and minor subdivision review --**
11 **Effective January 1, 2024.**

12 ~~(a) Review stages. Minor plan review consists of two (2) stages, preliminary and final;~~
13 ~~provided, that if a street creation or extension is involved, or a request for variances and/or special-~~
14 ~~use permits are submitted, pursuant to the regulation's unified development review provisions, a~~
15 ~~public hearing is required. The planning board may combine the approval stages, providing~~
16 ~~requirements for both stages are met by the applicant to the satisfaction of the planning officials.~~

17 Application types and review stages.

18 (1) Applications requesting relief from the zoning ordinance.

19 (i) Applications under this section which require relief which qualifies only as a
20 modification under § 45-24-46 and local ordinances shall proceed by filing an application under
21 this chapter and a request for a modification to the zoning enforcement officer. If such modification
22 is granted the application shall then proceed to be reviewed by the administrative officer pursuant
23 to the applicable requirements of this section. If the modification is denied or an objection is
24 received as set forth in § 45-24-46, such application shall proceed under unified development plan
25 review pursuant to § 45-23-50.1.

26 (ii) Applications under this section which require relief from the literal provisions of the
27 zoning ordinance in the form of a variance or special use permit, shall be reviewed by the planning
28 board under unified development plan review pursuant to § 45-23-50.1, and a request for review
29 shall accompany the preliminary plan application.

30 (iii) Any application involving a street creation or extension shall be reviewed by the
31 planning board and require a public hearing.

32 (2) Other applications.

33 The administrative officer shall review and grant, grant with conditions or deny all other
34 applications under this section and may grant waivers of design standards as set forth in the local

1 regulations and zoning ordinance. The administrative officer may utilize the technical review
2 committee for initial review and recommendation. The local regulations shall specifically list what
3 limited waivers an administrative officer is authorized to grant as part of their review.

4 (3) Review stages.

5 Minor plan review consists of two (2) stages, preliminary and final; provided, that unless
6 otherwise set forth in this section, if a street creation or extension is involved, or a request for
7 variances and/or special-use permits are submitted, pursuant to the regulation's unified
8 development review provisions, a public hearing is required before the planning board. The
9 administrative officer may combine the approval stages, providing requirements for both stages are
10 met by the applicant to the satisfaction of the administrative officer.

11 (b) Submission requirements. Any applicant requesting approval of a proposed, minor
12 subdivision or minor land development, as defined in this chapter, shall submit to the administrative
13 officer the items required by the local regulations. ~~Requests for relief from the literal requirements~~
14 ~~of the zoning ordinance and/or for the issuance of special-use permits related to minor subdivisions~~
15 ~~and/or minor land development projects that are submitted under a zoning ordinance's unified~~
16 ~~development review provisions shall be included as part of the preliminary plan application,~~
17 ~~pursuant to § 45-23-50.1(b).~~

18 (c) Certification. ~~The~~ For each applicable stage of review, the application shall be certified,
19 in writing, complete or incomplete by the administrative officer within twenty-five (25) days ~~or~~
20 ~~within fifteen (15) days~~ of the submission so long as a completed checklist of the requirements for
21 submission are provided as part of the submission. Such certification shall be made in accordance
22 with the provisions of § 45-23-36(b). If ~~if~~ no street creation or extension is required, and/or unified
23 development review is not requested, and a completed checklist of the requirements for submission
24 are provided as part of the submission, such application shall be certified, in writing, complete or
25 incomplete by the administrative officer within fifteen (15) days according to the provisions of §
26 45-23-36(b). The running of the time period set forth in this section will be deemed stopped upon
27 the issuance of a certificate of incompleteness of the application by the administrative officer and
28 will recommence upon the resubmission of a corrected application by the applicant. However, in
29 no event will the administrative officer be required to certify a corrected submission as complete
30 or incomplete less than ~~fourteen (14)~~ ten (10) days after its resubmission.

31 ~~(d) Technical review committee. The technical review committee, if established, will~~
32 ~~review the application and will comment and make recommendations to the planning board. The~~
33 ~~application will be referred to the planning board as a whole if there is no technical review~~
34 ~~committee. When reviewed by a technical review committee:~~

1 ~~(1) If the land development or subdivision application does not include a request for unified~~
2 ~~development review and the plan is approved by a majority of the committee members, the~~
3 ~~application is forwarded to the planning board with a recommendation for preliminary plan~~
4 ~~approval without further review.~~

5 ~~(2) If the plan is not approved by a majority vote of the committee members, or the~~
6 ~~application includes a request for unified development review, the minor land development and~~
7 ~~subdivision application is referred to the planning board.~~

8 ~~(e) Re-assignment to major review. The planning board may re-assign a proposed minor~~
9 ~~project to major review only when the planning board is unable to make the positive findings~~
10 ~~required in § 45-23-60.~~

11 ~~(f)~~(d) Decision on preliminary plan. If no street creation or extension is required, the
12 planning board or administrative officer will approve, deny, or approve with conditions, the
13 preliminary plan within sixty-five (65) days of certification of completeness, or within any further
14 time that is agreed to by the applicant and the board, according to the requirements of §§ 45-23-60
15 and 45-23-63. If a street extension or creation is required, or the application is reviewed under the
16 unified development plan review, the planning board will hold a public hearing prior to approval
17 according to the requirements in § 45-23-42 and will approve, deny, or approve with conditions,
18 the preliminary plan within ninety-five (95) days of certification of completeness, or within any
19 specified time that is agreed to by the applicant and the board, according to the requirements of §§
20 45-23-60 and 45-23-63.

21 ~~(g)~~(e) Failure to act. Failure of the planning board to act within the period prescribed
22 constitutes approval of the preliminary plan and a certificate of the administrative officer as to the
23 failure of the planning board to act within the required time and the resulting approval will be issued
24 on request of the application.

25 (f) Re-assignment to major review. The planning board may re-assign a proposed minor
26 project to major review only when the planning board is unable to make the positive findings
27 required in § 45-23-60.

28 ~~(h)~~(g) Final plan. ~~The planning board may delegate final plan review and approval to either~~
29 ~~the administrative officer or the technical review committee.~~ Final plans shall be reviewed and
30 approved by either the administrative officer or technical review committee. The officer or
31 committee will report its actions, in writing to the planning board at its next regular meeting, to be
32 made part of the record. The administrative officer or technical review committee shall approve,
33 deny, approve with conditions, or refer the application to the planning board based upon a finding
34 that there is a major change within twenty-five (25) days of the certificate of completeness.

1 (h) Modifications and changes to plans.

2 (1) Minor changes, as defined in the local regulations, to the plans approved at any stage
3 may be approved administratively, by the administrative officer. The changes may be authorized
4 without additional public hearings, at the discretion of the administrative officer. All changes shall
5 be made part of the permanent record of the project application. This provision does not prohibit
6 the administrative officer from requesting recommendation from either the technical review
7 committee or the permitting authority. Denial of the proposed change(s) shall be referred to the
8 applicable permitting authority for review as a major change.

9 (2) Major changes, as defined in the local regulations, to the plans approved at any stage
10 may be approved only by the applicable permitting authority and must follow the same review and
11 hearing process required for approval of preliminary plans, which shall include a public hearing if
12 originally required as part of the application.

13 (3) The administrative officer shall notify the applicant in writing within fourteen (14) days
14 of submission of the final plan application if the administrative officer determines the change to be
15 a major change.

16 (i) Appeal. Decisions under this section shall be considered an appealable decision pursuant
17 to § 45-23-71.

18 ~~(i)(j)~~ Expiration of ~~approval approvals~~. Approval Approvals of a minor land-development
19 or subdivision plan expires ~~ninety (90) days~~ one year from the date of approval unless, within that
20 period, a plat or plan, in conformity with approval, and as defined in this act, is submitted for
21 signature and recording as specified in § 45-23-64. Validity may be extended for a longer period,
22 for cause shown, if requested by the application in writing, and approved by the planning board.

23 ~~**45-23-39. General provisions — Major land development and major subdivision**~~
24 ~~**review stages**~~ **General provisions -- Major land development and major subdivision review**
25 **stages -- Effective January 1, 2024.**

26 ~~(a) Major plan review is required of all applications for land development and subdivision~~
27 ~~approval subject to this chapter, unless classified as an administrative subdivision or as a minor~~
28 ~~land development or a minor subdivision.~~

29 ~~(b)(a)~~ Stages of review. Major ~~plan~~ land development and major subdivision review
30 consists of three stages of review, master plan, preliminary plan and final plan, following the pre-
31 application meeting(s) specified in § 45-23-35. Also required is a public hearing ~~informational~~
32 ~~meeting and a public meeting~~ at the master plan stage of review or, if combined at the first stage of
33 review.

34 ~~(e)(b)~~ The ~~planning board may vote to~~ administrative officer may combine review stages

1 and to modify ~~and/or~~ but only the planning board may waive requirements as specified in § 45-23-
2 62. Review stages may be combined only after the ~~planning board~~ administrative officer determines
3 that all necessary requirements have been met by the applicant or that the planning board has
4 waived any submission requirements not included by the applicant.

5 (c) Master plan review.

6 (1) Submission requirements.

7 (i) The applicant shall first submit to the administrative officer the items required by the
8 local regulations for master plans.

9 (ii) Requirements for the master plan and supporting material for this phase of review
10 include, but are not limited to: information on the natural and built features of the surrounding
11 neighborhood, existing natural and man-made conditions of the development site, including
12 topographic features, the freshwater wetland and coastal zone boundaries, the floodplains, as well
13 as the proposed design concept, proposed public improvements and dedications, tentative
14 construction phasing; and potential neighborhood impacts.

15 (iii) Initial comments will be solicited from:

16 (A) Local agencies including, but not limited to, the planning department, the department
17 of public works, fire and police departments, the conservation and recreation commissions;

18 (B) Adjacent communities;

19 (C) State agencies, as appropriate, including the departments of environmental
20 management and transportation and the coastal resources management council; and

21 (D) Federal agencies, as appropriate. The administrative officer shall coordinate review
22 and comments by local officials, adjacent communities, and state and federal agencies.

23 (iv) Applications requesting relief from the zoning ordinance.

24 (A) Applications under this chapter which require relief which qualifies only as a
25 modification under § 45-24-46 and local ordinances shall proceed by filing a master plan
26 application under this section and a request for a modification to the zoning enforcement officer. If
27 such modification is granted, the application shall then proceed to be reviewed by the planning
28 board pursuant to the applicable requirements of this section. If the modification is denied or an
29 objection is received as set forth in § 45-24-46, such application shall proceed under unified
30 development plan review pursuant to § 45-23-50.1.

31 (B) Applications under this section which require relief from the literal provisions of the
32 zoning ordinance in the form of a variance or special use permit, shall be reviewed by the planning
33 board under unified development plan review pursuant to § 45-23-50.1.

34 (2) Certification. The application must be certified, in writing, complete or incomplete by

1 the administrative officer within twenty-five (25) days of the submission, according to the
2 provisions of § 45-23-36(b), so long as a completed checklist of requirements are provided with
3 the submission. The running of the time period set forth herein will be deemed stopped upon the
4 issuance of a certificate of incompleteness of the application by the administrative officer and will
5 recommence upon the resubmission of a corrected application by the applicant. However, in no
6 event will the administrative officer be required to certify a corrected submission as complete or
7 incomplete less than ten (10) days after its resubmission.

8 (3) Technical review committee. To the extent the community utilizes a technical review
9 committee, it shall review the application prior to the first planning board meeting and shall
10 comment and make recommendations to the planning board.

11 (4) Public hearing.

12 (i) A public hearing will be held prior to the planning board decision on the master plan. If
13 the master plan and preliminary plan review stages are being combined, a public hearing shall be
14 held during the combined stage of review.

15 (ii) Notice for the public hearing is required and must be given at least fourteen (14) days
16 prior to the date of the meeting in a newspaper of local circulation within the municipality. Notice
17 must be mailed to the applicant and to all property owners within the notice area, as specified by
18 local regulations.

19 (iii) At the public hearing, the applicant will present the proposed development project.
20 The planning board must allow oral and written comments from the general public. All public
21 comments are to be made part of the public record of the project application.

22 (5) Decision. The planning board shall, within ninety (90) days of certification of
23 completeness, or within a further amount of time that may be consented to by the applicant through
24 the submission of a written waiver, approve of the master plan as submitted, approve with changes
25 and/or conditions, or deny the application, according to the requirements of §§ 45-23-60 and 45-
26 23-63.

27 (6) Failure to act. Failure of the planning board to act within the prescribed period
28 constitutes approval of the master plan, and a certificate of the administrative officer as to the failure
29 of the planning board to act within the required time and the resulting approval will be issued on
30 request of the applicant.

31 (6) Vesting.

32 (i) The approved master plan is vested for a period of two (2) years, with the right to extend
33 for two (2), one-year extensions upon written request by the applicant, who must appear before the
34 planning board for the annual review. Thereafter, vesting may be extended for a longer period, for

1 good cause shown, if requested by the applicant, in writing, and approved by the planning board.
2 Master plan vesting includes the zoning requirements, conceptual layout, and all conditions shown
3 on the approved master plan drawings and supporting materials.

4 (ii) The initial four (4) year vesting for the approved master plan constitutes the vested
5 rights for the development as required in § 45-24-44.

6 (d) Preliminary plan review.

7 (1) Submission requirements.

8 (i) The applicant shall first submit to the administrative officer the items required by the
9 local regulations for preliminary plans.

10 (ii) Requirements for the preliminary plan and supporting materials for this phase of the
11 review include, but are not limited to: engineering plans depicting the existing site conditions,
12 engineering plans depicting the proposed development project, and a perimeter survey.

13 (iii) At the preliminary plan review phase, the administrative officer shall solicit final,
14 written comments and/or approvals of the department of public works, the city or town engineer,
15 the city or town solicitor, other local government departments, commissions, or authorities as
16 appropriate.

17 (iv) Prior to approval of the preliminary plan, copies of all legal documents describing the
18 property, proposed easements, and rights-of-way.

19 (v) Prior to approval of the preliminary plan, an applicant must submit all permits required
20 by state or federal agencies, including permits related to freshwater wetlands, the coastal zone,
21 floodplains, preliminary suitability for individual septic disposal systems, public water systems,
22 and connections to state roads. For a state permit from the Rhode Island department of
23 transportation, a letter evidencing the issuance of such a permit upon the submission of a bond and
24 insurance is sufficient, but such actual permit shall be required prior to the issuance of a building
25 permit.

26 (v) If the applicant is requesting alteration of any variances and/or special-use permits
27 granted by the planning board or commission at the master plan stage of review pursuant to adopted
28 unified development review provisions, and/or any new variances and/or special-use permits, such
29 requests and all supporting documentation shall be included as part of the preliminary plan
30 application materials, pursuant to § 45-23-50.1(b).

31 (2) Certification. The application will be certified as complete or incomplete by the
32 administrative officer within twenty-five (25) days, according to the provisions of § 45-23-36(b)
33 so long as a completed checklist of requirements are provided with the submission. The running of
34 the time period set forth herein will be deemed stopped upon the issuance of a certificate of

1 incompleteness of the application by the administrative officer and will recommence upon the
2 resubmission of a corrected application by the applicant. However, in no event shall the
3 administrative officer be required to certify a corrected submission as complete or incomplete less
4 than ten (10) days after its resubmission.

5 (3) Technical review committee. To the extent the community utilizes a technical review
6 committee, it shall review the application prior to the first planning board meeting and shall
7 comment and make recommendations to the planning board.

8 (4) Public notice. Prior to the first planning board meeting on the preliminary plan, public
9 notice shall be sent to abutters only at least fourteen (14) days before the hearing.

10 (5) Public improvement guarantees. Proposed arrangements for completion of the required
11 public improvements, including construction schedule and/or financial guarantees, shall be
12 reviewed and approved by the planning board at preliminary plan approval.

13 (6) Decision. A complete application for a major subdivision or development plan shall be
14 approved, approved with conditions, or denied, in accordance with the requirements of §§ 45-23-
15 60 and 45-23-63, within ninety (90) days of the date when it is certified complete, or within a
16 further amount of time that may be consented to by the developer through the submission of a
17 written waiver. Provided that, the timeframe for decision is automatically extended if evidence of
18 state permits has not been provided, or otherwise waived in accordance with this section.

19 (7) Failure to act. Failure of the planning board to act within the prescribed period
20 constitutes approval of the preliminary plan and a certificate of the administrative officer as to the
21 failure of the planning board to act within the required time and the resulting approval shall be
22 issued on request of the applicant.

23 (8) Vesting. The approved preliminary plan is vested for a period of two (2) years with the
24 right to extend for two (2), one-year extensions upon written request by the applicant, who must
25 appear before the planning board for each annual review and provide proof of valid state or federal
26 permits as applicable. Thereafter, vesting may be extended for a longer period, for good cause
27 shown, if requested, in writing by the applicant, and approved by the planning board. The vesting
28 for the preliminary plan approval includes all general and specific conditions shown on the
29 approved preliminary plan drawings and supporting material.

30 (e) Final plan.

31 (1) Submission requirements.

32 (i) The applicant shall submit to the administrative officer the items required by the local
33 regulations for the final plan, as well as all material required by the planning board when the
34 application was given preliminary approval.

1 (ii) Arrangements for completion of the required public improvements, including
2 construction schedule and/or financial guarantees.

3 (iii) Certification by the tax collector that all property taxes are current.

4 (iv) For phased projects, the final plan for phases following the first phase, shall be
5 accompanied by copies of as-built drawings not previously submitted of all existing public
6 improvements for prior phases.

7 (2) Certification. The application for final plan approval shall be certified complete or
8 incomplete by the administrative officer in writing, within fifteen (15) days, according to the
9 provisions of § 45-23-36(b) so long as a completed checklist of requirements are provided with the
10 submission. This time period may be extended to twenty-five (25) days by written notice from the
11 administrative officer to the applicant where the final plans contain changes to or elements not
12 included in the preliminary plan approval. The running of the time period set forth herein shall be
13 deemed stopped upon the issuance of a certificate of incompleteness of the application by the
14 administrative officer and shall recommence upon the resubmission of a corrected application by
15 the applicant. However, in no event shall the administrative officer be required to certify a corrected
16 submission as complete or incomplete less than ten (10) days after its resubmission. If the
17 administrative officer certifies the application as complete and does not require submission to the
18 planning board as per subsection (c) of this section, the final plan shall be considered approved.

19 (3) Decision. The administrative officer, or, if referred to it, the planning board, shall
20 review, grant, grant with conditions or deny final plan approval. A decision shall be issued within
21 forty-five (45) days after the certification of completeness, or within a further amount of time that
22 may be consented to by the applicant, approve or deny the final plan as submitted.

23 (4) Failure to act. Failure of the planning board to act within the prescribed period
24 constitutes approval of the final plan and a certificate of the administrative officer as to the failure
25 of the planning board to act within the required time and the resulting approval shall be issued on
26 request of the applicant.

27 (5) Expiration of approval. The final approval of a major subdivision or land development
28 project expires one year from the date of approval with the right to extend for one year upon written
29 request by the applicant, who must appear before the planning board for the annual review, unless,
30 within that period, the plat or plan has been submitted for signature and recording as specified in §
31 45-23-64. Thereafter, the planning board may, for good cause shown, extend the period for
32 recording.

33 (6) Acceptance of public improvements. Signature and recording as specified in § 45-23-
34 64 constitute the acceptance by the municipality of any street or other public improvement or other

1 land intended for dedication. Final plan approval shall not impose any duty upon the municipality
2 to maintain or improve those dedicated areas until the governing body of the municipality accepts
3 the completed public improvements as constructed in compliance with the final plans.

4 (7) Validity of recorded plans. The approved final plan, once recorded, remains valid as
5 the approved plan for the site unless and until an amendment to the plan is approved under the
6 procedure stated in § 45-23-65, or a new plan is approved by the planning board.

7 (f) Modifications and changes to plans.

8 (1) Minor changes, as defined in the local regulations, to the plans approved at any stage
9 may be approved administratively, by the administrative officer. The changes may be authorized
10 without an additional planning board meeting, to the extent applicable, at the discretion of the
11 administrative officer. All changes shall be made part of the permanent record of the project
12 application. This provision does not prohibit the administrative officer from requesting
13 recommendation from either the technical review committee or the permitting authority. Denial of
14 the proposed change(s) shall be referred to the applicable permitting authority for review as a major
15 change.

16 (2) Major changes, as defined in the local regulations, to the plans approved at any stage
17 may be approved only by the applicable permitting authority and must include a public hearing.

18 (3) The administrative officer shall notify the applicant in writing within fourteen (14) days
19 of submission of the final plan application if the administrative officer determines the change to be
20 a major change of the approved plans.

21 (g) Appeal. Decisions under this section shall be considered an appealable decision
22 pursuant to § 45-23-71.

23 ~~**45-23-42. General provisions -- Major land development and major subdivision --**~~
24 ~~**Public hearing and notice**~~ **General provisions -- Major land development and major**
25 **subdivision -- Public hearing and notice -- Effective January 1, 2024.**

26 (a) ~~Where a~~ **A** public hearing is required ~~for a major land development project or a major~~
27 ~~subdivision or where a street extension or creation requires a public hearing for a minor land~~
28 ~~development project or minor subdivision.~~ pursuant to this chapter, the following requirements
29 shall apply ;

30 ~~(b)~~**(1)** Notice requirements. Public notice of the hearing shall be given at least fourteen (14)
31 days prior to the date of the hearing in a newspaper of general circulation within the municipality
32 following the municipality's usual and customary practices for this kind of advertising. Notice shall
33 be sent to the applicant and to each owner within the notice area, by certified mail, return receipt
34 requested, of the time and place of the hearing not less than ten (10) days prior to the date of the

1 hearing. Notice shall also be sent to any individual or entity holding a recorded conservation or
2 preservation restriction on the property that is the subject of the application. The notice shall also
3 include the street address of the subject property, or if no street address is available, the distance
4 from the nearest existing intersection in tenths (1/10's) of a mile. Local regulations may require a
5 supplemental notice that an application for development approval is under consideration be posted
6 at the location in question. The posting is for informational purposes only and does not constitute
7 required notice of a public hearing.

8 ~~(e)~~(2) Notice area.

9 ~~(d)~~(i) The distance(s) for notice of the public hearing shall be specified in the local
10 regulations. The distance may differ by zoning district and scale of development. At a minimum,
11 all abutting property owners to the proposed development's property boundary shall receive notice.

12 ~~(e)~~(ii) Watersheds. Additional notice within watersheds shall also be sent as required in §
13 45-23-53(b) and (c).

14 ~~(e)~~(iii) Adjacent municipalities. Notice of the public hearing shall be sent by the
15 administrative officer to the administrative officer of an adjacent municipality if (1) the notice area
16 extends into the adjacent municipality, or (2) the development site extends into the adjacent
17 municipality, or (3) there is a potential for significant negative impact on the adjacent municipality.

18 ~~(d)~~(3) Notice cost. The cost of all notice shall be borne by the applicant.

19 ~~45-23-50. Special provisions — Development plan review Special provisions --~~
20 **Development plan review -- Effective January 1, 2024.**

21 (a) Municipalities may provide for development plan review, as defined in §§ 45-23-32
22 and 45-24-49 of the Rhode Island Zoning Enabling Act of 1991, ~~to be subject to~~ as part of the local
23 regulations. ~~(b)~~ In these instances, local regulations must include all requirements, procedures and
24 standards necessary for proper review and recommendations of projects subject to development
25 plan review to ensure consistency with the intent and purposes of this chapter and with § 45-24-49
26 of the Rhode Island Zoning Enabling Act of 1991. The local regulations and/or ordinances shall
27 identify the permitting authority with the responsibility to review and approve applications for
28 development plan review, which shall be designated as the planning board, technical review
29 committee or administrative officer. The local regulations and/or ordinances shall provide for
30 specific categories of projects that may review and approve an application administratively as well
31 as categories which are required to be heard by the designated planning board, or authorized
32 permitting authority.

33 (b) The authorized permitting authority may waive requirements for development plan
34 approval where there is a change in use or occupancy and no extensive construction of

1 improvements is sought. The waiver may be granted only by a decision by the permitting authority
2 finding that the use will not affect existing drainage, circulation, relationship of buildings to each
3 other, landscaping, buffering, lighting and other considerations of development plan approval, and
4 that the existing facilities do not require upgraded or additional site improvements. The application
5 for a waiver of development plan approval review shall include documentation, as required by the
6 permitting authority, on prior use of the site, the proposed use, and its impact.

7 (c) The authorized permitting authority may grant waivers of design standards as set forth
8 in the local regulations and zoning ordinance. The local regulations shall specifically list what
9 limited waivers an administrative officer is authorized to grant as part of their review.

10 (d) Review stages. Administrative development plan review consists of one stage of
11 review, while formal development plan review consists of two (2) stages of review, preliminary
12 and final. The administrative officer may combine the approval stages, providing requirements for
13 both stages are met by the applicant to the satisfaction of the administrative officer.

14 (1) Application requesting relief from the zoning ordinance.

15 (i) Applications under this chapter which require relief which qualifies only as a
16 modification under § 45-24-46 and local ordinances shall proceed by filing an application under
17 this chapter and a request for a modification to the zoning enforcement officer. If such modification
18 is granted the application shall then proceed to be reviewed by the administrative officer pursuant
19 to the applicable requirements of this section. If the modification is denied or an objection is
20 received as set forth in § 45-24-46, such application shall proceed under unified development plan
21 review pursuant to § 45-23-50.1.

22 (ii) Applications under this section which require relief from the literal provisions of the
23 zoning ordinance in the form of a variance or special use permit, shall be reviewed by the planning
24 board under unified development plan review pursuant to § 45-23-50.1, and a request for review
25 shall accompany the preliminary plan application.

26 (e) Submission requirements. Any applicant requesting approval of a proposed
27 development under this chapter, shall submit to the administrative officer the items required by the
28 local regulations. Requests for relief from the literal requirements of the zoning ordinance and/or
29 for the issuance of special-use permits or use variances related to projects qualifying for
30 development plan review shall be submitted and reviewed under unified development review
31 pursuant to § 45-23-50.1.

32 (f) Certification. The application shall be certified, in writing, complete or incomplete by
33 the administrative officer within twenty-five (25) days or within fifteen (15) days if no street
34 creation or extension is required, and/or unified development review is not required, according to

1 the provisions of § 45-23-36(b). The running of the time period set forth in this section will be
2 deemed stopped upon the issuance of a written certificate of incompleteness of the application by
3 the administrative officer and will recommence upon the resubmission of a corrected application
4 by the applicant. However, in no event will the administrative officer be required to certify a
5 corrected submission as complete or incomplete less than ten (10) days after its resubmission. If
6 the administrative officer certifies the application as incomplete, the officer shall set forth in writing
7 with specificity the missing or incomplete items.

8 (g) Timeframes for decision.

9 (1) Administrative development plan approval. An application shall be approved, denied,
10 or approved with conditions within twenty-five (25) days of the certificate of completeness or
11 within any further time that is agreed to in writing by the applicant and administrative officer.

12 (2) Formal development plan approval.

13 (i) Preliminary plan. Unless the application is reviewed under unified development review,
14 the permitting authority will approve, deny, or approve with conditions, the preliminary plan within
15 sixty-five (65) days of certification of completeness, or within any further time that is agreed to by
16 the applicant and the permitting authority.

17 (ii) Final Plan. For formal development plan approval, the permitting authority shall
18 delegate final plan review and approval to the administrative officer. The officer will report its
19 actions in writing to the permitting authority at its next regular meeting, to be made part of the
20 record. Final plan shall be approved or denied within forty-five (45) days after the certification of
21 completeness, or within a further amount of time that may be consented to by the applicant, in
22 writing.

23 (h) Failure to act. Failure of the administrative officer or the permitting authority to act
24 within the period prescribed constitutes approval of the preliminary plan and a certificate of the
25 administrative officer as to the failure to act within the required time and the resulting approval
26 shall be issued on request of the application.

27 (i) Vested rights. Approval of development plan review shall expire two (2) years from the
28 date of approval unless, within that period, a plat or plan, in conformity with approval, and as
29 defined in this act, is submitted for signature and recording as specified in § 45-23-64. Validity
30 may be extended for an additional period upon application to the administrative officer or
31 permitting authority, whichever entity approved the application, upon a showing of good cause.

32 (j) Modifications and changes to plans.

33 (1) Minor changes, as defined in the local regulations, to the plans approved at any stage
34 may be approved administratively, by the administrative officer, whereupon final plan approval

1 may be issued. The changes may be authorized without an additional planning board meeting, at
2 the discretion of the administrative officer. All changes shall be made part of the permanent record
3 of the project application. This provision does not prohibit the administrative officer from
4 requesting recommendation from either the technical review committee or the permitting authority.
5 Denial of the proposed change(s) shall be referred to the permitting authority for review as a major
6 change.

7 (2) Major changes, as defined in the local regulations, to the plans approved at any stage
8 may be approved only by the permitting authority and must follow the same review and hearing
9 process required for approval of preliminary plans, which shall include a public hearing.

10 (3) The administrative officer shall notify the applicant in writing within fourteen (14) days
11 of submission of the final plan application if the administrative officer determines that there has
12 been a major change to the approved plans.

13 (k) Appeal. A decision under this section shall be considered an appealable decision
14 pursuant to § 45-23-71.

15 **45-23-50.1. ~~Special provisions — Unified development review~~ Special provisions --**
16 **Unified development review -- Effective January 1, 2024.**

17 (a) ~~When a~~ A municipal zoning ordinance ~~provides~~ shall provide for unified development
18 review pursuant to § 45-24-46.4, and the local regulations must include procedures for the filing,
19 review, and approval of applications, pursuant to § 45-24-46.4 and this section.

20 (b) Review of ~~variances and special use permits~~ projects submitted under the unified
21 development review provisions of the regulations shall adhere to the procedures, timeframes and
22 standards of the underlying category of the project as listed in § 45-23-36, but shall also include
23 the following procedures:

24 (1) Minor subdivisions and land-development projects. Except for dimensional relief
25 granted by modification as set forth in § 45-23-38, requests ~~Requests~~ for ~~relief from the literal~~
26 ~~requirements of the zoning ordinance~~ variances and/or for the issuance of special-use permits
27 related to minor subdivisions and land-development projects shall be submitted as part of the
28 application materials for the preliminary plan stage of review or if combined, for the first stage of
29 reviews. A public hearing on the application, including any variance and special-use permit
30 requests that meets the requirements of subsection (c) of this section shall be held prior to
31 consideration of the preliminary plan by the planning board or commission. The planning board or
32 commission shall conditionally approve or deny the request(s) for the variance(s) and/or special-
33 use permit(s) before considering the preliminary plan application for the minor subdivision or land-
34 development project. Approval of the variance(s) and/or special-use permit(s) shall be conditioned

1 on approval of the final plan of the minor subdivision or land-development project.

2 (2) Development plan review. Except for dimensional relief granted by modification as set
3 forth in § 45-23-38, requests for relief from the literal requirements of the zoning ordinance and/or
4 for the issuance of special-use permits related to minor subdivisions and land-development projects
5 shall be submitted as part of the application materials for the preliminary plan stage of review. A
6 public hearing on the application, including any variance and special-use permit requests that meets
7 the requirements of subsection (c) of this section shall be held prior to consideration of the
8 preliminary plan by the planning board or commission relevant permitting authority. The planning
9 board or commission authorized permitting authority shall conditionally approve or deny the
10 request(s) for the variance(s) and/or special-use permit(s) before considering the preliminary plan
11 application for the minor subdivision or land-development project. Approval of the variance(s)
12 and/or special-use permit(s) shall be conditioned on approval of the final plan of the minor
13 subdivision or land-development project.

14 ~~(2)~~(3) Major subdivisions and land-development projects — Master plan. Except for
15 dimensional relief granted by modification as set forth in § 45-23-39, requests Requests for relief
16 ~~from the literal requirements of the zoning ordinance~~ variances for relief from the literal
17 requirements of the zoning ordinance and/or for the issuance of a special-use permit related to
18 major subdivisions and land-development projects shall be submitted as part of the application
19 materials for the master plan stage of review, or if combined, the first stage of review. A public
20 hearing on the application, including any variance and special-use permit requests that meets the
21 requirements of subsection (c) of this section, shall be held prior to consideration of the master plan
22 by the planning board or commission. The planning board or commission shall conditionally
23 approve or deny the requests for the variance(s) and/or special-use permit(s) before considering the
24 master plan application for the major subdivision or land-development project. Approval of the
25 variance(s) and/or special-use permit(s) shall be conditioned on approval of the final plan of the
26 major subdivision or land-development project.

27 (3) Major subdivisions and land-development projects — Preliminary plan. During the
28 preliminary plan stage of review, applicants shall have the ability to request alteration of any
29 variance(s) and/or special-use permit(s) granted by the planning board or commission during the
30 master plan stage of review, and/or to request new variance(s) and/or special-use permit(s), based
31 on the outcomes of the more detailed planning and design necessary for the preliminary plan. If
32 necessary, the applicant shall submit such requests and all supporting documentation along with
33 the preliminary plan application materials. If the applicant requests new or additional zoning relief
34 at this stage a A public hearing on the application, ~~including any alterations and new requests,~~ that

1 meets the requirements of subsection (c) of this section, shall be held prior to consideration of the
2 preliminary plan by the planning board or commission. The planning board or commission shall
3 conditionally approve, amend, or deny the requests for alteration(s), new variance(s) and/or new
4 special-use permit(s), before considering the preliminary plan application for the major subdivision
5 or land-development project. Approval of the alteration(s), new variance(s), and/or new special-
6 use permit(s) shall be conditioned on approval of the final plan of the major subdivision or land-
7 development project. If the planning board or commission denies the request for alteration(s), new
8 variance(s), and/or new special-use permit(s), the planning board shall have the option of
9 remanding the application back to the master plan stage of review. Alternatively, if the planning
10 board or commission denies the request for alteration(s), new variance(s), and/or new special-use
11 permit(s), the applicant may consent to an extension of the decision period mandated by § 45-23-
12 41(f) so that additional information can be provided and reviewed by the board or commission.

13 ~~(c)~~ Decision. The time periods by which the planning board or commission must
14 approve or deny applications for variances and special-use permits under the unified development
15 review provisions of the local regulations shall be the same as the time periods by which the board
16 must make a decision on the applicable review stage of the ~~subdivision or land-development~~
17 category of project under review.

18 ~~(e)(d)~~ Unless otherwise provided in this chapter all ~~All-subdivision and land-development~~
19 applications ~~that include requests for variances and/or special-use permits submitted under the~~
20 ~~development review provisions of the regulations~~ under this section shall require a ~~singular~~ single
21 public hearing, held pursuant to subsection (b) of this section. ~~All such~~ The public ~~hearings~~ hearing
22 must meet the following requirements:

23 (1) Public hearing notice shall adhere to the requirements found in § 45-23-42(b).

24 (2) The notice area for notice of the public hearing shall be specified in the local
25 regulations, and shall, at a minimum, include all property located in or within not less than two
26 hundred feet (200') of the perimeter of the area included in the subdivision and/or land-development
27 project. Notice of the public hearing shall be sent by the administrative officer to the administrative
28 officer of an adjacent municipality if: (1) The notice area extends into the adjacent municipality; or
29 (2) The development site extends into the adjacent municipality; or (3) There is a potential for
30 significant negative impact on the adjacent municipality. Additional notice within watersheds shall
31 also be sent as required in § 45-23-53(b) and (c).

32 (3) Public notice shall indicate that dimensional variance(s), use variance(s) and/or special-
33 use permit(s) are to be considered for the subdivision and/or land-development project.

34 (4) The cost of all public notice is to be borne by the applicant.

1 ~~(d)~~(e) The time periods by which the ~~planning board or commission~~ permitting authority
2 must approve, approve with conditions or deny requests for variances and special-use permits under
3 the unified development review provisions of a zoning ordinance shall be the same as the time
4 periods by which the board must make a decision on the applicable review stage of the ~~subdivision~~
5 ~~or land development~~ underlying type of project under review.

6 (f) The expirations period of an approval of a variance or special use permit granted under
7 this section shall be the same as those set forth in the statute for the underlying type of project under
8 review.

9 ~~(e) Requests~~ (g) Decisions under this section, including requests for the variance(s) and/or
10 special-use permits that are denied by ~~the planning board or commission~~ permitting authority may
11 be appealed ~~to the board of appeal~~ pursuant to § ~~45-23-66~~ 45-23-71.

12 **45-23-55. Administration — The administrative officer Administration -- The**
13 **administrative officer -- Effective January 1, 2024.**

14 (a) Local administration of the local regulations is under the direction of the administrative
15 officer(s), who reports to the planning board.

16 (b) The local regulations specify the process of appointment and the responsibilities of the
17 administrative officer(s) who oversees and coordinates the review, approval, recording and
18 enforcement provisions of the local regulations. The administrative officer(s) serves as the chair of
19 the technical review committee, where established. The local regulations state minimum
20 qualifications for this position regarding appropriate education, training or experience in land use
21 planning and site plan review.

22 (c) The administrative officer(s) is responsible for coordinating reviews of proposed land
23 development projects and subdivisions with adjacent municipalities as is necessary to be consistent
24 with applicable federal, state and local laws and as directed by the planning board.

25 (d) The administrative officer(s) has the authority to issue approvals and all other authority
26 where specifically set forth in this chapter.

27 ~~(d)~~(e) Enforcement of the local regulations is under the direction of the administrative
28 officer(s). The officer(s) is responsible for coordinating the enforcement efforts of the zoning
29 enforcement officer, the building inspector, planning department staff, the city or town engineer,
30 the department of public works and other local officials responsible for the enforcement or carrying
31 out of discrete elements of the regulations.

32 **45-23-56. Administration — Technical review committee Administration -- Technical**
33 **review committee -- Effective January 1, 2024.**

34 (a) The ~~planning board may~~ municipality may establish a technical review committee(s) of

1 not fewer than three (3) members, to conduct technical reviews of applications subject to their
2 jurisdiction. ~~Where a technical review committee is established, the~~ The administrative officer shall
3 serve as chairperson. Membership of this ~~subcommittee~~ committee, to be known as the technical
4 review committee, or design review committee, may include, but is not limited to, members of the
5 planning board, planning department staff, other municipal staff representing departments with
6 responsibility for review or enforcement, conservation commissioners, public members, or other
7 duly appointed local public commission members.

8 (b) ~~If the planning board establishes a technical review committee, the~~ If a municipality
9 establishes a technical review committee or committees, the planning board shall adopt written
10 procedures establishing the committee's responsibilities.

11 (c) The technical review committee(s) has the authority to issue approvals, make findings
12 and provide recommendations as specifically set forth in this chapter.

13 ~~(e)~~(d) Reports of the technical review committee to the planning board shall be in writing
14 and kept as part of the permanent documentation on the development application. In no case shall
15 the recommendations of the technical review committee be binding on the planning board in its
16 activities or decisions. All reports of the technical review committee shall be made available to the
17 applicant prior to the meeting of the planning board meeting at which the reports are first
18 considered.

19 ~~45-23-62. Procedure — Waivers — Modifications and reinstatement of plans~~
20 **Procedure -- Waivers -- Modifications and reinstatement of plans -- Effective January 1, 2024.**

21 (a) ~~Waiver of development plan approval.~~

22 ~~(1) A planning board may waive requirements for development plan approval where there~~
23 ~~is a change in use or occupancy and no extensive construction of improvements is sought. The~~
24 ~~waiver may be granted only by a decision by the planning board finding that the use will not affect~~
25 ~~existing drainage, circulation, relationship of buildings to each other, landscaping, buffering,~~
26 ~~lighting and other considerations of development plan approval, and that the existing facilities do~~
27 ~~not require upgraded or additional site improvements.~~

28 ~~(2) The application for a waiver of development plan approval review shall include~~
29 ~~documentation, as required by the planning board, on prior use of the site, the proposed use, and its~~
30 ~~impact.~~

31 ~~(b)~~ Waiver and/or modification of requirements. The planning board has the power to grant
32 waivers and/or modifications from the requirements for land development and subdivision approval
33 as may be reasonable and within the general purposes and intents of the provisions for local
34 regulations. The only grounds for waivers and/or modifications are where the literal enforcement

1 of one or more provisions of the regulations is impracticable and will exact undue hardship because
2 of peculiar conditions pertaining to the land in question or where waiver and/or modification is in
3 the best interest of good planning practice and/or design as evidenced by consistency with the
4 municipality's comprehensive plan and zoning ordinance.

5 ~~(b)~~ Local regulations shall include provisions for [an applicant to seek](#) reinstatement of
6 development applications when the deadlines set in the local regulations and approval agreements
7 for particular actions are exceeded and the development application or approval is therefore
8 rendered invalid. Where an approval has expired, the local regulations shall specify the point in the
9 review to which the application may be reinstated.

10 ~~(c)~~ Decision. The planning board shall approve, approve with conditions or deny the
11 request for either a waiver or modification as described in subsection (a) or (b) in this section,
12 according to the requirements of § 45-23-63.

13 **~~45-23-67. Appeals — Process of appeal~~ Appeals from decision of administrative**
14 **~~officer -- Effective January 1, 2024.~~**

15 (a) [Process and timing. Local regulations adopted pursuant to this chapter shall provide](#)
16 [that an appeal from any decision of the administrative officer charged in the regulations with](#)
17 [enforcement of any provisions, except as provided in this section, may be taken to the board of](#)
18 [appeal by an aggrieved party as set forth in this section. Decisions by the administrative officer](#)
19 [approving or denying projects under §§ 45-23-38 or 45-23-50 shall not be subject to this section](#)
20 [and shall proceed directly to Superior Court as set forth in § 45-23-71.](#)

21 (1) An appeal to the board of appeal from a decision or action of the ~~planning board or~~
22 administrative officer may be taken by an aggrieved party to the extent provided in § 45-23-66.
23 The appeal must be taken within twenty (20) days after the decision has been recorded in the city's
24 or town's land evidence records and posted in the office of the city or town clerk.

25 ~~(2)~~ The appeal shall be in writing and state clearly and unambiguously the issue or
26 decision that is being appealed, the reason for the appeal, and the relief sought. The appeal shall
27 either be sent by certified mail, with a return receipt requested, or be hand-delivered to the board
28 of appeal. The city or town clerk shall accept delivery of an appeal on behalf of the board of appeal,
29 if the local regulations governing land development and subdivision review so provide.

30 ~~(3)~~ Upon receipt of an appeal, the board of appeal shall require the ~~planning board or~~
31 administrative officer to immediately transmit to the board of appeal, all papers, documents and
32 plans, or a certified copy thereof, constituting the record of the action which is being appealed.

33 [\(b\) Stay. An appeal stays all proceedings in furtherance of the action being appealed.](#)

34 [\(c\) Hearing.](#)

1 (1) The board of appeal shall hold a hearing on the appeal within forty-five (45) days of
2 the receipt of the appeal, give public notice of the hearing, as well as due notice to the parties of
3 interest. At the hearing the parties may appear in person, or be represented by an agent or attorney.
4 The board shall render a decision within ten (10) days of the close of the public hearing. The cost
5 of any notice required for the hearing shall be borne by the applicant.

6 (2) The board of appeal shall only hear appeals of the actions of an administrative officer
7 at a meeting called especially for the purpose of hearing the appeals and which has been so
8 advertised.

9 (3) The hearing, which may be held on the same date and at the same place as a meeting
10 of the zoning board of review, must be held as a separate meeting from any zoning board of review
11 meeting. Separate minutes and records of votes as required by § 45-23-70(d) shall be maintained
12 by the board of appeal.

13 (d) Standards of Review.

14 (1) As established by this chapter, in instances of a board of appeal's review of an
15 administrative officer's decision on matters subject to this chapter, the board of appeal shall not
16 substitute its own judgment for that of the administrative officer but must consider the issue upon
17 the findings and record of the administrative officer. The board of appeal shall not reverse a
18 decision of the administrative officer except on a finding of prejudicial procedural error, clear error,
19 or lack of support by the weight of the evidence in the record.

20 (2) The concurring vote of three (3) of the five (5) members of the board of appeal sitting
21 at a hearing, is necessary to reverse any decision of the administrative officer.

22 (3) In the instance where the board of appeal overturns a decision of the administrative
23 officer, the proposed project application is remanded to the administrative officer, at the stage of
24 processing from which the appeal was taken, for further proceedings before the administrative
25 officer and/or for the final disposition, which shall be consistent with the board of appeal's decision.

26 (4) The board of appeal shall keep complete records of all proceedings including a record
27 of all votes taken, and shall put all decisions on appeals in writing. The board of appeal shall include
28 in the written record the reasons for each decision.

29 **45-23-71. Appeals to the superior court Appeals to the superior court -- Effective**
30 **January 1, 2024.**

31 (a) An aggrieved party may appeal a decision of the board of appeal, a decision of an
32 administrative officer made pursuant to §§ 45-23-38 or §45-23-50 where authorized to approve or
33 deny an application, a decision of the technical review committee, where authorized to approve or
34 deny an application, or a decision of the planning board, to the superior court for the county in

1 which the municipality is situated by filing a complaint stating the reasons ~~of~~ for the appeal within
2 twenty (20) days after the decision has been recorded and posted in the office of the city or town
3 clerk. Recommendations by any public body or officer under this chapter are not appealable under
4 this section. The ~~board of appeal~~ authorized permitting authority shall file the original documents
5 acted upon by it and constituting the record of the case appealed from, or certified copies of the
6 original documents, together with any other facts that may be pertinent, with the clerk of the court
7 within thirty (30) days after being served with a copy of the complaint. When the complaint is filed
8 by someone other than the original applicant or appellant, the original applicant or appellant and
9 the ~~members of the~~ planning board shall be made parties to the proceedings. No responsive pleading
10 is required for an appeal filed pursuant to this section. The appeal does not stay proceedings upon
11 the decision appealed from, but the court may, in its discretion, grant a stay on appropriate terms
12 and make any other orders that it deems necessary for an equitable disposition of the appeal.

13 (b) Appeals from a decision granting or denying approval of a final plan shall be limited to
14 elements of the approval or disapproval not contained in the decision reached by the planning board
15 at the preliminary stage; providing that, a public hearing has been held on the plan, if required
16 pursuant to this chapter.

17 (c) The review shall be conducted by the superior court without a jury. The court shall
18 consider the record of the hearing before the planning board and, if it appear to the court that
19 additional evidence is necessary for the proper disposition of the matter, it may allow any party to
20 the appeal to present evidence in open court, which evidence, along with the report, shall constitute
21 the record upon which the determination of the court shall be made.

22 ~~(e)~~(d) The court shall not substitute its judgment for that of the planning board as to the
23 weight of the evidence on questions of fact. The court may affirm the decision of the board of
24 appeal or remand the case for further proceedings, or may reverse or modify the decision if
25 substantial rights of the appellant have been prejudiced because of findings, inferences, conclusions
26 or decisions which are:

- 27 (1) In violation of constitutional, statutory, ordinance or planning board regulations
28 provisions;
- 29 (2) In excess of the authority granted to the planning board by statute or ordinance;
- 30 (3) Made upon unlawful procedure;
- 31 (4) Affected by other error of law;
- 32 (5) Clearly erroneous in view of the reliable, probative, and substantial evidence of the
33 whole record; or
- 34 (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted

1 exercise of discretion.

2 SECTION 2. Sections 45-24-31, 45-24-46.4, 45-24-47, 45-24-49 and 45-24-58 of the
3 General Laws in Chapter 45-24 entitled "Zoning Ordinances" are hereby amended to read as
4 follows:

5 **45-24-31. Definitions Definitions --Effective January 1, 2024.**

6 Where words or terms used in this chapter are defined in § 45-22.2-4 or 45-23-32, they
7 have the meanings stated in that section. In addition, the following words have the following
8 meanings. Additional words and phrases may be used in developing local ordinances under this
9 chapter; however, the words and phrases defined in this section are controlling in all local
10 ordinances created under this chapter:

11 (1) Abutter. One whose property abuts, that is, adjoins at a border, boundary, or point with
12 no intervening land.

13 (2) Accessory dwelling unit (ADU). A residential living unit on the same parcel where the
14 primary use is a legally established single-unit or multi-unit dwelling. An ADU provides complete
15 independent living facilities for one or more persons. It may take various forms including, but not
16 limited to: a detached unit; a unit that is part of an accessory structure, such as a detached garage;
17 or a unit that is part of an expanded or remodeled primary dwelling.

18 (3) Accessory use. A use of land or of a building, or portion thereof, customarily incidental
19 and subordinate to the principal use of the land or building. An accessory use may be restricted to
20 the same lot as the principal use. An accessory use shall not be permitted without the principal use
21 to which it is related.

22 (4) Aggrieved party. An aggrieved party, for purposes of this chapter, shall be:

23 (i) Any person, or persons, or entity, or entities, who or that can demonstrate that his, her,
24 or its property will be injured by a decision of any officer or agency responsible for administering
25 the zoning ordinance of a city or town; or

26 (ii) Anyone requiring notice pursuant to this chapter.

27 (5) Agricultural land. "Agricultural land," as defined in § 45-22.2-4.

28 (6) Airport hazard area. "Airport hazard area," as defined in § 1-3-2.

29 (7) Applicant. An owner, or authorized agent of the owner, submitting an application or
30 appealing an action of any official, board, or agency.

31 (8) Application. The completed form, or forms, and all accompanying documents, exhibits,
32 and fees required of an applicant by an approving authority for development review, approval, or
33 permitting purposes.

34 (9) Buffer. Land that is maintained in either a natural or landscaped state, and is used to

1 screen or mitigate the impacts of development on surrounding areas, properties, or rights-of-way.

2 (10) Building. Any structure used or intended for supporting or sheltering any use or
3 occupancy.

4 (11) Building envelope. The three-dimensional space within which a structure is permitted
5 to be built on a lot and that is defined by regulations governing building setbacks, maximum height,
6 and bulk; by other regulations; or by any combination thereof.

7 (12) Building height. For a vacant parcel of land, building height shall be measured from
8 the average, existing-grade elevation where the foundation of the structure is proposed. For an
9 existing structure, building height shall be measured from average grade taken from the outermost
10 four (4) corners of the existing foundation. In all cases, building height shall be measured to the top
11 of the highest point of the existing or proposed roof or structure. This distance shall exclude spires,
12 chimneys, flag poles, and the like. For any property or structure located in a special flood hazard
13 area, as shown on the official FEMA Flood Insurance Rate Maps (FIRMs), or depicted on the
14 Rhode Island coastal resources management council (CRMC) suggested design elevation three foot
15 (3') sea level rise (CRMC SDE 3 SLR) map as being inundated during a one-hundred-year (100)
16 storm, the greater of the following amounts, expressed in feet, shall be excluded from the building
17 height calculation:

18 (i) The base flood elevation on the FEMA FIRM plus up to five feet (5') of any utilized or
19 proposed freeboard, less the average existing grade elevation; or

20 (ii) The suggested design elevation as depicted on the CRMC SDE 3 SLR map during a
21 one-hundred-year (100) storm, less the average existing grade elevation. CRMC shall reevaluate
22 the appropriate suggested design elevation map for the exclusion every ten (10) years, or as
23 otherwise necessary.

24 (13) Cluster. A site-planning technique that concentrates buildings in specific areas on the
25 site to allow the remaining land to be used for recreation, common open space, and/or preservation
26 of environmentally, historically, culturally, or other sensitive features and/or structures. The
27 techniques used to concentrate buildings shall be specified in the ordinance and may include, but
28 are not limited to, reduction in lot areas, setback requirements, and/or bulk requirements, with the
29 resultant open land being devoted by deed restrictions for one or more uses. Under cluster
30 development, there is no increase in the number of lots that would be permitted under conventional
31 development except where ordinance provisions include incentive bonuses for certain types or
32 conditions of development.

33 (14) Common ownership. Either:

34 (i) Ownership by one or more individuals or entities in any form of ownership of two (2)

1 or more contiguous lots; or

2 (ii) Ownership by any association (ownership may also include a municipality) of one or
3 more lots under specific development techniques.

4 (15) Community residence. A home or residential facility where children and/or adults
5 reside in a family setting and may or may not receive supervised care. This does not include halfway
6 houses or substance-use-disorder-treatment facilities. This does include, but is not limited to, the
7 following:

8 (i) Whenever six (6) or fewer children or adults with intellectual and/or developmental
9 disability reside in any type of residence in the community, as licensed by the state pursuant to
10 chapter 24 of title 40.1. All requirements pertaining to local zoning are waived for these community
11 residences;

12 (ii) A group home providing care or supervision, or both, to not more than eight (8) persons
13 with disabilities, and licensed by the state pursuant to chapter 24 of title 40.1;

14 (iii) A residence for children providing care or supervision, or both, to not more than eight
15 (8) children, including those of the caregiver, and licensed by the state pursuant to chapter 72.1 of
16 title 42;

17 (iv) A community transitional residence providing care or assistance, or both, to no more
18 than six (6) unrelated persons or no more than three (3) families, not to exceed a total of eight (8)
19 persons, requiring temporary financial assistance, and/or to persons who are victims of crimes,
20 abuse, or neglect, and who are expected to reside in that residence not less than sixty (60) days nor
21 more than two (2) years. Residents will have access to, and use of, all common areas, including
22 eating areas and living rooms, and will receive appropriate social services for the purpose of
23 fostering independence, self-sufficiency, and eventual transition to a permanent living situation.

24 (16) Comprehensive plan. The comprehensive plan adopted and approved pursuant to
25 chapter 22.2 of this title and to which any zoning adopted pursuant to this chapter shall be in
26 compliance.

27 (17) Day care — Daycare center. Any other daycare center that is not a family daycare
28 home.

29 (18) Day care — Family daycare home. Any home, other than the individual's home, in
30 which day care in lieu of parental care or supervision is offered at the same time to six (6) or less
31 individuals who are not relatives of the caregiver, but may not contain more than a total of eight
32 (8) individuals receiving day care.

33 (19) Density, residential. The number of dwelling units per unit of land.

34 (20) Development. The construction, reconstruction, conversion, structural alteration,

1 relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance;
2 or any change in use, or alteration or extension of the use, of land.

3 (21) Development plan review. ~~The process whereby authorized, local officials review the~~
4 ~~site plans, maps, and other documentation of a development to determine the compliance with the~~
5 ~~stated purposes and standards of the ordinance.~~ [See §§ 45-23-32 and 45-23-50.](#)

6 (22) District. See “zoning-use district.”

7 (23) Drainage system. A system for the removal of water from land by drains, grading, or
8 other appropriate means. These techniques may include runoff controls to minimize erosion and
9 sedimentation during and after construction or development; the means for preserving surface and
10 groundwaters; and the prevention and/or alleviation of flooding.

11 (24) Dwelling unit. A structure, or portion of a structure, providing complete, independent
12 living facilities for one or more persons, including permanent provisions for living, sleeping, eating,
13 cooking, and sanitation, and containing a separate means of ingress and egress.

14 (25) Extractive industry. The extraction of minerals, including: solids, such as coal and
15 ores; liquids, such as crude petroleum; and gases, such as natural gases. The term also includes
16 quarrying; well operation; milling, such as crushing, screening, washing, and flotation; and other
17 preparation customarily done at the extraction site or as a part of the extractive activity.

18 (26) Family member. A person, or persons, related by blood, marriage, or other legal
19 means, including, but not limited to, a child, parent, spouse, mother-in-law, father-in-law,
20 grandparents, grandchildren, domestic partner, sibling, care recipient, or member of the household.

21 (27) Floating zone. An unmapped zoning district adopted within the ordinance that is
22 established on the zoning map only when an application for development, meeting the zone
23 requirements, is approved.

24 (28) Floodplains, or Flood hazard area. As defined in § 45-22.2-4.

25 (29) Freeboard. A factor of safety expressed in feet above the base flood elevation of a
26 flood hazard area for purposes of floodplain management. Freeboard compensates for the many
27 unknown factors that could contribute to flood heights, such as wave action, bridge openings, and
28 the hydrological effect of urbanization of the watershed.

29 (30) Groundwater. “Groundwater” and associated terms, as defined in § 46-13.1-3.

30 (31) Halfway house. A residential facility for adults or children who have been
31 institutionalized for criminal conduct and who require a group setting to facilitate the transition to
32 a functional member of society.

33 (32) Hardship. See § 45-24-41.

34 (33) Historic district or historic site. As defined in § 45-22.2-4.

1 (34) Home occupation. Any activity customarily carried out for gain by a resident,
2 conducted as an accessory use in the resident’s dwelling unit.

3 (35) Household. One or more persons living together in a single-dwelling unit, with
4 common access to, and common use of, all living and eating areas and all areas and facilities for
5 the preparation and storage of food within the dwelling unit. The term “household unit” is
6 synonymous with the term “dwelling unit” for determining the number of units allowed within any
7 structure on any lot in a zoning district. An individual household shall consist of any one of the
8 following:

9 (i) A family, which may also include servants and employees living with the family; or

10 (ii) A person or group of unrelated persons living together. The maximum number may be
11 set by local ordinance, but this maximum shall not be less than three (3).

12 (36) Incentive zoning. The process whereby the local authority may grant additional
13 development capacity in exchange for the developer’s provision of a public benefit or amenity as
14 specified in local ordinances.

15 (37) Infrastructure. Facilities and services needed to sustain residential, commercial,
16 industrial, institutional, and other activities.

17 (38) Land-development project. As defined in § 45-23-32. ~~A project in which one or more~~
18 ~~lots, tracts, or parcels of land are developed or redeveloped as a coordinated site for one or more~~
19 ~~uses, units, or structures, including, but not limited to, planned development or cluster development~~
20 ~~for residential, commercial, institutional, recreational, open space, or mixed uses as provided in the~~
21 ~~zoning ordinance.~~

22 (39) Lot. Either:

23 (i) The basic development unit for determination of lot area, depth, and other dimensional
24 regulations; or

25 (ii) A parcel of land whose boundaries have been established by some legal instrument,
26 such as a recorded deed or recorded map, and that is recognized as a separate legal entity for
27 purposes of transfer of title.

28 (40) Lot area. The total area within the boundaries of a lot, excluding any street right-of-
29 way, usually reported in acres or square feet.

30 (41) Lot area, minimum. The smallest land area established by the local zoning ordinance
31 upon which a use, building, or structure may be located in a particular zoning district.

32 (42) Lot building coverage. That portion of the lot that is, or may be, covered by buildings
33 and accessory buildings.

34 (43) Lot depth. The distance measured from the front lot line to the rear lot line. For lots

1 where the front and rear lot lines are not parallel, the lot depth is an average of the depth.

2 (44) Lot frontage. That portion of a lot abutting a street. A zoning ordinance shall specify
3 how noncontiguous frontage will be considered with regard to minimum frontage requirements.

4 (45) Lot line. A line of record, bounding a lot, that divides one lot from another lot or from
5 a public or private street or any other public or private space and shall include:

6 (i) Front: the lot line separating a lot from a street right-of-way. A zoning ordinance shall
7 specify the method to be used to determine the front lot line on lots fronting on more than one
8 street, for example, corner and through lots;

9 (ii) Rear: the lot line opposite and most distant from the front lot line, or in the case of
10 triangular or otherwise irregularly shaped lots, an assumed line at least ten feet (10') in length
11 entirely within the lot, parallel to and at a maximum distance from, the front lot line; and

12 (iii) Side: any lot line other than a front or rear lot line. On a corner lot, a side lot line may
13 be a street lot line, depending on requirements of the local zoning ordinance.

14 (46) Lot size, minimum. Shall have the same meaning as “minimum lot area” defined
15 herein.

16 (47) Lot, through. A lot that fronts upon two (2) parallel streets, or that fronts upon two (2)
17 streets that do not intersect at the boundaries of the lot.

18 (48) Lot width. The horizontal distance between the side lines of a lot measured at right
19 angles to its depth along a straight line parallel to the front lot line at the minimum front setback
20 line.

21 (49) Mere inconvenience. See § 45-24-41.

22 (50) Mixed use. A mixture of land uses within a single development, building, or tract.

23 (51) Modification. Permission granted and administered by the zoning enforcement officer
24 of the city or town, and pursuant to the provisions of this chapter to grant a dimensional variance
25 other than lot area requirements from the zoning ordinance to a limited degree as determined by
26 the zoning ordinance of the city or town, but not to exceed twenty-five percent (25%) of each of
27 the applicable dimensional requirements.

28 (52) Nonconformance. A building, structure, or parcel of land, or use thereof, lawfully
29 existing at the time of the adoption or amendment of a zoning ordinance and not in conformity with
30 the provisions of that ordinance or amendment. Nonconformance is of only two (2) types:

31 (i) Nonconforming by use: a lawfully established use of land, building, or structure that is
32 not a permitted use in that zoning district. A building or structure containing more dwelling units
33 than are permitted by the use regulations of a zoning ordinance is nonconformity by use; or

34 (ii) Nonconforming by dimension: a building, structure, or parcel of land not in compliance

1 with the dimensional regulations of the zoning ordinance. Dimensional regulations include all
2 regulations of the zoning ordinance, other than those pertaining to the permitted uses. A building
3 or structure containing more dwelling units than are permitted by the use regulations of a zoning
4 ordinance is nonconforming by use; a building or structure containing a permitted number of
5 dwelling units by the use regulations of the zoning ordinance, but not meeting the lot area per
6 dwelling unit regulations, is nonconforming by dimension.

7 (53) Overlay district. A district established in a zoning ordinance that is superimposed on
8 one or more districts or parts of districts. The standards and requirements associated with an overlay
9 district may be more or less restrictive than those in the underlying districts consistent with other
10 applicable state and federal laws.

11 (54) Performance standards. A set of criteria or limits relating to elements that a particular
12 use or process must either meet or may not exceed.

13 (55) Permitted use. A use by right that is specifically authorized in a particular zoning
14 district.

15 (56) Planned development. A “land-development project,” as defined in subsection (38),
16 and developed according to plan as a single entity and containing one or more structures or uses
17 with appurtenant common areas.

18 (57) Plant agriculture. The growing of plants for food or fiber, to sell or consume.

19 (58) Preapplication conference. A review meeting of a proposed development held between
20 applicants and reviewing agencies as permitted by law and municipal ordinance, before formal
21 submission of an application for a permit or for development approval.

22 (59) Setback line or lines. A line, or lines, parallel to a lot line at the minimum distance of
23 the required setback for the zoning district in which the lot is located that establishes the area within
24 which the principal structure must be erected or placed.

25 (60) Site plan. The development plan for one or more lots on which is shown the existing
26 and/or the proposed conditions of the lot.

27 (61) Slope of land. The grade, pitch, rise, or incline of the topographic landform or surface
28 of the ground.

29 (62) Special use. A regulated use that is permitted pursuant to the special-use permit issued
30 by the authorized governmental entity, pursuant to § 45-24-42. Formerly referred to as a special
31 exception.

32 (63) Structure. A combination of materials to form a construction for use, occupancy, or
33 ornamentation, whether installed on, above, or below the surface of land or water.

34 (64) Substandard lot of record. Any lot lawfully existing at the time of adoption or

1 amendment of a zoning ordinance and not in conformance with the dimensional or area provisions
2 of that ordinance.

3 (65) Use. The purpose or activity for which land or buildings are designed, arranged, or
4 intended, or for which land or buildings are occupied or maintained.

5 (66) Variance. Permission to depart from the literal requirements of a zoning ordinance.
6 An authorization for the construction or maintenance of a building or structure, or for the
7 establishment or maintenance of a use of land, that is prohibited by a zoning ordinance. There are
8 only two (2) categories of variance, a use variance or a dimensional variance.

9 (i) Use variance. Permission to depart from the use requirements of a zoning ordinance
10 where the applicant for the requested variance has shown by evidence upon the record that the
11 subject land or structure cannot yield any beneficial use if it is to conform to the provisions of the
12 zoning ordinance.

13 (ii) Dimensional variance. Permission to depart from the dimensional requirements of a
14 zoning ordinance, where the applicant for the requested relief has shown, by evidence upon the
15 record, that there is no other reasonable alternative way to enjoy a legally permitted beneficial use
16 of the subject property unless granted the requested relief from the dimensional regulations.
17 However, the fact that a use may be more profitable or that a structure may be more valuable after
18 the relief is granted are not grounds for relief.

19 (67) Waters. As defined in § 46-12-1(23).

20 (68) Wetland, coastal. As defined in § 45-22.2-4.

21 (69) Wetland, freshwater. As defined in § 2-1-20.

22 (70) Zoning certificate. A document signed by the zoning-enforcement officer, as required
23 in the zoning ordinance, that acknowledges that a use, structure, building, or lot either complies
24 with, or is legally nonconforming to, the provisions of the municipal zoning ordinance or is an
25 authorized variance or modification therefrom.

26 (71) Zoning map. The map, or maps, that are a part of the zoning ordinance and that
27 delineate the boundaries of all mapped zoning districts within the physical boundary of the city or
28 town.

29 (72) Zoning ordinance. An ordinance enacted by the legislative body of the city or town
30 pursuant to this chapter and in the manner providing for the adoption of ordinances in the city or
31 town's legislative or home rule charter, if any, that establish regulations and standards relating to
32 the nature and extent of uses of land and structures; that is consistent with the comprehensive plan
33 of the city or town as defined in chapter 22.2 of this title; that includes a zoning map; and that
34 complies with the provisions of this chapter.

1 (73) Zoning-use district. The basic unit in zoning, either mapped or unmapped, to which a
2 uniform set of regulations applies, or a uniform set of regulations for a specified use. Zoning-use
3 districts include, but are not limited to: agricultural, commercial, industrial, institutional, open
4 space, and residential. Each district may include sub-districts. Districts may be combined.

5 ~~45-24-46.4. Special provisions — Unified development review~~ **Special provisions --**
6 **Unified development review -- Effective January 1, 2024.**

7 (a) A zoning ordinance ~~may~~ shall provide that review and ~~approval of~~ decision on
8 ~~dimensional~~ variances, ~~use variances~~, and/or special-use permits for properties undergoing review
9 which qualifies for unified development review by the ~~planning board or commission as land~~
10 ~~development or subdivision projects pursuant to § 45-23-36~~ authorized permitting authority, be
11 conducted and decided by the ~~planning board or commission~~ authorized permitting authority. This
12 process is to be known as unified development review.

13 (b) ~~If unified development review is desired, such review must be enabled within the~~
14 ~~zoning ordinance, in accordance with this section, and the~~ The local ~~subdivision and land~~
15 ~~development regulations must be brought into conformance;~~ ordinance and regulation shall provide
16 for the application and review process pursuant to § 45-23-50.1.

17 (c) A zoning ordinance that provides for unified development review shall:

18 (1) ~~Specify which types of zoning approval~~ Empower the ~~planning board or commission~~
19 ~~shall be empowered~~ authorized permitting authority to grant, grant with conditions or deny zoning
20 relief for which types of projects ; and

21 (2) Provide that any person, group, agency, or corporation that files an application for ~~an~~
22 ~~included land development or subdivision~~ a project under this section ~~may~~ shall also file specific
23 requests for relief from the literal requirements of a zoning ordinance on the subject property,
24 pursuant to § 45-24-41, and/or for the issuance of special-use permits for the subject property,
25 pursuant to § 45-24-42, by including such within the application to the administrative officer ~~of the~~
26 ~~planning board or commission~~ with the other required application materials, pursuant to § 45-23-
27 50.1(b).

28 (d) ~~A zoning ordinance that provides for unified development review may specify design,~~
29 ~~use, public benefit, or other relevant criteria that must be met in order for an application to qualify~~
30 ~~for review under the unified development review provisions of the zoning ordinance. Certification~~
31 ~~as to whether an application meets the established criteria shall be conducted in conjunction with,~~
32 ~~and following the time lines outlined for, certification of completeness of the application, pursuant~~
33 ~~to §§ 45-23-38(c), 45-23-40(b), or 45-23-41(b).~~

34 (e)(d) All land development and subdivision applications that include requests for

1 variances and/or special-use permits submitted pursuant to this section shall require a public
2 hearing that meets the requirements of §§ 45-23-50.1~~(b)~~ and 45-23-50.1~~(e)~~.

3 ~~(f)(e)~~ In granting requests for dimensional and use variances, the ~~planning board or~~
4 ~~commission~~ authorized permitting authority shall be bound to the requirements of §§ ~~45-24-41(d)~~
5 ~~and 45-24-41(e)~~ § 45-24-41 relative to entering evidence into the record in satisfaction of the
6 applicable standards.

7 ~~(e)(f)~~ In reviewing requests for special-use permits, the ~~planning board or commission~~
8 authorized permitting authority shall be bound to the conditions and procedures under which a
9 special-use permit may be issued and the criteria for the issuance of such permits, as found within
10 the zoning ordinance pursuant to §§ ~~45-24-42(b)(1), 45-24-42(b)(2) and 45-24-42(b)(3)~~ § 45-24-
11 42, and shall be required to provide for the recording of findings of fact and written decisions as
12 described in the zoning ordinance pursuant to ~~§ 45-24-42(b)(5)~~ § 45-24-42.

13 ~~(h)(g)~~ An appeal from any decision made pursuant to this section may be taken pursuant to
14 ~~§ 45-23-66~~ § 45-24-71.

15 **45-24-47. ~~Special provisions -- Land development projects~~ Special provisions -- Land**
16 **development projects -- Effective January 1, 2024.**

17 (a) A zoning ordinance ~~may~~ shall provide for land development projects which ~~are projects~~
18 ~~in which one or more lots, tracts, or parcels of land are to be developed or redeveloped as a~~
19 ~~coordinated site for a complex of uses, units, or structures, including, but not limited to, planned~~
20 ~~development and/or cluster development for residential, commercial, institutional, industrial,~~
21 ~~recreational, open space, and/or mixed uses as may be provided for in the zoning ordinance~~ are
22 defined in § 45-23-32.

23 (b) A zoning ordinance adopted pursuant to this chapter which permits or requires the
24 creation of land development projects in one or more zoning districts shall require that any land
25 development project ~~is referred to the city or town planning board or commission for approval~~ shall
26 be reviewed, in accordance with the procedures established by chapter 23 of this title, including
27 those for appeal and judicial review, and with any ordinances or regulations adopted pursuant to
28 the procedures, whether or not the land development project constitutes a “subdivision”, as defined
29 in chapter 23 of this title. No land development project shall be initiated until a plan of the project
30 has been submitted ~~to the planning board or commission~~ and approval has been granted by the
31 ~~planning board or commission~~ authorized permitting authority. In reviewing, hearing, and deciding
32 upon a land development project, ~~the city or town planning board or commission~~ authorized
33 permitting authority may be empowered to allow zoning incentives within the project; provided,
34 that standards for the ~~adjustments~~ zoning incentives are described in the zoning ordinance, and may

1 be empowered to apply any special conditions and stipulations to the approval that may, in the
2 opinion of the ~~planning board or commission~~ authorized permitting authority, be required to
3 maintain harmony with neighboring uses and promote the objectives and purposes of the
4 comprehensive plan and zoning ordinance.

5 (c) In regulating land development projects, an ordinance adopted pursuant to this chapter
6 may include, but is not limited to, regulations governing the following:

- 7 (1) A minimum area or site size for a land development project;
- 8 (2) Uses to be permitted within the development;
- 9 (3) Ratios of residential to nonresidential uses where applicable;
- 10 (4) Maximum density per lot and maximum density for the entire development, ~~with;~~

11 (5) Roads, driveways, utilities, parking, and other facilities; regulations may distinguish
12 between those facilities intended to remain in private ownership or to be dedicated to the public;
13 and

14 (6) Buffer areas, landscaping, screening, and shading.

15 (d) In regulating land development projects, an ordinance adopted pursuant to this chapter
16 shall include provisions for zoning incentives which include the adjustment of applicable lot density
17 and dimensional standards where open space is to be permanently set aside for public or common
18 use, and/or where the physical characteristics, location, or size of the site require an adjustment,
19 and/or where the location, size, and type of housing, commercial, industrial, or other use require an
20 adjustment, and/or where housing for low and moderate income families is to be provided, or where
21 other amenities not ordinarily required are provided, as stipulated in the zoning ordinance.
22 Provision may be made for adjustment of applicable lot density and dimensional standards for
23 payment or donation of other land or facilities in lieu of an on-site provision of an amenity that
24 would, if provided on-site, enable an adjustment;

25 ~~(5) Roads, driveways, utilities, parking, and other facilities; regulations may distinguish~~
26 ~~between those facilities intended to remain in private ownership or to be dedicated to the public;~~
27 ~~and~~

28 ~~(6) Buffer areas, landscaping, screening, and shading.~~

29 ~~(4)~~(e)(1) A zoning ordinance requiring open land in a cluster development or other land
30 development project for public or common use, shall provide that such open land either: (i) be
31 conveyed to the city or town and accepted by it for park, open space, agricultural, or other specified
32 use or uses, or (ii) be conveyed to a nonprofit organization, the principal purpose of which is the
33 conservation of open space or resource protection, or (iii) be conveyed to a corporation or trust
34 owned or to be owned by the owners of lots or units within the development, or owners of shares

1 within a cooperative development. If such a corporation or trust is used, ownership shall pass with
2 conveyances of the lots or units, or (iv) remain in private ownership if the use is limited to
3 agriculture, habitat or forestry, and the city or town has set forth in its community comprehensive
4 plan and zoning ordinance that private ownership is necessary for the preservation and management
5 of the agricultural, habitat or forest resources.

6 (2) In any case where the land is not conveyed to the city or town:

7 (i) A restriction, in perpetuity, enforceable by the city or town or by any owner of property
8 in the cluster or other land development project in which the land is located shall be recorded
9 providing that the land is kept in the authorized condition(s) and not built upon or developed for
10 accessory uses such as parking or roadway; and

11 (ii) The developmental rights and other conservation easements on the land may be held,
12 in perpetuity, by a nonprofit organization, the principal purpose of which is the conservation of
13 open space or resource protection.

14 (3) All open space land provided by a cluster development or other land development
15 project shall be subject to a community approved management plan that will specify the permitted
16 uses for the open space.

17 ~~45-24-49. Special provisions — Development plan review Special provisions --~~
18 ~~Development plan review -- Effective January 1, 2024.~~

19 (a) A zoning ordinance ~~may shall~~ permit development plan review of applications ~~for uses~~
20 ~~requiring a special use permit, a variance, a zoning ordinance amendment, and/or a zoning map~~
21 ~~change. The review shall be conducted by the planning board or commission and shall be advisory~~
22 ~~to the permitting authority. pursuant to § 45-23-50. (b) A zoning ordinance may permit~~
23 ~~development plan review of applications~~ for uses that are permitted by right under the zoning
24 ordinance, but the review shall only be based on specific and objective guidelines which must be
25 stated in the zoning ordinance. The ~~review body~~ permitting authority shall also be set forth in and
26 be established by the zoning ordinance. A rejection of the application shall be considered an
27 appealable decision pursuant to § 45-24-64.

28 (b) The permitting authority may grant relief from the zoning ordinance and may grant
29 zoning incentives under specific conditions set forth in the zoning ordinance.

30 ~~(c) Nothing in this subsection shall be construed to permit waivers of any regulations unless~~
31 ~~approved by the permitting authority pursuant to the local ordinance and this act.~~

32 ~~45-24-58. Administration — Application procedure Administration -- Application~~
33 ~~procedure -- Effective January 1, 2024.~~

34 The zoning ordinance establishes the various application procedures necessary for the

1 filing of appeals, requests for variances, special-use permits, development plan reviews, ~~site plan~~
2 ~~reviews~~, and other applications that may be specified in the zoning ordinance [as allowed by this](#)
3 [chapter](#), with the zoning board of review, consistent with the provisions of this chapter. The zoning
4 ordinance provides for the creation of appropriate forms, and for the submission and resubmission
5 requirements, for each type of application required. A zoning ordinance may establish that a time
6 period of a certain number of months is required to pass before a successive similar application
7 may be filed.

8 SECTION 3. Sections 45-23-34, 45-23-40, 45-23-41, 45-23-43, 45-23-49, 45-23-66, 45-
9 23-68, 45-23-69 and 45-23-70 of the General Laws in Chapter 45-23 entitled "Subdivision of Land"
10 are hereby repealed as of January 1, 2024.

11 ~~**45-23-34. General provisions — Definitions.**~~

12 ~~Local regulations adopted pursuant to this chapter shall provide definitions for words or~~
13 ~~phrases contained in the regulations as is deemed appropriate. Where words or phrases used in any~~
14 ~~local regulations, whether or not defined in those regulations, are substantially similar to words or~~
15 ~~phrases defined in § 45-23-32 of this chapter, or § 45-22-2-4 of the Comprehensive Planning and~~
16 ~~Land Use Act or § 45-24-31 of the Zoning Enabling Act of 1991 the words or phrases shall be~~
17 ~~construed according to the definitions provided in those sections of the law.~~

18 ~~**45-23-40. General provisions — Major land development and major subdivision —**~~
19 ~~**Master plan.**~~

20 ~~(a) Submission requirements.~~

21 ~~(1) The applicant shall first submit to the administrative officer the items required by the~~
22 ~~local regulations for master plans.~~

23 ~~(2) Requirements for the master plan and supporting material for this phase of review~~
24 ~~include, but are not limited to: information on the natural and built features of the surrounding~~
25 ~~neighborhood, existing natural and man-made conditions of the development site, including~~
26 ~~topographic features, the freshwater wetland and coastal zone boundaries, the floodplains, as well~~
27 ~~as the proposed design concept, proposed public improvements and dedications, tentative~~
28 ~~construction phasing; and potential neighborhood impacts.~~

29 ~~(3) Initial comments will be solicited from:~~

30 ~~(i) Local agencies including, but not limited to, the planning department, the department of~~
31 ~~public works, fire and police departments, the conservation and recreation commissions;~~

32 ~~(ii) Adjacent communities;~~

33 ~~(iii) State agencies, as appropriate, including the departments of environmental~~
34 ~~management and transportation and the coastal resources management council; and~~

1 ~~(iv) Federal agencies, as appropriate. The administrative officer shall coordinate review~~
2 ~~and comments by local officials, adjacent communities, and state and federal agencies.~~

3 ~~(4) Requests for relief from the literal requirements of the zoning ordinance and/or for the~~
4 ~~issuance of special use permits related to major subdivisions and/or major land development~~
5 ~~projects that are submitted under a zoning ordinance's unified development review provisions shall~~
6 ~~be included as part of the master plan application, pursuant to § 45-23-50.1(b).~~

7 ~~(b) Certification. The application must be certified, in writing, complete or incomplete by~~
8 ~~the administrative officer within twenty five (25) days, according to the provisions of § 45-23-~~
9 ~~36(b). The running of the time period set forth herein will be deemed stopped upon the issuance of~~
10 ~~a certificate of incompleteness of the application by the administrative officer and will recommence~~
11 ~~upon the resubmission of a corrected application by the applicant. However, in no event will the~~
12 ~~administrative officer be required to certify a corrected submission as complete or incomplete less~~
13 ~~than ten (10) days after its resubmission.~~

14 ~~(c) Technical review committee. The technical review committee, if established, shall~~
15 ~~review the application and shall comment and make recommendations to the planning board.~~

16 ~~(d) Informational meeting.~~

17 ~~(1) A public informational meeting will be held prior to the planning board decision on the~~
18 ~~master plan, unless the master plan and preliminary plan approvals are being combined, in which~~
19 ~~case the public informational meeting is optional, based upon planning board determination, or~~
20 ~~unified development review has been requested, in which case a public hearing shall be held~~
21 ~~pursuant to § 45-23-50.1(b).~~

22 ~~(2) Public notice for the informational meeting is required and must be given at least seven~~
23 ~~(7) days prior to the date of the meeting in a newspaper of general circulation within the~~
24 ~~municipality. Postcard notice must be mailed to the applicant and to all property owners within the~~
25 ~~notice area, as specified by local regulations.~~

26 ~~(3) At the public informational meeting, the applicant will present the proposed~~
27 ~~development project. The planning board must allow oral and written comments from the general~~
28 ~~public. All public comments are to be made part of the public record of the project application.~~

29 ~~(e) Decision. The planning board shall, within ninety (90) days of certification of~~
30 ~~completeness, or within a further amount of time that may be consented to by the applicant through~~
31 ~~the submission of a written waiver, approve of the master plan as submitted, approve with changes~~
32 ~~and/or conditions, or deny the application, according to the requirements of §§ 45-23-60 and 45-~~
33 ~~23-63.~~

34 ~~(f) Failure to act. Failure of the planning board to act within the prescribed period~~

1 constitutes approval of the master plan, and a certificate of the administrative officer as to the failure
2 of the planning board to act within the required time and the resulting approval will be issued on
3 request of the applicant.

4 (g) Vesting.

5 (1) The approved master plan is vested for a period of two (2) years, with the right to extend
6 for two (2), one-year extensions upon written request by the applicant, who must appear before the
7 planning board for the annual review. Thereafter, vesting may be extended for a longer period, for
8 good cause shown, if requested by the applicant, in writing, and approved by the planning board.
9 Master plan vesting includes the zoning requirements, conceptual layout, and all conditions shown
10 on the approved master plan drawings and supporting materials.

11 (2) The initial four-year (4) vesting for the approved master plan constitutes the vested
12 rights for the development as required in § 45-24-44.

13 ~~45-23-41. General provisions — Major land development and major subdivision —~~

14 ~~Preliminary plan.~~

15 (a) Submission requirements.

16 (1) The applicant shall first submit to the administrative officer the items required by the
17 local regulations for preliminary plans.

18 (2) Requirements for the preliminary plan and supporting materials for this phase of the
19 review include, but are not limited to: engineering plans depicting the existing site conditions,
20 engineering plans depicting the proposed development project, a perimeter survey, all permits
21 required by state or federal agencies prior to commencement of construction, including permits
22 related to freshwater wetlands, the coastal zone, floodplains, preliminary suitability for individual
23 septic disposal systems, public water systems, and connections to state roads.

24 (3) At the preliminary plan review phase, the administrative officer shall solicit final,
25 written comments and/or approvals of the department of public works, the city or town engineer,
26 the city or town solicitor, other local government departments, commissions, or authorities as
27 appropriate.

28 (4) Prior to approval of the preliminary plan, copies of all legal documents describing the
29 property, proposed easements, and rights of way.

30 (5) If the applicant is requesting alteration of any variances and/or special use permits
31 granted by the planning board or commission at the master plan stage of review pursuant to adopted
32 unified development review provisions, and/or any new variances and/or special use permits, such
33 requests and all supporting documentation shall be included as part of the preliminary plan
34 application materials, pursuant to § 45-23-50.1(b).

1 ~~(b) Certification. The application will be certified as complete or incomplete by the~~
2 ~~administrative officer within twenty five (25) days, according to the provisions of § 45-23-36(b).~~
3 ~~The running of the time period set forth herein will be deemed stopped upon the issuance of a~~
4 ~~certificate of incompleteness of the application by the administrative officer and will recommence~~
5 ~~upon the resubmission of a corrected application by the applicant. However, in no event shall the~~
6 ~~administrative officer be required to certify a corrected submission as complete or incomplete less~~
7 ~~than ten (10) days after its resubmission.~~

8 ~~(c) Technical review committee. The technical review committee, if established, shall~~
9 ~~review the application and shall comment and make recommendations to the planning board.~~

10 ~~(d) Public hearing. Prior to a planning board decision on the preliminary plan, a public~~
11 ~~hearing, which adheres to the requirements for notice described in § 45-23-42, must be held.~~

12 ~~(e) Public improvement guarantees. Proposed arrangements for completion of the required~~
13 ~~public improvements, including construction schedule and/or financial guarantees, shall be~~
14 ~~reviewed and approved by the planning board at preliminary plan approval.~~

15 ~~(f) Decision. A complete application for a major subdivision or development plan shall be~~
16 ~~approved, approved with conditions, or denied, in accordance with the requirements of §§ 45-23-~~
17 ~~60 and 45-23-63, within ninety (90) days of the date when it is certified complete, or within a~~
18 ~~further amount of time that may be consented to by the developer through the submission of a~~
19 ~~written waiver.~~

20 ~~(g) Failure to act. Failure of the planning board to act within the prescribed period~~
21 ~~constitutes approval of the preliminary plan and a certificate of the administrative officer as to the~~
22 ~~failure of the planning board to act within the required time and the resulting approval shall be~~
23 ~~issued on request of the applicant.~~

24 ~~(h) Vesting. The approved preliminary plan is vested for a period of two (2) years with the~~
25 ~~right to extend for two (2), one year extensions upon written request by the applicant, who must~~
26 ~~appear before the planning board for each annual review and provide proof of valid state or federal~~
27 ~~permits as applicable. Thereafter, vesting may be extended for a longer period, for good cause~~
28 ~~shown, if requested, in writing by the applicant, and approved by the planning board. The vesting~~
29 ~~for the preliminary plan approval includes all general and specific conditions shown on the~~
30 ~~approved preliminary plan drawings and supporting material.~~

31 ~~**45-23-43. General provisions — Major land development and major subdivision —**~~

32 ~~**Final plan:**~~

33 ~~(a) Submission requirements.~~

34 ~~(1) The applicant shall submit to the administrative officer the items required by the local~~

1 ~~regulations for the final plan, as well as all material required by the planning board when the~~
2 ~~application was given preliminary approval.~~

3 ~~(2) Arrangements for completion of the required public improvements, including~~
4 ~~construction schedule and/or financial guarantees.~~

5 ~~(3) Certification by the tax collector that all property taxes are current.~~

6 ~~(4) For phased projects, the final plan for phases following the first phase, shall be~~
7 ~~accompanied by copies of as built drawings not previously submitted of all existing public~~
8 ~~improvements for prior phases.~~

9 ~~(b) Certification. The application for final plan approval shall be certified complete or~~
10 ~~incomplete by the administrative officer in writing, within twenty five (25) days, according to the~~
11 ~~provisions of § 45-23-36(b). This time period may be extended to forty five (45) days by written~~
12 ~~notice from the administrative officer to the applicant where the final plans contain changes to or~~
13 ~~elements not included in the preliminary plan approval. The running of the time period set forth~~
14 ~~herein shall be deemed stopped upon the issuance of a certificate of incompleteness of the~~
15 ~~application by the administrative officer and shall recommence upon the resubmission of a~~
16 ~~corrected application by the applicant. However, in no event shall the administrative officer be~~
17 ~~required to certify a corrected submission as complete or incomplete less than fourteen (14) days~~
18 ~~after its resubmission. If the administrative officer certifies the application as complete and does~~
19 ~~not require submission to the planning board as per subsection (c) below, the final plan shall be~~
20 ~~considered approved.~~

21 ~~(c) Referral to the planning board. If the administrative officer determines that an~~
22 ~~application for final approval does not meet the requirements set by local regulations or by the~~
23 ~~planning board at preliminary approval, the administrative officer shall refer the final plans to the~~
24 ~~planning board for review. The planning board shall, within forty five (45) days after the~~
25 ~~certification of completeness, or within a further amount of time that may be consented to by the~~
26 ~~applicant, approve or deny the final plan as submitted.~~

27 ~~(d) Failure to act. Failure of the planning board to act within the prescribed period~~
28 ~~constitutes approval of the final plan and a certificate of the administrative officer as to the failure~~
29 ~~of the planning board to act within the required time and the resulting approval shall be issued on~~
30 ~~request of the applicant.~~

31 ~~(e) Expiration of approval. The final approval of a major subdivision or land development~~
32 ~~project expires one year from the date of approval with the right to extend for one year upon written~~
33 ~~request by the applicant, who must appear before the planning board for the annual review, unless,~~
34 ~~within that period, the plat or plan has been submitted for signature and recording as specified in §~~

1 ~~45-23-64. Thereafter, the planning board may, for good cause shown, extend the period for~~
2 ~~recording for an additional period.~~

3 ~~(f) Acceptance of public improvements. Signature and recording as specified in § 45-23-~~
4 ~~64 constitute the acceptance by the municipality of any street or other public improvement or other~~
5 ~~land intended for dedication. Final plan approval shall not impose any duty upon the municipality~~
6 ~~to maintain or improve those dedicated areas until the governing body of the municipality accepts~~
7 ~~the completed public improvements as constructed in compliance with the final plans.~~

8 ~~(g) Validity of recorded plans. The approved final plan, once recorded, remains valid as~~
9 ~~the approved plan for the site unless and until an amendment to the plan is approved under the~~
10 ~~procedure stated in § 45-23-65, or a new plan is approved by the planning board.~~

11 ~~**45-23-49. Special provisions — Land development projects.**~~

12 ~~(a) If municipalities provide for land development projects, as defined in § 45-24-47 of the~~
13 ~~Rhode Island Zoning Enabling Act of 1991, the projects are subject to the local regulations.~~

14 ~~(b) In these instances, the local regulations must include all requirements, procedures and~~
15 ~~standards necessary for proper review and approval of land development projects to ensure~~
16 ~~consistency with the intent and purposes of this chapter and with § 45-24-47 of the Rhode Island~~
17 ~~Zoning Enabling Act of 1991.~~

18 ~~**45-23-66. Appeals — Right of appeal.**~~

19 ~~(a) Local regulations adopted pursuant to this chapter shall provide that an appeal from any~~
20 ~~decision of the planning board, or administrative officer charged in the regulations with~~
21 ~~enforcement of any provisions, except as provided in this section, may be taken to the board of~~
22 ~~appeal by an aggrieved party. Appeals from a decision granting or denying approval of a final plan~~
23 ~~shall be limited to elements of the approval or disapproval not contained in the decision reached by~~
24 ~~the planning board at the preliminary stage, providing that a public hearing has been held on the~~
25 ~~plan pursuant to § 45-23-42.~~

26 ~~(b) Local regulations adopted pursuant to this chapter shall provide that an appeal from a~~
27 ~~decision of the board of appeal may be taken by an aggrieved party to the superior court for the~~
28 ~~county in which the municipality is situated.~~

29 ~~**45-23-68. Appeals — Stay of proceedings.**~~

30 ~~An appeal stays all proceedings in furtherance of the action being appealed.~~

31 ~~**45-23-69. Appeals — Public hearing.**~~

32 ~~(a) The board of appeal shall hold a public hearing on the appeal within forty five (45) days~~
33 ~~of the receipt of the appeal, give public notice of the hearing, as well as due notice to the parties of~~
34 ~~interest. At the hearing any party may appear in person, or be represented by an agent or attorney.~~

1 ~~The board shall render a decision within ten (10) days of the close of the public hearing. The cost~~
2 ~~of any notice required for the hearing shall be borne by the applicant.~~

3 ~~(b) The board of appeal shall only hear appeals of the actions of a planning board or~~
4 ~~administrative officer at a meeting called especially for the purpose of hearing the appeals and~~
5 ~~which has been so advertised.~~

6 ~~(c) The hearing, which may be held on the same date and at the same place as a meeting of~~
7 ~~the zoning board of review, must be held as a separate meeting from any zoning board of review~~
8 ~~meeting. Separate minutes and records of votes as required by § 45-23-70(d) shall be maintained~~
9 ~~by the board of appeal.~~

10 ~~**45-23-70. Appeals — Standards of review.**~~

11 ~~(a) As established by this chapter, in instances of a board of appeal's review of a planning~~
12 ~~board or administrative officer's decision on matters subject to this chapter, the board of appeal~~
13 ~~shall not substitute its own judgment for that of the planning board or the administrative officer but~~
14 ~~must consider the issue upon the findings and record of the planning board or administrative officer.~~
15 ~~The board of appeal shall not reverse a decision of the planning board or administrative officer~~
16 ~~except on a finding of prejudicial procedural error, clear error, or lack of support by the weight of~~
17 ~~the evidence in the record.~~

18 ~~(b) The concurring vote of three (3) of the five (5) members of the board of appeal sitting~~
19 ~~at a hearing, is necessary to reverse any decision of the planning board or administrative officer.~~

20 ~~(c) In the instance where the board of appeal overturns a decision of the planning board or~~
21 ~~administrative officer, the proposed project application is remanded to the planning board or~~
22 ~~administrative officer, at the stage of processing from which the appeal was taken, for further~~
23 ~~proceedings before the planning board or administrative officer and/or for the final disposition,~~
24 ~~which shall be consistent with the board of appeal's decision.~~

25 ~~(d) The board of appeal shall keep complete records of all proceedings including a record~~
26 ~~of all votes taken, and shall put all decisions on appeals in writing. The board of appeal shall include~~
27 ~~in the written record the reasons for each decision.~~

28 SECTION 4. This act shall take effect on January 1, 2024.

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LC002437/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES -- SUBDIVISION OF LAND

- 1 This act would amend the provisions relative to the subdivision of land and the application
- 2 process requesting relief from zoning ordinances and the review process thereof.
- 3 This act would take effect on January 1, 2024

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LC002437/SUB A
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2023 -- H 6081 SUBSTITUTE A

LC002127/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO TOWNS AND CITIES -- LOW AND MODERATE INCOME HOUSING

Introduced By: Representatives Shekarchi, Speakman, Knight, Donovan, Tanzi, Cruz,
Cortvriend, Casey, and Potter

Date Introduced: March 03, 2023

Referred To: House Municipal Government & Housing

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-53-3 and 45-53-4 of the General Laws in Chapter 45-53 entitled
2 "Low and Moderate Income Housing" are hereby amended to read as follows:

3 **45-53-3. Definitions Definitions -- Effective January 1, 2024.**

4 The following words, wherever used in this chapter, unless a different meaning clearly
5 appears from the context, have the following meanings:

6 (1) "Adjustment(s)" means a request, or requests by the applicant to seek relief from the
7 literal use and dimensional requirements of the municipal zoning ordinance and/or the design
8 standards or requirements of the municipal land development and subdivision regulations. The
9 standard for the local review board's consideration of adjustments is set forth in § 45-53-
10 4(D)(2)(iii)(E)(II).

11 (+)2 "Affordable housing plan" means a component of a housing element, as defined in
12 § 45-22.2-4(1), to meet that addresses housing needs in a city or town that is prepared in accordance
13 with guidelines adopted by the state planning council, and/or to meet the provisions of § 45-53-
14 4(b)(1) and (c).

15 (2)3 "Approved affordable housing plan" means an affordable housing plan that has been
16 approved by the director of administration as meeting the guidelines for the local comprehensive
17 plan as promulgated by the state planning council; provided, however, that state review and
18 approval, for plans submitted by December 31, 2004, shall not be contingent on the city or town
19 having completed, adopted, or amended its comprehensive plan as provided for in § 45-22.2-8, §

1 45-22.2-9, or § 45-22.2-9.

2 ~~(3)~~(4) “Comprehensive plan” means a comprehensive plan adopted and approved by a city
3 or town pursuant to chapters 22.2 and 22.3 of this title.

4 ~~(4)~~(5) “Consistent with local needs” means reasonable in view of the state need for low-
5 and moderate-income housing, considered with the number of low-income persons in the city or
6 town affected and the need to protect the health and safety of the occupants of the proposed housing
7 or of the residents of the city or town, to promote better site and building design in relation to the
8 surroundings, or to preserve open spaces, and if the local zoning or land use ordinances,
9 requirements, and regulations are applied as equally as possible to both subsidized and
10 unsubsidized housing. Local zoning and land use ordinances, requirements, or regulations are
11 consistent with local needs when imposed by a city or town council after a comprehensive hearing
12 in a city or town where:

13 (i) Low- or moderate-income housing exists which is: (A) In the case of an urban city or
14 town which has at least 5,000 occupied year-round rental units and the units, as reported in the
15 latest decennial census of the city or town, comprise twenty-five percent (25%) or more of the year-
16 round housing units, and is in excess of fifteen percent (15%) of the total occupied year-round
17 rental units; or (B) In the case of all other cities or towns, is in excess of ten percent (10%) of the
18 year-round housing units reported in the census.

19 (ii) The city or town has promulgated zoning or land use ordinances, requirements, and
20 regulations to implement a comprehensive plan that has been adopted and approved pursuant to
21 chapters 22.2 and 22.3 of this title, and the housing element of the comprehensive plan provides
22 for low- and moderate-income housing in excess of either ten percent (10%) of the year-round
23 housing units or fifteen percent (15%) of the occupied year-round rental housing units as provided
24 in subdivision (4)(i).

25 (iii) Multi-family rental units built under a comprehensive permit may be calculated
26 towards meeting the requirements of a municipality’s low- or moderate-income housing inventory,
27 as long as the units meet and are in compliance with the provisions of § 45-53-3.1.

28 ~~(5)~~(6) “Infeasible” means any condition brought about by any single factor or combination
29 of factors, as a result of limitations imposed on the development by conditions attached to the
30 approval of the comprehensive permit, to the extent that it makes it ~~impossible for a public agency,~~
31 ~~nonprofit organization, or limited equity housing cooperative~~ financially or logistically
32 impracticable for any applicant to proceed in building or operating low- or moderate-income
33 housing ~~without financial loss~~, within the limitations set by the subsidizing agency of government
34 or local review board, on the size or character of the development, on the amount or nature of the

1 subsidy, or on the tenants, rentals, and income permissible, and without substantially changing the
2 rent levels and unit sizes proposed by the ~~public agency, nonprofit organization, or limited equity~~
3 ~~housing cooperative~~ [applicant](#).

4 ~~(6)~~[\(7\)](#) “Letter of eligibility” means a letter issued by the Rhode Island housing and
5 mortgage finance corporation in accordance with § 42-55-5.3(a).

6 ~~(7)~~ “Local board” means ~~any town or city official, zoning board of review, planning board~~
7 ~~or commission, board of appeal or zoning enforcement officer, local conservation commission,~~
8 ~~historic district commission, or other municipal board having supervision of the construction of~~
9 ~~buildings or the power of enforcing land use regulations, such as subdivision, or zoning laws.~~

10 (8) “Local review board” means the planning board as defined by § 45-22.2-4~~(20)~~, ~~or if~~
11 ~~designated by ordinance as the board to act on comprehensive permits for the town, the zoning~~
12 ~~board of review established pursuant to § 45-24-56.~~

13 (9) “Low- or moderate-income housing” shall be [synonymous with “affordable housing”](#)
14 [as defined in § 42-128-8.1, and further](#) means any housing whether built or operated by any public
15 agency or any nonprofit organization or by any limited equity housing cooperative or any private
16 developer, that is subsidized by a federal, state, or municipal government subsidy under any
17 program to assist the construction or rehabilitation of ~~housing~~ affordable [housing](#) ~~to low- or~~
18 ~~moderate-income households, as defined in the applicable federal or state statute, or local ordinance~~
19 and that will remain affordable through a land lease and/or deed restriction for ninety-nine (99)
20 years or such other period that is either agreed to by the applicant and town or prescribed by the
21 federal, state, or municipal government subsidy program but that is not less than thirty (30) years
22 from initial occupancy.

23 (10) “Meeting [local](#) housing needs” means [as a result of the](#) adoption of the implementation
24 program of an approved affordable housing plan ~~and~~, the absence of unreasonable denial of
25 applications that are made pursuant to an approved affordable housing plan in order to accomplish
26 the purposes and expectations of the approved affordable housing plan, [and a showing that at least](#)
27 [twenty percent \(20%\) of the total residential units approved by a local review board or any other](#)
28 [municipal board in a calendar year are for low- and moderate-income housing as defined in § 42-](#)
29 [128-8.1.](#)

30 (11) “Monitoring agents” means those monitoring agents appointed by the Rhode Island
31 housing resources commission pursuant to § 45-53-3.2 and to provide the monitoring and oversight
32 set forth in this chapter, including, but not limited to, §§ 45-53-3.2 and 45-53-4.

33 (12) “Municipal government subsidy” means assistance that is made available through a
34 city or town program sufficient to make housing affordable, as affordable housing is defined in §

1 42-128-8.1(d)(1); such assistance ~~may~~ shall include a combination of, but is not limited to, direct
2 financial support, abatement of taxes, waiver of fees and charges, and approval of density bonuses
3 and/or internal subsidies, zoning incentives, and adjustments as defined in this section and any
4 combination of forms of assistance.

5 ~~**45-53-4. Procedure for approval of construction of low- or moderate-income housing**~~
6 **Procedure for approval of construction of low- or moderate-income housing -- Effective**
7 **January 1, 2024.**

8 (a) Any applicant proposing to build low- or moderate-income housing may submit to the
9 local review board a single application for a comprehensive permit to build that housing in lieu of
10 separate applications to the applicable local boards. This procedure is only available for proposals
11 in which at least twenty-five percent (25%) of the housing is low- or moderate-income housing.

12 (b) Municipal government subsidies, including adjustments and zoning incentives are to
13 be made available to applications under this chapter to offset the differential costs of the low- or
14 moderate-incoming housing units in a development under this chapter. At a minimum, the
15 following zoning incentives shall be allowed for projects submitted under this chapter:

16 (1) Density bonus. A municipality shall provide an applicant with more dwelling units than
17 allowed by right under its zoning ordinance in the form of a density bonus to allow an increase in
18 the allowed dwelling units per acre (DU/A), as well as other incentives and municipal government
19 subsidies as defined in § 45-53-3. Furthermore, a municipality shall provide, at a minimum, the
20 following density bonuses for projects submitted under this chapter, provided that the total land
21 utilized in the density calculation shall exclude wetlands, wetland buffers, area devoted to
22 infrastructure necessary for development and easements or rights of way of record:

23 (i) For properties connected to public sewer and water, or eligible to be connected to public
24 sewer and water based on written confirmation from each respective service provider, the density
25 bonus for a project which provides at least twenty-five percent (25%) low- and moderate-income
26 housing shall be at least five (5) units per acre;

27 (ii) For properties connected to public sewer and water, or eligible to be connected to public
28 sewer and water based on written confirmation from each respective service provider, the density
29 bonus for a project which provides at least fifty percent (50%) low- and moderate-income housing
30 shall be at least nine (9) units per acre;

31 (iii) For properties connected to public sewer and water, or eligible to be connected to
32 public sewer and water based on written confirmation from each respective service provider, the
33 density bonus for a project which provides one hundred percent (100%) low- and moderate-income
34 housing shall be at least twelve (12) units per acre;

1 (iv) For properties not connected to either public water or sewer or both, but which provide
2 competent evidence as to the availability of water to service the development and/or a permit for
3 on-site wastewater treatment facilities to service the dwelling units from the applicable state
4 agency, the density bonus for a project which provides at least twenty-five percent (25%) low- and
5 moderate-income housing shall be at least three (3) units per acre;

6 (v) For properties not connected to either public water or sewer or both, but which provide
7 competent evidence as to the availability of water to service the development and/or a permit for
8 on-site wastewater treatment facilities to service the dwelling units from the applicable state
9 agency, the density bonus for a project which provides at least fifty percent (50%) low- and
10 moderate-income housing shall be at least five (5) units per acre;

11 (vi) For properties not connected to either public water or sewer or both, but which provide
12 competent evidence as to the availability of water to service the development and/or a permit for
13 on-site wastewater treatment facilities to service the dwelling units from the applicable state
14 agency, the density bonus for a project which provides one hundred percent (100%) low- and
15 moderate-income housing shall be at least eight (8) units per acre;

16 (2) Parking. A municipality shall not require more than one off-street parking space per
17 dwelling unit for units up to and including two (2) bedrooms in applications submitted under this
18 chapter;

19 (3) Bedrooms. A municipality shall not limit the number of bedrooms for applications
20 submitted under this chapter to anything less than three (3) bedrooms per dwelling unit for single
21 family dwelling units;

22 (4) Floor area. A municipality shall not utilize floor area requirements to limit any
23 application, except as provided by § 45-24.3-11;

24 (c) A municipality shall not restrict comprehensive permit applications and permits by any
25 locally adopted ordinance or policy that places a limit or moratorium on the development of
26 residential units.

27 (d) The application and review process for a comprehensive permit shall be as follows:

28 (1) Submission requirements. Applications for a comprehensive permit shall include:

29 (i) A letter of eligibility issued by the Rhode Island housing and mortgage finance
30 corporation, or in the case of projects primarily funded by the U.S. Department of Housing and
31 Urban Development or other state or federal agencies, an award letter indicating the subsidy, or
32 application in such form as may be prescribed for a municipal government subsidy; and

33 (ii) A written request to the local review board to submit a single application to build or
34 rehabilitate low- or moderate- income housing in lieu of separate applications to the applicable local

1 boards. The written request shall identify the specific sections and provisions of applicable local
2 ordinances and regulations from which the applicant is seeking relief; and

3 (iii) A proposed timetable for the commencement of construction and completion of the
4 project; and

5 (iv) A sample land lease or deed restriction with affordability liens that will restrict use as
6 low and moderate income housing in conformance with the guidelines of the agency providing
7 the subsidy for the low and moderate income housing, but for a period of not less than thirty (30)
8 years; and

9 (v) Identification of an approved entity that will monitor the long term affordability of the
10 low and moderate income units; provided, that, on and after July 1, 2022, this entity shall include
11 the Rhode Island housing resources commission established pursuant to chapter 128 of title 42 and
12 acting through its monitoring agents, and these agents shall monitor the long term affordability of
13 the low and moderate income units pursuant to § 45-53-3.2; and

14 (vi) A financial pro forma for the proposed development; and

15 (vii) For comprehensive permit applications: (A) Not involving major land developments
16 or major subdivisions including, but not limited to, applications seeking relief from specific
17 provisions of a local zoning ordinance, or involving administrative subdivisions, minor land
18 developments or minor subdivisions, or other local ordinances and regulations: those items required
19 by local regulations promulgated pursuant to applicable state law, with the exception of evidence
20 of state or federal permits; and for comprehensive permit applications; and (B) Involving major
21 land developments and major subdivisions, unless otherwise agreed to by the applicant and the
22 town; those items included in the checklist for the master plan in the local regulations promulgated
23 pursuant to § 45-23-40. Subsequent to master plan approval, the applicant must submit those items
24 included in the checklist for a preliminary plan for a major land development or major subdivision
25 project in the local regulations promulgated pursuant to § 45-23-41, with the exception of evidence
26 of state or federal permits. All required state and federal permits must be obtained prior to the final
27 plan approval or the issuance of a building permit; and

28 (viii) Municipalities may impose fees on comprehensive permit applications that are
29 consistent with but do not exceed fees that would otherwise be assessed for a project of the same
30 scope and type but not proceeding under this chapter, provided, however, that the imposition of
31 such fees shall not preclude a showing by a nonprofit applicant that the fees make the project
32 financially infeasible; and

33 (xi) Notwithstanding the submission requirements set forth above, the local review board
34 may request additional, reasonable documentation throughout the public hearing, including, but not

1 ~~limited to, opinions of experts, credible evidence of application for necessary federal and/or state~~
2 ~~permits, statements and advice from other local boards and officials.~~

3 (2) ~~Certification of completeness. The application must be certified complete or incomplete~~
4 ~~by the administrative officer according to the provisions of § 45-23-36; provided, however, that for~~
5 ~~a major land development or major subdivision, the certificate for a master plan shall be granted~~
6 ~~within twenty five (25) days and for a preliminary plan shall be granted within twenty five (25)~~
7 ~~days. The running of the time period set forth herein will be deemed stopped upon the issuance of~~
8 ~~a certificate of incompleteness of the application by the administrative officer and will recommence~~
9 ~~upon the resubmission of a corrected application by the applicant. However, in no event will the~~
10 ~~administrative officer be required to certify a corrected submission as complete or incomplete less~~
11 ~~than ten (10) days after its resubmission. If the administrative officer certifies the application as~~
12 ~~incomplete, the officer shall set forth in writing with specificity the missing or incomplete items.~~

13 (3)(1) ~~Pre-application conference. Where the comprehensive permit application proposal~~
14 ~~is a major land development project or a major subdivision pursuant to chapter 23 of this title a [A](#)~~
15 ~~municipality may require an applicant proposing a project under this chapter to first schedule~~
16 ~~[complete, or the applicant proposing a project under this chapter may request](#) a pre-application~~
17 ~~conference with the local review board, the technical review committee established pursuant to §~~
18 ~~45-23-56, or with the administrative officer for the local review board and other local officials, as~~
19 ~~appropriate. To request [In advance of](#) a pre-application conference, the applicant shall [be required](#)~~
20 ~~[to](#) submit [only](#) a short description of the project in writing including the number of units, type of~~
21 ~~housing, [density analysis, preliminary list of adjustments needed](#), as well as a location map, [and](#)~~
22 ~~[conceptual site plan](#). The purpose of the pre-application conference shall be to review a concept~~
23 ~~plan of the proposed development [and to elicit feedback from the reviewing person or board](#). Upon~~
24 ~~receipt of a request by an applicant for a pre-application conference, the municipality ~~has~~ [shall have](#)~~
25 ~~thirty (30) days to schedule and hold the pre-application conference, [unless a different timeframe](#)~~
26 ~~[is agreed to by the applicant in writing](#). If thirty (30) days has elapsed from the filing of the pre-~~
27 ~~application submission and no pre-application conference has taken place, nothing shall be deemed~~
28 ~~to preclude an applicant from thereafter filing and proceeding with an application [for preliminary](#)~~
29 ~~[plan review](#) for a comprehensive permit.~~

30 (4) ~~Review of applications. An application filed in accordance with this chapter shall be~~
31 ~~reviewed by the local review board at a public hearing in accordance with the following provisions:~~

32 (i) ~~Notification. Upon issuance of a certificate of completeness for a comprehensive permit,~~
33 ~~the local review board shall immediately notify each local board, as applicable, of the filing of the~~
34 ~~application, by sending a copy to the local boards and to other parties entitled to notice of hearings~~

1 on applications under the zoning ordinance and/or land development and subdivision regulations
2 as applicable.

3 (ii) ~~Public notice. Public notice for all public hearings will be the same notice required~~
4 ~~under local regulations for a public hearing for a preliminary plan promulgated in accordance with~~
5 ~~§ 45-23-42. The cost of notice shall be paid by the applicant.~~

6 (iii) ~~Review of minor projects. The review of a comprehensive permit application involving~~
7 ~~only minor land developments or minor subdivisions or requesting zoning ordinance relief or relief~~
8 ~~from other local regulations or ordinances not otherwise addressed in this subsection, shall be~~
9 ~~conducted following the procedures in the applicable local regulations, with the exception that all~~
10 ~~minor land developments or minor subdivisions under this section are required to hold a public~~
11 ~~hearing on the application, and within ninety five (95) days of issuance of the certificate of~~
12 ~~completeness, or within such further time as is agreed to by the applicant and the local review~~
13 ~~board, render a decision.~~

14 (iv) ~~Review of major projects. In the review of a comprehensive permit application~~
15 ~~involving a major land development and/or major subdivision, the local review board shall hold a~~
16 ~~public hearing on the master plan and shall, within ninety (90) days of issuance of the certification~~
17 ~~of completeness, or within such further amount of time as may be agreed to by the local review~~
18 ~~board and the applicant, render a decision. Preliminary and final plan review shall be conducted~~
19 ~~according to local regulations promulgated pursuant to chapter 23 of this title except as otherwise~~
20 ~~specified in this section.~~

21 (2) Preliminary plan review.

22 (i) Submission requirements.-- Applications for preliminary plan review under this chapter
23 shall include:

24 (A) A letter of eligibility issued by the Rhode Island housing and mortgage finance
25 corporation, or in the case of projects primarily funded by the U.S. Department of Housing and
26 Urban Development or other state or federal agencies, an award letter indicating the subsidy, or
27 application in such form as may be prescribed for a municipal government subsidy; and

28 (B) A letter signed by the authorized representative of the applicant, setting forth the
29 specific sections and provisions of applicable local ordinances and regulations from which the
30 applicant is seeking adjustments; and

31 (C) A proposed timetable for the commencement of construction and completion of the
32 project; and

33 (D) Those items required by local regulations promulgated pursuant to applicable state law,
34 with the exception of evidence of state or federal permits; and for comprehensive permit

1 applications included in the checklist for the preliminary plan review in the local regulations
2 promulgated pursuant to chapter 23 of title 45; and

3 (E) Notwithstanding the submission requirements set forth above, the local review board
4 may request additional, reasonable documentation throughout the public hearing, including, but not
5 limited to, opinions of experts, credible evidence of application for necessary federal and/or state
6 permits, statements and advice from other local boards and officials.

7 (ii) Certification of completeness. The preliminary plan application must be certified
8 complete or incomplete by the administrative officer according to the provisions of § 45-23-36;
9 provided, however, that the certificate shall be granted within twenty-five (25) days of submission
10 of the application. The running of the time period set forth herein will be deemed stopped upon the
11 issuance of a written certificate of incompleteness of the application by the administrative officer
12 and will recommence upon the resubmission of a corrected application by the applicant. However,
13 in no event will the administrative officer be required to certify a corrected submission as complete
14 or incomplete less than ten (10) days after its resubmission. If the administrative officer certifies
15 the application as incomplete, the officer shall set forth in writing with specificity the missing or
16 incomplete items.

17 (iii) Review of applications. An application filed in accordance with this chapter shall be
18 reviewed in accordance with the following provisions:

19 (A) Public hearing. A public hearing shall be noticed and held as soon as practicable after
20 the issuance of a certificate of completeness.

21 (B) Notice. Public notice for the public hearing will be the same notice required under local
22 regulations for a public hearing for a preliminary plan promulgated in accordance with § 45-23-42.
23 The cost of notice shall be paid by the applicant.

24 (C) Timeframe for review. The local review board shall render a decision on the
25 preliminary plan application within ninety (90) days of the date the application is certified
26 complete, or within a further amount of time that may be consented to by the applicant through the
27 submission of a written consent.

28 (D) Failure to act. Failure of the local review board to act within the prescribed period
29 constitutes approval of the preliminary plan and a certificate of the administrative officer as to the
30 failure of the local review board to act within the required time and the resulting approval shall be
31 issued on request of the applicant. Further, if the public hearing is not convened or a decision is not
32 rendered within the time allowed in subsections (c)(2)(iii)(A) and (c)(2)(iii)(C) of this section, the
33 application is deemed to have been allowed and the preliminary plan approval shall be issued
34 immediately.

1 ~~(v)~~(E) Required findings [for approval](#). In approving an application, the local review board
2 shall make positive findings, supported by legally competent evidence on the record that discloses
3 the nature and character of the observations upon which the fact finders acted, on each of the
4 following standard provisions, where applicable:

5 ~~(A)~~(I) The proposed development is consistent with local needs as identified in the local
6 comprehensive community plan with particular emphasis on the community's affordable housing
7 plan and/or has satisfactorily addressed the issues where there may be inconsistencies.

8 ~~(B)~~(II) The proposed development is in compliance with the standards and provisions of
9 the municipality's zoning ordinance and subdivision regulations, and/or where ~~expressly varied or~~
10 ~~waived~~ [adjustments are requested by the applicant](#), that local concerns that have been affected by
11 the relief granted do not outweigh the state and local need for low- and moderate-income housing.

12 ~~(C)~~(III) All low- and moderate-income housing units proposed are integrated throughout
13 the development; are compatible in scale and architectural style to the market rate units within the
14 project; and will be built and occupied prior to, or simultaneous with the construction and
15 occupancy of any market rate units.

16 ~~(D) There will be no significant negative environmental impacts from the proposed~~
17 ~~development as shown on the final plan, with all required conditions for approval.~~

18 ~~(E)~~(IV) There will be no significant negative impacts on the health and safety of current or
19 future residents of the community, in areas including, but not limited to, safe circulation of
20 pedestrian and vehicular traffic, provision of emergency services, sewerage disposal, availability
21 of potable water, adequate surface water run-off, and the preservation of natural, historical, or
22 cultural features that contribute to the attractiveness of the community.

23 ~~(F)~~(V) All proposed land developments and all subdivisions lots will have adequate and
24 permanent physical access to a public street in accordance with the requirements of § 45-23-60(5).

25 ~~(G)~~(VI) The proposed development will not result in the creation of individual lots with
26 any physical constraints to development that building on those lots according to pertinent
27 regulations and building standards would be impracticable, unless created only as permanent open
28 space or permanently reserved for a public purpose on the approved, recorded plans.

29 ~~(vi) The local review board has the same power to issue permits or approvals that any local~~
30 ~~board or official who would otherwise act with respect to the application, including, but not limited~~
31 ~~to, the power to attach to the permit or approval, conditions, and requirements with respect to~~
32 ~~height, site plan, size or shape, or building materials, as are consistent with the terms of this section.~~

33 ~~(vii)~~(F) [Required findings for denial](#). In reviewing the comprehensive permit request, the
34 local review board may deny the request for any of the following reasons: ~~(A)~~(I) If the city or town

1 has an approved affordable housing plan and is meeting housing needs, and the proposal is
2 inconsistent with the affordable housing plan; provided that, the local review board also finds that
3 the municipality has made significant progress in implementing that housing plan; ~~(B)(II)~~ The
4 proposal is not consistent with local needs, including, but not limited to, the needs identified in an
5 approved comprehensive plan, and/or local zoning ordinances and procedures promulgated in
6 conformance with the comprehensive plan; ~~(C)(III)~~ The proposal is not in conformance with the
7 comprehensive plan; ~~(D)(IV)~~ The community has met or has plans to meet the goal of ten percent
8 (10%) of the year-round units or, in the case of an urban town or city, fifteen percent (15%) of the
9 occupied rental housing units as defined in § 45-53-3(4)(i) being low- and moderate-income
10 housing; provided that, the local review board also finds that the community has achieved or has
11 made significant progress towards meeting the goals required by this section; or ~~(E)(V)~~ Concerns
12 for the environment and the health and safety of current residents have not been adequately
13 addressed.

14 (iv) Vesting. The approved preliminary plan is vested for a period of two (2) years with the
15 right to extend for two (2), one-year extensions upon written request by the applicant, who must
16 appear before the planning board for each annual review and provide proof of valid state or federal
17 permits as applicable. Thereafter, vesting may be extended for a longer period, for good cause
18 shown, if requested, in writing by the applicant, and approved by the local review board. The
19 vesting for the preliminary plan approval includes all ordinance provisions and regulations at the
20 time of the approval, general and specific conditions shown on the approved preliminary plan
21 drawings and supporting material.

22 (3) Final plan review. The second and final stage of review for the comprehensive permit
23 project shall be done administratively, unless an applicant has requested and been granted any
24 waivers from the submission of checklist items for preliminary plan review, and then, at the local
25 review board's discretion, it may vote to require the applicant to return for final plan review and
26 approval.

27 (i) Submission requirements. -- Applications for final plan review under this chapter shall
28 include:

29 (A) All required state and federal permits must be obtained prior to the final plan approval
30 or the issuance of a building permit; and

31 (B) A draft monitoring agreement which identifies an approved entity that will monitor the
32 long-term affordability of the low- and moderate-income units pursuant to § 45-53-3.2; and

33 (C) A sample land lease or deed restriction with affordability liens that will restrict use as
34 low- and moderate-income housing in conformance with the guidelines of the agency providing

1 the subsidy for the low- and moderate-income housing, but for a period of not less than thirty (30)
2 years; and

3 (D) Those items required by local regulations promulgated pursuant to applicable state law
4 included in the checklist for final plan review in the local regulations promulgated pursuant to
5 chapter 23 of title 45, including, but not limited to:

6 (I) Arrangements for completion of the required public improvements, including
7 construction schedule and/or financial guarantees; and

8 (II) Certification by the tax collector that all property taxes are current; and

9 (III) For phased projects, the final plan for phases following the first phase, shall be
10 accompanied by copies of as-built drawings not previously submitted of all existing public
11 improvements for prior phases.

12 (ii) Certification of completeness. The final plan application must be certified complete or
13 incomplete by the administrative officer according to the provisions of § 45-23-36; provided
14 however, that, the certificate shall be granted within twenty-five (25) days of submission of the
15 application. The running of the time period set forth herein will be deemed stopped upon the
16 issuance of a written certificate of incompleteness of the application by the administrative officer
17 and will recommence upon the resubmission of a corrected application by the applicant. However,
18 in no event will the administrative officer be required to certify a corrected submission as complete
19 or incomplete less than ten (10) days after its resubmission. If the administrative officer certifies
20 the application as incomplete, the officer shall set forth in writing with specificity the missing or
21 incomplete items.

22 (iii) Review of applications.

23 (A) Timeframe for review. The reviewing authority shall render a decision on the final plan
24 application within forty-five (45) days of the date the application is certified complete.

25 (B) Modifications and changes to plans:

26 (I) Minor changes, as defined in the local regulations, to the plans approved at preliminary
27 plan may be approved administratively, by the administrative officer, whereupon final plan
28 approval may be issued. The changes may be authorized without additional public hearings, at the
29 discretion of the administrative officer. All changes shall be made part of the permanent record of
30 the project application. This provision does not prohibit the administrative officer from requesting
31 a recommendation from either the technical review committee or the local review board. Denial of
32 the proposed change(s) shall be referred to the local review board for review as a major change.

33 (II) Major changes, as defined in the local regulations, to the plans approved at preliminary
34 plan may be approved only by the local review board and must follow the same review and public

1 hearing process required for approval of preliminary plans as described in subsection (c)(2)(iii) of
2 this section.

3 (III) The administrative officer shall notify the applicant in writing within fourteen (14)
4 days of submission of the final plan application if the administrative officer is referring the
5 application to the local review board under this subsection.

6 (C) Decision on final plan. An application filed in accordance with this chapter shall be
7 approved by the administrative officer unless such application does not satisfy conditions set forth
8 in the preliminary plan approval decision or such application does not have the requisite state and/or
9 federal approvals or other required submissions, does not post the required improvement bonds, or
10 such application is a major modification of the plans approved at preliminary plan.

11 (D) Failure to act. Failure of the reviewing authority to act within the prescribed period
12 constitutes approval of the final plan and a certificate of the administrative officer as to the failure
13 to act within the required time and the resulting approval shall be issued on request of the applicant.

14 (iv) Vesting. The approved final plan is vested for a period of two (2) years with the right
15 to extend for one one-year extension upon written request by the applicant, who must appear before
16 the planning board for the extension request. Thereafter, vesting may be extended for a longer
17 period, for good cause shown, if requested, in writing by the applicant, and approved by the local
18 review board.

19 (4) Infeasibility of conditions of approval. The burden is on the applicant to show, by
20 competent evidence before the local review board, that proposed conditions of approval are
21 infeasible, as defined in § 45-53-3. Upon request, the applicant shall be provided a reasonable
22 opportunity to respond to such proposed conditions prior to a final vote on the application.

23 (5) Fees. Municipalities may impose fees on comprehensive permit applications that are
24 consistent with but do not exceed fees that would otherwise be assessed for a project of the same
25 scope and type, but not proceeding under this chapter; provided, however, the imposition of such
26 fees shall not preclude a showing by an applicant that the fees make the project financially
27 infeasible; and

28 (6) Recording of written decisions. All written decisions on applications under this chapter
29 shall be recorded in the land evidence records within twenty (20) days after the local review board's
30 vote or the administrative officer's decision, as applicable. A copy of the recorded decision shall be
31 mailed within one business day of recording, by any method that provides confirmation of receipt,
32 to the applicant and to any objector who has filed a written request for notice with the administrative
33 officer.

34 (7) Local review board powers. The local review board has the same power to issue permits

1 or approvals that any local board or official who would otherwise act with respect to the application,
2 including, but not limited to, the power to attach to the permit or approval, conditions, and
3 requirements with respect to height, site plan, size or shape, or building materials, as are consistent
4 with the terms of this section.

5 ~~(viii)~~(8) Majority vote required. All local review board decisions on comprehensive
6 permits shall be by majority vote of the members present at the proceeding; provided that, there is
7 at least a quorum of the local review board present and voting at the proceeding, ~~and may be~~
8 ~~appealed by the applicant to the state housing appeals board.~~

9 ~~(ix) If the public hearing is not convened or a decision is not rendered within the time~~
10 ~~allowed in subsections (a)(4)(iii) and (iv), the application is deemed to have been allowed and the~~
11 ~~relevant approval shall issue immediately; provided, however, that this provision shall not apply to~~
12 ~~any application remanded for hearing in any town where more than one application has been~~
13 ~~remanded for hearing provided for in § 45-53-6(f)(2).~~

14 ~~(x) Any person aggrieved by the issuance of an approval may appeal to the superior court~~
15 ~~within twenty (20) days of the issuance of approval.~~

16 ~~(xi)~~(9) Construction timetable. A comprehensive permit shall expire unless construction is
17 started within twelve (12) months and completed within sixty (60) months of the recording of the
18 ~~final plan approval~~ unless a longer and/or phased period for development is agreed to by the local
19 review board and the applicant. Low- and moderate-income housing units shall be built and
20 occupied prior to, or simultaneous with the construction and occupancy of market rate units.

21 ~~(xii)~~(10) For-profit developers -- Limits. A town with an approved affordable housing plan
22 and that is meeting local housing needs, as defined in this chapter, may by council action limit the
23 annual total number of dwelling units in comprehensive permit applications from for-profit
24 developers to an aggregate of one percent (1%) of the total number of year-round housing units in
25 the town, as recognized in the affordable housing plan and notwithstanding the timetables set forth
26 elsewhere in this section, the local review board shall have the authority to consider comprehensive
27 permit applications from for-profit developers, which are made pursuant to this paragraph,
28 sequentially in the order in which they are submitted.

29 ~~(xiii)~~(11) Report. The local review board of a town with an approved affordable housing
30 plan shall report the status of implementation to the housing resources commission, including the
31 disposition of any applications made under the plan, as of June 30, 2006, by September 1, 2006,
32 and for each June 30 thereafter by September 1 through 2010. The housing resources commission
33 shall prepare by October 15 and adopt by December 31, a report on the status of implementation,
34 which shall be submitted to the governor, the speaker, and the president of the senate, ~~and the~~

1 ~~chairperson of the state housing appeals board,~~ and shall find which towns are not in compliance
2 with implementation requirements.

3 ~~(xiv)~~(12) Remanded applications. Notwithstanding the provisions of § 45-53-4 in effect on
4 February 13, 2004, ~~to~~ a local review board shall commence hearings within thirty (30) days of
5 receiving an application remanded by the state housing appeals board ~~pursuant to § 45-53-6(f)(2)~~
6 ~~shall be heard as herein provided; in~~ or superior court, as applicable. In any town with more than
7 one remanded application, applications may be scheduled for hearing in the order in which they
8 were received, and may be taken up sequentially, with the thirty-day (30) requirement for the
9 initiation of hearings, commencing upon the decision of the earlier filed application.

10 ~~(b)~~(d)(1) The general assembly finds and declares that in January 2004 towns throughout
11 Rhode Island have been confronted by an unprecedented volume and complexity of development
12 applications as a result of private for-profit developers using the provisions of this chapter and that
13 in order to protect the public health and welfare in communities and to provide sufficient time to
14 establish a reasonable and orderly process for the consideration of applications made under the
15 provisions of this chapter, and to have communities prepare plans to meet low- and moderate-
16 income housing goals, that it is necessary to impose a moratorium on the use of comprehensive
17 permit applications as herein provided by private for-profit developers; a moratorium is hereby
18 imposed on the use of the provisions of this chapter by private for-profit developers, which
19 moratorium shall be effective on passage and shall expire on January 31, 2005, and may be revisited
20 prior to expiration and extended to such other date as may be established by law. Notwithstanding
21 the provisions of subsection (a) of this section, private for-profit developers may not utilize the
22 procedure of this chapter until the expiration of the moratorium.

23 (2) No for-profit developer shall submit a new application for comprehensive permits until
24 July 1, 2005, except by mutual agreement with the local review board.

25 (3) Notwithstanding the provisions of subdivision (b)(2) of this section, a local review
26 board in a town which has submitted a plan in accordance with subsection (c) of this section, shall
27 not be required to accept an application for a new comprehensive permit from a for-profit developer
28 until October 1, 2005.

29 ~~(e)~~(e) Towns and cities that are not in conformity with the provisions of § 45-53-3(4)(i)
30 shall prepare by December 31, 2004, a comprehensive plan housing element for low- and moderate-
31 income housing as specified by § 45-53-3(4)(ii), consistent with applicable law and regulation.
32 That the secretary of the planning board or commission of each city or town subject to the
33 requirements of this paragraph shall report in writing the status of the preparation of the housing
34 element for low- and moderate-income housing on or before June 30, 2004, and on or before

1 December 31, 2004, to the secretary of the state planning council, to the chair of the house
2 committee on corporations and to the chair of the senate committee on commerce, housing and
3 municipal government. The state housing appeals board shall use said plan elements in making
4 determinations provided for in § 45-53-6(c)(2).

5 ~~(d)~~(f) If any provision of this section or the application thereof shall for any reason be
6 judged invalid, the judgment shall not affect, impair, or invalidate the remainder of this section or
7 of any other provision of this chapter, but shall be confined in its effect to the provision or
8 application directly involved in the controversy giving rise to the judgment, and a moratorium on
9 the applications of for-profit developers pursuant to this chapter shall remain and continue to be in
10 effect for the period commencing on the day this section becomes law [February 13, 2004] and
11 continue until it shall expire on January 31, 2005, or until amended further.

12 ~~(e)~~(g) In planning for, awarding, and otherwise administering programs and funds for
13 housing and for community development, state departments, agencies, boards and commissions,
14 and public corporations, as defined in chapter 18 of title 35, shall among the towns subject to the
15 provision of § 45-53-3(ii), give priority to the maximum extent allowable by law to towns with an
16 approved affordable housing plan. The director of administration shall adopt not later than January
17 31, 2005, regulations to implement the provisions of this section.

18 ~~(f)~~(h) Multi-family rental units built under a comprehensive permit may be calculated
19 towards meeting the requirements of a municipality's low- or moderate-income housing inventory,
20 as long as the units meet and are in compliance with the provisions of § 45-53-3.1.

21 SECTION 2. This act shall take effect on January 1, 2024.

=====
LC002127/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES -- LOW AND MODERATE INCOME HOUSING

1 This act would provide amendments relative to low- and moderate-income housing and
2 modify and clarify the procedure for review of applications to build such housing.

3 This act would take effect on January 1, 2024.

=====
LC002127/SUB A
=====

2023 -- H 6058 SUBSTITUTE A

LC001889/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

Introduced By: Representatives Abney, Shekarchi, Biah, Azzinaro, and Hull

Date Introduced: March 03, 2023

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-24-46.1 of the General Laws in Chapter 45-24 entitled "Zoning
2 Ordinances" is hereby amended to read as follows:

3 **45-24-46.1. Inclusionary zoning.**

4 (a) A zoning ordinance requiring the inclusion of affordable housing as part of a
5 development shall provide that the housing will be affordable housing, as defined in § 42-128-
6 8.1(d)(1); that the affordable housing will constitute not less than ~~ten percent (10%)~~ twenty-five
7 (25%) of the total units in the development; and that the units will remain affordable for a period
8 of not less than thirty-years (30) from initial occupancy enforced through a land lease and/or deed
9 restriction enforceable by the municipality and the state of Rhode Island. A zoning ordinance which
10 requires the inclusion of affordable housing as part of a development shall specify the threshold in
11 which the inclusion of affordable housing is required, but in no event shall a minimum threshold
12 triggering the inclusion of affordable housing be higher than ten (10) dwelling units.

13 (b) A zoning ordinance that includes inclusionary zoning may provide that the affordable
14 housing must be built on-site or utilize one or more alternative methods of production, including,
15 but not limited to, off-site construction or rehabilitation, donation of land suitable for development
16 of the required affordable units, and/or the payment of a fee in lieu of the construction or provision
17 of affordable housing units.

18 (c) Density bonus, zoning incentives and municipal subsidies. For all projects subject to
19 inclusionary zoning, ~~density bonuses and other incentives shall be established by the community~~

1 ~~and shall apply to offset differential costs of below market units.~~ subject to applicable setback, lot
2 width, or frontage requirements or the granting of relief from the same, a municipality shall allow
3 the addition of two (2) market rate units for each affordable unit provided and the minimum lot
4 area per dwelling unit normally required in the applicable zoning district shall be reduced by that
5 amount necessary to accommodate the development. Larger density bonuses for the provision of
6 an increased percentage of affordable housing in a development may be provided by a municipality
7 in the zoning ordinance. Nothing herein shall prohibit a municipality from providing, or an
8 applicant from requesting additional zoning incentives and/or municipal government subsidies as
9 defined in § 45-53-3 to offset differential costs of affordable units. Available zoning incentives and
10 municipal government subsidies shall be listed in the zoning ordinance.

11 ~~(e) This~~ (d) Fee-in-lieu. To the extent a municipality provides an option for the payment of
12 a fee-in-lieu of the construction or provision of affordable housing, such fee ~~in lieu of the~~
13 ~~construction or provision of affordable housing~~ shall be the choice of the developer or builder
14 applied on a per-unit basis and may be used for new developments, purchasing property and/or
15 homes, rehabilitating properties, or any other manner that creates additional low-or-moderate
16 income housing as defined in § 45-53-3(9).

17 (1) Eligibility for density bonus. Notwithstanding any other provisions of this chapter, an
18 application which utilizes a fee-in-lieu of the construction or provision of affordable housing shall
19 not be eligible for the density bonus outlined in this section.

20 (2) An application which seeks to utilize a fee-in-lieu of the construction or provision of
21 affordable housing must be permitted by the planning board or commission and is not eligible for
22 administrative review under the Rhode Island Land Development and Subdivision Review
23 Enabling Act of 1992, codified at §§ 45-23-25 - 45-23-74.

24 (3) Amount of fee-in-lieu. For affordable single-family homes and condominium units, the
25 per-unit fee shall be the difference between the maximum affordable sales price for a family of four
26 (4) earning eighty percent (80%) of the area median income as determined annually by the U.S.
27 Department of Housing and Urban Development and the average cost of developing a single unit
28 of affordable housing. The average cost of developing a single unit of affordable housing shall be
29 determined annually based on the average, per-unit development cost of affordable homes financed
30 by Rhode Island housing and mortgage finance corporation (RIHMFC) over the previous three (3)
31 years, excluding existing units that received preservation financing.

32 ~~(2)(i)~~ (d)(3) Notwithstanding subsection ~~(e)(1)~~ (d)(3) of this section, in no case shall the per-unit
33 fee for affordable single family homes and condominium units be less than forty thousand dollars
34 (\$40,000).

1 ~~(d)~~(4) Use of fee-in-lieu. The municipality shall deposit all in-lieu payments into restricted
2 accounts that shall be allocated and spent only for the creation and development of affordable
3 housing within the municipality serving individuals or families at or below eighty percent (80%)
4 of the area median income. The municipality shall maintain a local affordable housing board to
5 oversee the funds in the restricted accounts and shall allocate the funds within ~~two (2) years~~ three
6 (3) years of collection. The municipality shall include in the housing element of their local
7 comprehensive plan, ~~if applicable,~~ and shall pass by ordinance, the process it will use to allocate
8 the funds.

9 (e) As an alternative to the provisions of subsection (d), the municipality may elect to
10 transfer in-lieu payments promptly upon receipt or within the ~~two-year (2)~~ three (3) year period
11 after receipt. A municipality shall transfer all fee-in-lieu payments which are not allocated within
12 three (3) years of collection, including funds held as of July 1, 2024, to ~~the housing resources~~
13 ~~commission or Rhode Island housing~~ RIHMFC for the purpose of developing affordable housing
14 within that community.

15 (f) ~~Rhode Island housing~~ Both the municipalities and RIHMFC shall report annually with
16 the first report due December 31, 2024 to the general assembly, the secretary of housing and the
17 housing resources commission the amount of fees in lieu collected by community; the projects that
18 were provided funding with the fees, the dollar amounts allocated to the projects and the number
19 of units created.

20 SECTION 2. This act shall take effect on January 1, 2024.

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LC001889/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

1 This act would increase the amount of allowable units per acre for all projects subject to
2 inclusionary zoning as well as other incentives and subsidies to offset differential costs of
3 affordable units.

4 This act would take effect on January 1, 2024.

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LC001889/SUB A
=====

2023 -- H 6060 SUBSTITUTE A

LC002192/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE--COURTS -- SUPERIOR COURT

Introduced By: Representatives Shekarchi, Hull, Edwards, Cortvriend, Kazarian, and Blazejewski

Date Introduced: March 03, 2023

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 8-2 of the General Laws entitled "Superior Court" is hereby amended
2 by adding thereto the following section:

3 **8-2-40. Land use calendar -- Effective January 1, 2024.**

4 (a) Findings and declarations. The general assembly finds and declares that:

5 (1) There are significant delays in the development permitting process in the State of Rhode
6 Island which results in lost opportunity for the needed development of housing units and
7 commercial development to neighboring states.

8 (2) Contributing to the delay were lengthy administrative appeals to local and state boards
9 prior to appeals to superior court.

10 (3) Previous legislation amended the appeal process in most cases to provide a direct right
11 of appeal to superior court.

12 (4) Landowners, applicants, municipalities and abutters are entitled to decisions with
13 respect to ordinances, regulations, decisions regarding property rights and interests which do not
14 require years of costly appeals and litigation.

15 (4) There is a need for uniform treatment of such matters, and related matters which are
16 statutorily provided with priority on the judicial calendar and expedited for decision.

17 (b) Establishment. To accomplish this purpose in an effort to minimize delay in the
18 processing of land use matters in superior court, effective January 1, 2024, there shall be established
19 a separate calendar for the administration and determination of all land use matters.

1 (c) Land use calendar. The presiding judge of the superior court shall create a land use
2 calendar in superior court and shall assign personnel to the extent warranted to exclusively hear
3 and decide all eligible land use matters, and the calendar shall be referred to as the “land use
4 calendar.” Cases eligible for the land use calendar shall include appeals under §§ 45-22.2-9.1, 45-
5 23-71, 45-23-72, 45-24-69, 45-24-71; 45-24.4-16, 45-24.6-9, 45-53-5; and 45-53-5.1. Any party
6 may request a conference to seek assignment to the land use calendar, and acceptance of any matter
7 in addition to the sections listed above shall be at the discretion of the judge(s) assigned to the
8 calendar.

9 (d) Timing. All matters assigned to the land use calendar shall be expedited. All
10 memoranda from all interested parties in an appeal assigned to the calendar shall be completed
11 within sixty (60) days of the filing of the certified record. No continuances or postponements shall
12 be granted except for good cause shown. Such continuances as are necessary shall be granted for
13 the shortest practicable time.

14 (e) Use of section. Under no circumstances shall any party be permitted to utilize this
15 section as a basis for dismissal of an action, as this section is enacted for the benefit and
16 convenience of the superior court.

17 SECTION 2. This act shall take effect on January 1, 2024.

=====
LC002192/SUB A
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO COURTS AND CIVIL PROCEDURE--COURTS -- SUPERIOR COURT

1 This act would, effective January 1, 2024, establish a land use court within the superior
2 court.

3 This act would take effect on January 1, 2024.

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LC002192/SUB A
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2023 -- H 6083 SUBSTITUTE A

LC001448/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO TOWNS AND CITIES -- LOW AND MODERATE INCOME HOUSING

Introduced By: Representatives Batista, Shekarchi, Hull, Shallcross Smith, Noret, and
McNamara

Date Introduced: March 03, 2023

Referred To: House Municipal Government & Housing

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-53-4 and 45-53-5 of the General Laws in Chapter 45-53 entitled
2 "Low and Moderate Income Housing" are hereby amended to read as follows:

3 **45-53-4. Procedure for approval of construction of low- or moderate-income housing.**

4 (a) Any applicant proposing to build low- or moderate-income housing may submit to the
5 local review board a single application for a comprehensive permit to build that housing in lieu of
6 separate applications to the applicable local boards. This procedure is only available for proposals
7 in which at least twenty-five percent (25%) of the housing is low- or moderate-income housing.

8 The application and review process for a comprehensive permit shall be as follows:

9 (1) Submission requirements. Applications for a comprehensive permit shall include:

10 (i) A letter of eligibility issued by the Rhode Island housing and mortgage finance
11 corporation, or in the case of projects primarily funded by the U.S. Department of Housing and
12 Urban Development or other state or federal agencies, an award letter indicating the subsidy, or
13 application in such form as may be prescribed for a municipal government subsidy; and

14 (ii) A written request to the local review board to submit a single application to build or
15 rehabilitate low- or moderate-income housing in lieu of separate applications to the applicable local
16 boards. The written request shall identify the specific sections and provisions of applicable local
17 ordinances and regulations from which the applicant is seeking relief; and

18 (iii) A proposed timetable for the commencement of construction and completion of the
19 project; and

1 (iv) A sample land lease or deed restriction with affordability liens that will restrict use as
2 low- and moderate-income housing in conformance with the guidelines of the agency providing
3 the subsidy for the low- and moderate-income housing, but for a period of not less than thirty (30)
4 years; and

5 (v) Identification of an approved entity that will monitor the long-term affordability of the
6 low- and moderate-income units; provided, that, on and after July 1, 2022, this entity shall include
7 the Rhode Island housing resources commission established pursuant to chapter 128 of title 42 and
8 acting through its monitoring agents, and these agents shall monitor the long-term affordability of
9 the low- and moderate-income units pursuant to § 45-53-3.2; and

10 (vi) A financial pro-forma for the proposed development; and

11 (vii) For comprehensive permit applications: (A) Not involving major land developments
12 or major subdivisions including, but not limited to, applications seeking relief from specific
13 provisions of a local zoning ordinance, or involving administrative subdivisions, minor land
14 developments or minor subdivisions, or other local ordinances and regulations: those items required
15 by local regulations promulgated pursuant to applicable state law, with the exception of evidence
16 of state or federal permits; and for comprehensive permit applications; and (B) Involving major
17 land developments and major subdivisions, unless otherwise agreed to by the applicant and the
18 town; those items included in the checklist for the master plan in the local regulations promulgated
19 pursuant to § 45-23-40. Subsequent to master plan approval, the applicant must submit those items
20 included in the checklist for a preliminary plan for a major land development or major subdivision
21 project in the local regulations promulgated pursuant to § 45-23-41, with the exception of evidence
22 of state or federal permits. All required state and federal permits must be obtained prior to the final
23 plan approval or the issuance of a building permit; and

24 (viii) Municipalities may impose fees on comprehensive permit applications that are
25 consistent with but do not exceed fees that would otherwise be assessed for a project of the same
26 scope and type but not proceeding under this chapter, provided, however, that the imposition of
27 such fees shall not preclude a showing by a nonprofit applicant that the fees make the project
28 financially infeasible; and

29 (xi) Notwithstanding the submission requirements set forth above, the local review board
30 may request additional, reasonable documentation throughout the public hearing, including, but not
31 limited to, opinions of experts, credible evidence of application for necessary federal and/or state
32 permits, statements and advice from other local boards and officials.

33 (2) Certification of completeness. The application must be certified complete or incomplete
34 by the administrative officer according to the provisions of § 45-23-36; provided, however, that for

1 a major land development or major subdivision, the certificate for a master plan shall be granted
2 within twenty-five (25) days and for a preliminary plan shall be granted within twenty-five (25)
3 days. The running of the time period set forth herein will be deemed stopped upon the issuance of
4 a certificate of incompleteness of the application by the administrative officer and will recommence
5 upon the resubmission of a corrected application by the applicant. However, in no event will the
6 administrative officer be required to certify a corrected submission as complete or incomplete less
7 than ten (10) days after its resubmission. If the administrative officer certifies the application as
8 incomplete, the officer shall set forth in writing with specificity the missing or incomplete items.

9 (3) Pre-application conference. Where the comprehensive permit application proposal is a
10 major land development project or a major subdivision pursuant to chapter 23 of this title a
11 municipality may require an applicant proposing a project under this chapter to first schedule a pre-
12 application conference with the local review board, the technical review committee established
13 pursuant to § 45-23-56, or with the administrative officer for the local review board and other local
14 officials, as appropriate. To request a pre-application conference, the applicant shall submit a short
15 description of the project in writing including the number of units, type of housing, as well as a
16 location map. The purpose of the pre-application conference shall be to review a concept plan of
17 the proposed development. Upon receipt of a request by an applicant for a pre-application
18 conference, the municipality has thirty (30) days to schedule and hold the pre-application
19 conference. If thirty (30) days has elapsed from the filing of the pre-application submission and no
20 pre-application conference has taken place, nothing shall be deemed to preclude an applicant from
21 thereafter filing and proceeding with an application for a comprehensive permit.

22 (4) Review of applications. An application filed in accordance with this chapter shall be
23 reviewed by the local review board at a public hearing in accordance with the following provisions:

24 (i) Notification. Upon issuance of a certificate of completeness for a comprehensive permit,
25 the local review board shall immediately notify each local board, as applicable, of the filing of the
26 application, by sending a copy to the local boards and to other parties entitled to notice of hearings
27 on applications under the zoning ordinance and/or land development and subdivision regulations
28 as applicable.

29 (ii) Public notice. Public notice for all public hearings will be the same notice required
30 under local regulations for a public hearing for a preliminary plan promulgated in accordance with
31 § 45-23-42. The cost of notice shall be paid by the applicant.

32 (iii) Review of minor projects. The review of a comprehensive permit application involving
33 only minor land developments or minor subdivisions or requesting zoning ordinance relief or relief
34 from other local regulations or ordinances not otherwise addressed in this subsection, shall be

1 conducted following the procedures in the applicable local regulations, with the exception that all
2 minor land developments or minor subdivisions under this section are required to hold a public
3 hearing on the application, and within ninety-five (95) days of issuance of the certificate of
4 completeness, or within such further time as is agreed to by the applicant and the local review
5 board, render a decision.

6 (iv) Review of major projects. In the review of a comprehensive permit application
7 involving a major land development and/or major subdivision, the local review board shall hold a
8 public hearing on the master plan and shall, within ninety (90) days of issuance of the certification
9 of completeness, or within such further amount of time as may be agreed to by the local review
10 board and the applicant, render a decision. Preliminary and final plan review shall be conducted
11 according to local regulations promulgated pursuant to chapter 23 of this title except as otherwise
12 specified in this section.

13 (v) Required findings. In approving an application, the local review board shall make
14 positive findings, supported by legally competent evidence on the record that discloses the nature
15 and character of the observations upon which the fact finders acted, on each of the following
16 standard provisions, where applicable:

17 (A) The proposed development is consistent with local needs as identified in the local
18 comprehensive community plan with particular emphasis on the community's affordable housing
19 plan and/or has satisfactorily addressed the issues where there may be inconsistencies.

20 (B) The proposed development is in compliance with the standards and provisions of the
21 municipality's zoning ordinance and subdivision regulations, and/or where expressly varied or
22 waived local concerns that have been affected by the relief granted do not outweigh the state and
23 local need for low- and moderate-income housing.

24 (C) All low- and moderate-income housing units proposed are integrated throughout the
25 development; are compatible in scale and architectural style to the market rate units within the
26 project; and will be built and occupied prior to, or simultaneous with the construction and
27 occupancy of any market rate units.

28 (D) There will be no significant negative environmental impacts from the proposed
29 development as shown on the final plan, with all required conditions for approval.

30 (E) There will be no significant negative impacts on the health and safety of current or
31 future residents of the community, in areas including, but not limited to, safe circulation of
32 pedestrian and vehicular traffic, provision of emergency services, sewerage disposal, availability
33 of potable water, adequate surface water run-off, and the preservation of natural, historical, or
34 cultural features that contribute to the attractiveness of the community.

1 (F) All proposed land developments and all subdivisions lots will have adequate and
2 permanent physical access to a public street in accordance with the requirements of § 45-23-60(5).

3 (G) The proposed development will not result in the creation of individual lots with any
4 physical constraints to development that building on those lots according to pertinent regulations
5 and building standards would be impracticable, unless created only as permanent open space or
6 permanently reserved for a public purpose on the approved, recorded plans.

7 (vi) The local review board has the same power to issue permits or approvals that any local
8 board or official who would otherwise act with respect to the application, including, but not limited
9 to, the power to attach to the permit or approval, conditions, and requirements with respect to
10 height, site plan, size or shape, or building materials, as are consistent with the terms of this section.

11 (vii) In reviewing the comprehensive permit request, the local review board may deny the
12 request for any of the following reasons: (A) If the city or town has an approved affordable housing
13 plan and is meeting housing needs, and the proposal is inconsistent with the affordable housing
14 plan; provided that, the local review board also finds that the municipality has made significant
15 progress in implementing that housing plan; (B) The proposal is not consistent with local needs,
16 including, but not limited to, the needs identified in an approved comprehensive plan, and/or local
17 zoning ordinances and procedures promulgated in conformance with the comprehensive plan; (C)
18 The proposal is not in conformance with the comprehensive plan; (D) The community has met or
19 has plans to meet the goal of ten percent (10%) of the year-round units or, in the case of an urban
20 town or city, fifteen percent (15%) of the occupied rental housing units as defined in § 45-53-3(4)(i)
21 being low- and moderate-income housing; provided that, the local review board also finds that the
22 community has achieved or has made significant progress towards meeting the goals required by
23 this section; or (E) Concerns for the environment and the health and safety of current residents have
24 not been adequately addressed.

25 (viii) All local review board decisions on comprehensive permits shall be by majority vote
26 of the members present at the proceeding; ~~provided that, there is at least a quorum of the local~~
27 ~~review board present and voting at the proceeding, and may be appealed by the applicant to the~~
28 ~~state housing appeals board.~~

29 (ix) If the public hearing is not convened or a decision is not rendered within the time
30 allowed in subsections (a)(4)(iii) and (iv), the application is deemed to have been allowed and the
31 relevant approval shall issue immediately; provided, however, that this provision shall not apply to
32 any application remanded for hearing in any town where more than one application has been
33 remanded for hearing provided for in § 45-53-6(f)(2).

34 (x) ~~Any person aggrieved by the issuance of an approval may appeal to the superior court~~

1 ~~within twenty (20) days of the issuance of approval.~~

2 (xi) A comprehensive permit shall expire unless construction is started within twelve (12)
3 months and completed within sixty (60) months of final plan approval unless a longer and/or phased
4 period for development is agreed to by the local review board and the applicant. Low- and
5 moderate-income housing units shall be built and occupied prior to, or simultaneous with the
6 construction and occupancy of market rate units.

7 (xii) A town with an approved affordable housing plan and that is meeting local housing
8 needs may by council action limit the annual total number of dwelling units in comprehensive
9 permit applications from for-profit developers to an aggregate of one percent (1%) of the total
10 number of year-round housing units in the town, as recognized in the affordable housing plan and
11 notwithstanding the timetables set forth elsewhere in this section, the local review board shall have
12 the authority to consider comprehensive permit applications from for-profit developers, which are
13 made pursuant to this paragraph, sequentially in the order in which they are submitted.

14 (xiii) The local review board of a town with an approved affordable housing plan shall
15 report the status of implementation to the housing resources commission, including the disposition
16 of any applications made under the plan, as of June 30, 2006, by September 1, 2006, and for each
17 June 30 thereafter by September 1 through 2010. The housing resources commission shall prepare
18 by October 15 and adopt by December 31, a report on the status of implementation, which shall be
19 submitted to the governor, the speaker, and the president of the senate, ~~and the chairperson of the~~
20 ~~state housing appeals board~~, and shall find which towns are not in compliance with implementation
21 requirements.

22 (xiv) Notwithstanding the provisions of § 45-53-4 in effect on February 13, 2004, to
23 commence hearings within thirty (30) days of receiving an application remanded ~~by the state~~
24 ~~housing appeals board~~ pursuant to § ~~45-53-6(f)(2)~~ 45-53-5 or, effective January 1, 2024, § 45-53-
25 5.1 shall be heard as herein provided; in any town with more than one remanded application,
26 applications may be scheduled for hearing in the order in which they were received, and may be
27 taken up sequentially, with the thirty-day (30) requirement for the initiation of hearings,
28 commencing upon the decision of the earlier filed application.

29 (b)(1) The general assembly finds and declares that in January 2004 towns throughout
30 Rhode Island have been confronted by an unprecedented volume and complexity of development
31 applications as a result of private for-profit developers using the provisions of this chapter and that
32 in order to protect the public health and welfare in communities and to provide sufficient time to
33 establish a reasonable and orderly process for the consideration of applications made under the
34 provisions of this chapter, and to have communities prepare plans to meet low- and moderate-

1 income housing goals, that it is necessary to impose a moratorium on the use of comprehensive
2 permit applications as herein provided by private for-profit developers; a moratorium is hereby
3 imposed on the use of the provisions of this chapter by private for-profit developers, which
4 moratorium shall be effective on passage and shall expire on January 31, 2005, and may be revisited
5 prior to expiration and extended to such other date as may be established by law. Notwithstanding
6 the provisions of subsection (a) of this section, private for-profit developers may not utilize the
7 procedure of this chapter until the expiration of the moratorium.

8 (2) No for-profit developer shall submit a new application for comprehensive permits until
9 July 1, 2005, except by mutual agreement with the local review board.

10 (3) Notwithstanding the provisions of subdivision (b)(2) of this section, a local review
11 board in a town which has submitted a plan in accordance with subsection (c) of this section, shall
12 not be required to accept an application for a new comprehensive permit from a for-profit developer
13 until October 1, 2005.

14 (c) Towns and cities that are not in conformity with the provisions of § 45-53-3(4)(i) shall
15 prepare by December 31, 2004, a comprehensive plan housing element for low- and moderate-
16 income housing as specified by § 45-53-3(4)(ii), consistent with applicable law and regulation.
17 That the secretary of the planning board or commission of each city or town subject to the
18 requirements of this paragraph shall report in writing the status of the preparation of the housing
19 element for low- and moderate-income housing on or before June 30, 2004, and on or before
20 December 31, 2004, to the secretary of the state planning council, to the chair of the house
21 committee on corporations and to the chair of the senate committee on commerce, housing and
22 municipal government. ~~The state housing appeals board shall use said plan elements in making~~
23 ~~determinations provided for in § 45-53-6(e)(2).~~

24 (d) If any provision of this section or the application thereof shall for any reason be judged
25 invalid, the judgment shall not affect, impair, or invalidate the remainder of this section or of any
26 other provision of this chapter, but shall be confined in its effect to the provision or application
27 directly involved in the controversy giving rise to the judgment, and a moratorium on the
28 applications of for-profit developers pursuant to this chapter shall remain and continue to be in
29 effect for the period commencing on the day this section becomes law [February 13, 2004] and
30 continue until it shall expire on January 31, 2005, or until amended further.

31 (e) In planning for, awarding, and otherwise administering programs and funds for housing
32 and for community development, state departments, agencies, boards and commissions, and public
33 corporations, as defined in chapter 18 of title 35, shall among the towns subject to the provision of
34 § 45-53-3(ii), give priority to the maximum extent allowable by law to towns with an approved

1 affordable housing plan. The director of administration shall adopt not later than January 31, 2005,
2 regulations to implement the provisions of this section.

3 (f) Multi-family rental units built under a comprehensive permit may be calculated towards
4 meeting the requirements of a municipality's low- or moderate-income housing inventory, as long
5 as the units meet and are in compliance with the provisions of § 45-53-3.1.

6 ~~45-53-5. Appeals to state housing appeals board — Judicial review. [Effective~~
7 ~~January 1, 2023.] Appeals -- Judicial review [Effective until January 1, 2024].~~

8 (a) Effective July 1, 2023, until January 1, 2024, at which time the provisions of this section
9 shall sunset and be repealed and replaced by § 45-53-5.1, any and all existing appeals pending
10 before the state housing appeals board shall continue to be heard and decided in accordance with
11 this chapter until December 31, 2023. All appeals shall continue to be filed with the state housing
12 appeals board in accordance with this chapter until December 31, 2023.

13 ~~(a)~~(b) Whenever an application filed under the provisions of § 45-53-4 is denied, or is
14 granted with conditions and requirements that make the building or operation of the housing
15 infeasible, the applicant has the right to appeal to the state housing appeals board (“SHAB”)
16 established by § 45-53-7, for a review of the application. The appeal shall be taken within twenty
17 (20) days after the date of the ~~notice~~ recording and posting of the decision by the local review board
18 by filing with the appeals board a statement of the prior proceedings and the reasons upon which
19 the appeal is based.

20 ~~(b)~~(c) The appeals board shall immediately notify the local review board of the filing of
21 the petition for review. Municipalities shall submit the complete local review board record to the
22 state housing appeals board within thirty (30) days of receiving notification from SHAB that an
23 appeal has been filed.

24 ~~(c) [As amended by P.L. 2022, ch. 208, § 3 and P.L. 2022, ch. 209, § 3.] The appeal shall~~
25 ~~be heard by the appeals board within twenty (20) days after the receipt of the applicant's statement.~~
26 ~~Four (4) active members, which may include an alternate, are necessary to conduct a hearing on an~~
27 ~~appeal. A stenographic record of the proceedings shall be kept and the appeals board shall render a~~
28 ~~written decision and order, based upon a majority vote of members present and voting, stating its~~
29 ~~findings of fact, and its conclusions and the reasons for those conclusions, within thirty (30) days~~
30 ~~after the termination of the hearing, unless the time has been extended by mutual agreement~~
31 ~~between the appeals board and the applicant. The decision and order may be appealed in the~~
32 ~~superior court within twenty (20) days of the issuance of the decision. The review shall be~~
33 ~~conducted by the superior court without a jury. The court shall consider the record of the hearing~~
34 ~~before the state housing appeals board and, if it appears to the court that additional evidence is~~

1 necessary for the proper disposition of the matter, it may allow any party to the appeal to present
2 that evidence in open court, which evidence, along with the report, constitutes the record upon
3 which the determination of the court is made.

4 ~~(e)~~(d) [As amended by P.L. 2022, ch. 413, § 1 and P.L. 2022, ch. 414, § 1.] SHAB
5 decisions shall be made within nine (9) months of the filing of the appeal, ~~which time period may~~
6 ~~only be extended for good cause by an affirmative vote of the SHAB to so extend the time, if~~
7 ~~circumstances demand more time. Any extension beyond the nine month (9) period shall be limited~~
8 ~~to the least extent reasonable and shall not cumulatively extend the decision period by more than~~
9 ~~an additional two (2) months. Five (5) active members, which may include an alternate, are~~
10 ~~necessary to conduct a hearing on appeal.~~ A stenographic record of the proceedings shall be kept
11 and the appeals board shall render a written decision and order, based upon a majority vote of the
12 members present at the proceeding; ~~provided that, there is at least a minimum quorum of members~~
13 ~~of the appeals board present and voting at the proceeding,~~ stating its findings of fact, and its
14 conclusions and the reasons for those conclusions, within thirty (30) days after the termination of
15 the hearing, ~~unless the time has been extended by mutual agreement between the appeals board and~~
16 ~~the applicant.~~ The decision and order may be appealed in the superior court within twenty (20) days
17 of the issuance of the decision. The review shall be conducted by the superior court without a jury.
18 The court shall consider the record of the hearing before the state housing appeals board and, if it
19 appears to the court that additional evidence is necessary for the proper disposition of the matter, it
20 may allow any party to the appeal to present that evidence in open court, which evidence, along
21 with the report, constitutes the record upon which the determination of the court is made.

22 ~~(d)~~(e) The court shall not substitute its judgment for that of the state housing appeals board
23 as to the weight of the evidence on questions of fact. The court may affirm the decision of the state
24 housing appeals board or remand the case for further proceedings, or may reverse or modify the
25 decision if substantial rights of the appellant have been prejudiced because of findings, inferences,
26 conclusions, or decisions which are:

- 27 (1) In violation of constitutional, statutory, or ordinance provisions;
- 28 (2) In excess of the authority granted to the state housing appeals board by statute or
29 ordinance;
- 30 (3) Made upon unlawful procedure;
- 31 (4) Affected by other error of law;
- 32 (5) Clearly erroneous in view of the reliable, probative, and substantial evidence of the
33 whole record; or
- 34 (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted

1 exercise of discretion.

2 ~~(e)~~(f) Any appeal from the superior court to the supreme court pursuant to this section shall
3 be by writ of certiorari.

4 SECTION 2. Chapter 45-53 of the General Laws entitled "Low and Moderate Income
5 Housing" is hereby amended by adding thereto the following section:

6 **45-53-5.1. Appeals -- Judicial review [Effective January 1, 2024].**

7 (a) Effective January 1, 2024 as a replacement to § 45-53-5. A decision of a local review
8 board may be appealed by the applicant or an aggrieved party, as defined by § 45-24-31 to the
9 superior court for the county in which the property is situated. The appeal shall be taken within
10 twenty (20) days after the date of the recording and posting of the decision by the local review
11 board by filing with the superior court, a complaint which contains a statement of the prior
12 proceedings and the reasons upon which the appeal is based. The complaint shall name the local
13 review board as the appellee and serve the local review board with the appeal within twenty (20)
14 days of filing of the appeal. If an aggrieved party who is not the applicant files an appeal, the
15 original applicant shall be named as a party and served in the same manner as the local review
16 board.

17 (b) The local review board shall not be required to answer the complaint, but it shall submit
18 the complete local review board record to superior court within thirty (30) days of receiving service
19 of the complaint. Should the local review board fail to file the record within thirty (30) days, the
20 applicant may move for default.

21 (c) The appeal shall be expedited and given priority on the court calendar as soon as proof
22 of service of the complaint on the local review board is filed. The appeal shall be decided as soon
23 as possible by the superior court, without delay.

24 (d) The review shall be conducted by the superior court without a jury. The court shall
25 consider the record of the hearing before the local review board and, if it appears to the court that
26 additional evidence is necessary for the proper disposition of the matter, it may allow any party to
27 the appeal to present that evidence in open court, which evidence, along with the record, constitutes
28 the record upon which the determination of the court is made.

29 (e) The superior court shall review the appeal under the following standards:

30 (1) Whether the decision was arbitrary and capricious or clearly erroneous in light of
31 considerations regarding:

32 (i) The consistency of the decision to deny or condition the permit with the approved
33 affordable housing plan;

34 (ii) The extent to which the community meets or plans to meet housing needs, as defined

1 in an affordable housing plan, including, but not limited to, the ten percent (10%) goal for existing
2 low-and moderate-income housing units as a proportion of year-round housing;

3 (iii) The consideration of environmental protection;

4 (iv) The state's need for low-and moderate-income housing;

5 (v) The need to protect the health and safety of the occupants of the proposed housing or
6 the residents of the city or town;

7 (vi) The need to promote better site and building design in relation to the surroundings or
8 to preserve open space; and

9 (vii) Whether the reasons for denial, local zoning or land use ordinances, requirements and
10 regulations are applied as equally as possible to both subsidized and unsubsidized housing.

11 (f) If the appeal is by an applicant for a decision approving an application with conditions,
12 the superior court shall, in addition to reviewing the standards and considerations set forth in
13 subsection (e) of this section, determine whether such conditions and requirements imposed make
14 the construction or operation of the housing infeasible.

15 (g) The court shall not substitute its judgment for that of the local review board as to the
16 weight of the evidence on questions of fact. The court may affirm the decision of the local review
17 board or remand the case for further proceedings, or may reverse or modify the decision if
18 substantial rights of the appellant have been prejudiced because of findings, inferences,
19 conclusions, or decisions that were arbitrary, capricious or unreasonable.

20 (h) An aggrieved party may, within twenty (20) days from the date of entry of the judgment
21 of superior court, petition the supreme court of the state of Rhode Island for a writ of certiorari to
22 review any questions of law involved. The petition for a writ of certiorari shall set forth the errors
23 claimed. Upon the filing of such a petition with the clerk of the supreme court, the supreme court
24 may, if it sees fit, issue its writ of certiorari to the superior court to certify to the supreme court the
25 record of the record under review, or so much thereof as was submitted to the superior court by the
26 parties, together with any additional record of the proceedings in the superior court.

27 (i) Effective January 1, 2024, all matters pending before the state housing appeals board
28 shall be transferred to superior court for the county in which the property is situated by the applicant
29 filing a complaint in superior court and providing a copy of the complaint to the attorney
30 representing the local review board within ten (10) days of filing. An applicant with an appeal
31 pending before the state housing appeals board shall have until March 1, 2024, to file the complaint
32 transferring the matter to superior court for the county in which the property is situated. The parties
33 shall be required to file the entire record before the state housing appeals board with superior court
34 within forty-five (45) days of the filing of the complaint.

1 (j) Effective January 1, 2024, this section shall replace the provisions of § 45-53-5 and any
2 reference in the general laws to § 45-53-5 shall mean §45-53-5.1.

3 SECTION 3. Sections 45-53-6 and 45-53-7 of the General Laws in Chapter 45-53 entitled
4 "Low and Moderate Income Housing" are hereby amended to read as follows:

5 **45-53-6. Powers of state housing appeals board Powers of state housing appeals board**
6 **[Effective until January 1, 2024].**

7 (a) Effective until January 1, 2024, the The state housing appeals board shall have the
8 powers to: (i) Adopt, amend, and repeal rules and regulations that are consistent with this chapter
9 and are necessary to implement the requirements of §§ 45-53-5, 45-53-6, and 45-53-7; (ii) Receive
10 and expend state appropriations; and (iii) Establish a reasonable fee schedule, which may be
11 waived, to carry out its duties.

12 (b) In hearing the appeal, the state housing appeals board shall determine whether: (i) In
13 the case of the denial of an application, the decision of the local review board was consistent with
14 an approved affordable housing plan, or if the town does not have an approved affordable housing
15 plan, was reasonable and consistent with local needs; and (ii) In the case of an approval of an
16 application with conditions and requirements imposed, whether those conditions and requirements
17 make the construction or operation of the housing infeasible and whether those conditions and
18 requirements are consistent with an approved affordable housing plan, or if the town does not have
19 an approved affordable housing plan, are consistent with local needs.

20 (c) In making a determination, the standards for reviewing the appeal include, but are not
21 limited to:

22 (1) The consistency of the decision to deny or condition the permit with the approved
23 affordable housing plan and/or approved comprehensive plan;

24 (2) The extent to which the community meets or plans to meet housing needs, as defined
25 in an affordable housing plan, including, but not limited to, the ten percent (10%) goal for existing
26 low- and moderate-income housing units as a proportion of year-round housing;

27 (3) The consideration of the health and safety of existing residents;

28 (4) The consideration of environmental protection; and

29 (5) The extent to which the community applies local zoning ordinances and review
30 procedures evenly on subsidized and unsubsidized housing applications alike.

31 (d) If the appeals board finds, in the case of a denial, that the decision of the local review
32 board was not consistent with an approved affordable housing plan, or if the town does not have an
33 approved affordable housing plan, was not reasonable and consistent with local needs, it shall
34 vacate the decision and issue a decision and order approving the application, denying the

1 application, or approving with various conditions consistent with local needs. If the appeals board
2 finds, in the case of an approval with conditions and requirements imposed, that the decision of the
3 local review board makes the building or operation of the housing infeasible, and/or the conditions
4 and requirements are not consistent with an approved affordable housing plan, or if the town does
5 not have an approved affordable housing plan, are not consistent with local needs, it shall issue a
6 decision and order, modifying or removing any condition or requirement so as to make the proposal
7 no longer infeasible and/or consistent, and approving the application; provided, that the appeals
8 board shall not issue any decision and order that would permit the building or operation of the
9 housing in accordance with standards less safe than the applicable building and site plan
10 requirements of the federal Department of Housing and Urban Development or the Rhode Island
11 housing and mortgage finance corporation, whichever agency is financially assisting the housing.
12 Decisions or conditions and requirements imposed by a local review board that are consistent with
13 approved affordable housing plans and/or with local needs shall not be vacated, modified, or
14 removed by the appeals board notwithstanding that the decision or conditions and requirements
15 have the effect of denying or making the applicant's proposal infeasible.

16 (e) The appeals board or the applicant has the power to enforce the orders of the appeals
17 board by an action brought in the superior court. The local review board shall carry out the decision
18 and order of the appeals board within thirty (30) days of its entry and, upon failure to do so, the
19 decision and order of the appeals board is, for all purposes, deemed to be the action of the local
20 review board, unless the applicant consents to a different decision or order by the local review
21 board. The decision and order of the appeals board is binding on the city or town, which shall
22 immediately issue any and all necessary permits and approvals to allow the construction and
23 operation of the housing as approved by the appeals board.

24 (f) The state housing appeals board shall:

25 (1) Upon an appeal of the applicant prior to August 1, 2004, rule on December 1, 2004, on
26 the substantial completeness of applications as of February 13, 2004, that were affected by the
27 moratorium established by § 45-53-4(b).

28 (i) The determination of substantial completeness shall be based on whether there was on
29 or before February 13, 2004, substantial completeness of substantially all of the following:

30 (A) A written request to the zoning board of review to submit a single application to build
31 or rehabilitate low- or moderate-income housing in lieu of separate applications to the application
32 local boards;

33 (B) A written list of variances, special use permits and waivers requested to local
34 requirements and regulations, including local codes, ordinances, bylaws or regulations, including

1 any requested waivers from the land development or subdivisions regulations, and a proposed
2 timetable for completion of the project;

3 (C) Evidence of site control;

4 (D) Evidence of eligibility for a state or federal government subsidy, including a letter from
5 the funding agency indicating the applicant and the project;

6 (E) Site development plans showing the locations and outlines of proposed buildings; the
7 proposed location, general dimensions, and materials for street, drives, parking areas, walks, and
8 paved areas; proposed landscaping improvements and open areas within the site; and the proposed
9 location and types of sewage, drainage, and water facilities;

10 (F) A report on existing site conditions and a summary of conditions in the surrounding
11 areas, showing the location and nature of existing buildings, existing street elevations, traffic
12 patterns and character of open areas, including wetlands and flood plains, in the neighborhood;

13 (G) A tabulation of proposed buildings by type, size (number of bedrooms, floor area) and
14 ground coverage and a summary showing the percentage of the tract to be occupied by buildings,
15 by parking and other paved vehicular areas and by open spaces;

16 (H) A master plan, if the development proposal is for a major or minor land development
17 plan or a major or minor subdivision;

18 (I) a sample land lease or deed restrictions with affordability liens that will restrict use as
19 low- and moderate-income housing units for a period of not less than thirty (30) years; and

20 (J) The list of all persons entitled to notice in accordance with § 45-24-53.

21 (ii) Notwithstanding the provisions of subsection (f)(1) of this section, if the zoning board
22 of review determined the application to be substantially complete and/or acted in a manner
23 demonstrating that it considered the application substantially complete for the purposes of
24 reviewing the application, the state housing appeals board shall consider the application
25 substantially complete.

26 (2) Remand for hearing in accordance with the provisions of § 45-53-4 applications that
27 are determined to be substantially complete, which hearings may be conducted (or resume) under
28 the provisions in effect on February 13, 2004, unless the applicant and the board shall mutually
29 agree that the hearing shall proceed under the provisions in effect on December 1, 2004, which
30 hearings may commence on or after January 1, 2005, but shall commence not later than January
31 31, 2005, on applications in the order in which they were received by the town, unless a different
32 commencement date is mutually agreed to by the applicant and the local board hearing the
33 applications; the local review board shall not be obligated to hear, and may deny, any application
34 affected by the moratorium unless it was determined to be substantially complete in accordance

1 with the provisions of subsection (f)(1) of this section, and the local review board may require such
2 additional submissions as may be specified by the town or necessary for the review of the
3 application.

4 (3) Hear and decide appeals, other than those covered by subsection (f)(1) of this section,
5 for which it took jurisdiction on or before May 1, 2004.

6 (4) Continue to hear and decide appeals filed by nonprofit organizations.

7 (5) Conduct such other business as may be reasonable and appropriate in order to facilitate
8 an orderly transfer of activities to the state housing appeals board as it shall be constituted after
9 January 1, 2005.

10 [\(g\) This section shall sunset on January 1, 2024.](#)

11 ~~45-53-7. Housing appeals board~~ **Housing appeals board [Effective until January 1,**
12 **2024].**

13 (a)(1) [Effective until January 1, 2024 there](#) ~~There~~ shall be within the state a housing appeals
14 board consisting of nine (9) voting members and three (3) alternates as follows: one voting member
15 who shall be from the Center for Justice Rhode Island; one voting member who shall be from Direct
16 Action for Rights and Equality (DARE); and seven (7) voting members to be appointed by the
17 governor, who shall include four (4) local officials, who shall not be from the same city or town;
18 two (2) of whom shall be from a city or town with a population of less than twenty-five thousand
19 (25,000); and two (2) of whom shall be from a city or town with a population of twenty-five
20 thousand (25,000) or greater, and shall include one local zoning board member, one local planning
21 board member, one city council member and one town council member, one of the local official
22 members shall be designated by the governor as the alternative local official member who shall be
23 a voting member of the board only in the event that one or more of the other three (3) local officials
24 is unable to serve at a hearing; one affordable housing developer; one affordable housing advocate;
25 one representative of the business community; and one attorney knowledgeable in land use
26 regulation, who should be chairperson of the board. There shall be two (2) additional alternates
27 appointed by the governor chosen from candidates submitted by realtors or developers doing
28 business in the state and the alternates shall rotate service as a voting member at the discretion of
29 the chairperson.

30 (2) Those members of the board as of July 2, 2004, who were appointed to the board by
31 members of the general assembly shall cease to be members of the board on July 2, 2004, and the
32 governor shall thereupon nominate four (4) new members each of whom shall serve for the balance
33 of the current term of his or her predecessor.

34 (3) All other members of the commission as of July 2, 2004, shall continue to serve for the

1 duration of their current terms.

2 (4) All gubernatorial appointments made under this section after July 2, 2004, shall be
3 subject to the advice and consent of the senate.

4 (b)(1) All appointments are for two-year (2) terms; except as otherwise provided in
5 subsection (a)(2) of this section, the terms of members appointed after December 31, 2004, shall
6 be for three (3) years. Each member who is duly appointed or continued in office after January 1,
7 2005, shall hold office for the term for which the member is appointed and until the member's
8 successor shall have been appointed and qualified, or until the member's earlier death, resignation,
9 or removal. A member shall receive no compensation for his or her services, but shall be reimbursed
10 by the state for all reasonable expenses actually and necessarily incurred in the performance of his
11 or her official duties. The board shall hear all petitions for review filed under § 45-53-5, and shall
12 conduct all hearings in accordance with the rules and regulations established by the chair. Rhode
13 Island housing shall provide space, and clerical and other assistance, as the board may require.

14 (2) Provided, effective January 1, 2023, the Rhode Island housing resources commission
15 (the "commission") established pursuant to chapter 128 of title 42 shall provide all space, and
16 clerical and other assistance, as the board may require. All duties and responsibilities of Rhode
17 Island housing resources commission as to providing space, clerical and other assistance to the
18 board pursuant to subsection (b)(1) of this section shall be transferred to the commission effective
19 January 1, 2023.

20 [\(c\) This section shall sunset on January 1, 2024.](#)

21 **SECTION 4. This act shall take effect upon passage.**

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LC001448/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES -- LOW AND MODERATE INCOME HOUSING

- 1 This act would amend several sections of law relating to low-and moderate-income housing
- 2 and the application, appeal, and judicial review process.
- 3 This act would take effect upon passage.

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LC001448/SUB A
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2023 -- H 6086 SUBSTITUTE A

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LC001890/SUB A
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO TOWNS AND CITIES -- RHODE ISLAND COMPREHENSIVE PLANNING
AND LAND USE ACT

Introduced By: Representatives Corvese, Shekarchi, Casey, O'Brien, Cardillo, Phillips,
Bennett, Hull, J. Brien, and Azzinaro

Date Introduced: March 03, 2023

Referred To: House Municipal Government & Housing

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-22.2-8 of the General Laws in Chapter 45-22.2 entitled "Rhode
2 Island Comprehensive Planning and Land Use Act" is hereby amended to read as follows:

3 **45-22.2-8. Preparation, adoption, and amendments of comprehensive plans.**

4 (a) The preparation of a comprehensive plan shall be conducted according to the following
5 provisions in addition to any other provision that may be required by law:

6 (1) In addition to the duties established by chapter 45-22, local planning board or
7 commission, to the extent that those provisions do not conflict with the requirements of this chapter,
8 a planning board or commission has the sole responsibility for performing all those acts necessary
9 to prepare a comprehensive plan for a municipality.

10 (2) Municipalities which choose to conduct joint planning and regulatory programs
11 pursuant to this section shall designate and establish a local planning committee which has
12 responsibility for the comprehensive planning program.

13 (3) The conduct of the planning board, commission, or the local planning committee shall
14 include:

15 (i) Preparation of the comprehensive plan, including the implementation program
16 component.

17 (ii) Citizen participation through the dissemination of information to the public and
18 solicitation of both written and oral comments during the preparation of the plan.

1 (iii) Conducting a minimum of one public hearing.

2 (iv) Submission of recommendations to the municipal legislative body regarding the
3 adoption of the plan or amendment.

4 (4) The municipality may enter into a formal written agreement with the chief to conduct
5 a review of a draft plan or amendment in order to provide comments prior to the public hearing by
6 the planning board, commission, or committee.

7 (b) The adoption or amendment of a comprehensive plan shall be conducted according to
8 the following provisions in addition to any other provision that may be required by law:

9 (1) Prior to the adoption or amendment of a comprehensive plan, the city or town council
10 shall first conduct a minimum of one public hearing.

11 (2) A comprehensive plan is adopted, for the purpose of conforming municipal land use
12 decisions and for the purpose of being transmitted to the chief for state review, when it has been
13 incorporated by reference into the municipal code of ordinances by the legislative body of the
14 municipality. All ordinances dealing with the adoption of or amendment to a municipal
15 comprehensive plan shall contain language stating that the comprehensive plan ordinance or
16 amendment shall not become effective for the purposes of guiding state agency actions until it is
17 approved by the State of Rhode Island pursuant to the methods stated in this chapter, or pursuant
18 to any rules and regulations adopted pursuant to this chapter. The comprehensive plan of a
19 municipality shall not take effect for purposes of guiding state agency actions until approved by
20 the chief or the Rhode Island superior court.

21 (3) A municipality may not amend its comprehensive plan more than four (4) times in any
22 one calendar year. Amendments that are required to address the findings of the chief, changes to
23 the state guide plan, or changes to this act shall not be included under this provision.

24 (c) The intent of this section is to provide for the dissemination and discussion of proposals
25 and alternatives to the proposed comprehensive plan by means of either individual or joint
26 legislative and planning commission hearings which disseminate information to the public and
27 which seek both written and oral comments from the public. Public hearing requirements for either
28 joint hearings or for individual hearings of the planning board or commission and for the municipal
29 legislative body shall include the following:

30 (1) Prior to the adoption of, or amendment to, a comprehensive plan, notice shall be given
31 of the public hearing by publication of notice in a newspaper of ~~general~~ local circulation within the
32 city or town at least once each week for three (3) successive weeks prior to the date of the hearing,
33 which may include the week in which the hearing is to be held, at which hearing opportunity shall
34 be given to all persons interested to be heard. ~~Written notice, which may be a copy of the newspaper~~

1 ~~notice;~~ The same notice shall be posted in the town or city clerk's office and one other municipal
2 building in the municipality and the municipality must make the notice accessible on their
3 municipal home page of its website at least fourteen (14) days prior to the hearing. The notice shall
4 be mailed to the statewide planning program of the department of administration at least fourteen
5 (14) days prior to the hearing. The ~~newspaper notice shall be published as a display advertisement,~~
6 ~~using a type size at least as large as the normal type size used by the newspaper in its news articles,~~
7 ~~and~~ notice shall:

- 8 (i) Specify the place of the hearing and the date and time of its commencement;
- 9 (ii) Indicate that adoption of, or amendment to, the comprehensive plan is under
10 consideration;
- 11 (iii) Contain a statement of the proposed amendments to the comprehensive plan that may
12 be printed once in its entirety, or summarize and describe the matter under consideration; the plan
13 need not be published in its entirety;
- 14 (iv) Advise those interested where and when a copy of the matter under consideration may
15 be obtained or examined and copied; and
- 16 (v) State that the plan or amendment may be altered or amended prior to the close of the
17 public hearing without further advertising, as a result of further study or because of the views
18 expressed at the public hearing. Any alteration or amendment must be presented for comment in
19 the course of the hearing.

20 SECTION 2. Sections 45-23-42 and 45-23-53 of the General Laws in Chapter 45-23
21 entitled "Subdivision of Land" are hereby amended to read as follows:

22 **45-23-42. General provisions — Major land development and major subdivision —**
23 **Public hearing and notice.**

24 (a) A public hearing is required for a major land development project or a major subdivision
25 or where a street extension or creation requires a public hearing for a minor land development
26 project or minor subdivision.

27 (b) Notice requirements. Public notice of the hearing shall be given at least fourteen (14)
28 days prior to the date of the hearing in a newspaper of ~~general~~ local circulation within the
29 municipality following the municipality's usual and customary practices for this kind of
30 advertising. The same notice shall be posted in the town or city clerk's office and one other
31 municipal building in the municipality and the municipality must make the notice accessible on
32 their municipal home page of its website at least fourteen (14) days prior to the hearing. Notice
33 shall be sent to the applicant and to each owner within the notice area, by ~~certified mail, return~~
34 ~~receipt requested~~ first class mail, of the time and place of the hearing not less than ten (10) days

1 prior to the date of the hearing. Notice shall also be sent to any individual or entity holding a
2 recorded conservation or preservation restriction on the property that is the subject of the
3 application at least fourteen (14) days prior to the hearing. The notice shall also include the street
4 address of the subject property, or if no street address is available, the distance from the nearest
5 existing intersection in tenths (1/10's) of a mile. Local regulations may require a supplemental
6 notice that an application for development approval is under consideration be posted at the location
7 in question. The posting is for informational purposes only and does not constitute required notice
8 of a public hearing. For any notice sent by first-class mail, the sender of the notice shall submit a
9 notarized affidavit to attest to such mailing.

10 (c) Notice area.

11 (1) The distance(s) for notice of the public hearing shall be specified in the local
12 regulations. The distance may differ by zoning district and scale of development. At a minimum,
13 all abutting property owners to the proposed development's property boundary shall receive notice.

14 (2) Watersheds. Additional notice within watersheds shall also be sent as required in § 45-
15 23-53(b) and (c).

16 (3) Adjacent municipalities. Notice of the public hearing shall be sent by the administrative
17 officer to the administrative officer of an adjacent municipality if (1) the notice area extends into
18 the adjacent municipality, or (2) the development site extends into the adjacent municipality, or (3)
19 there is a potential for significant negative impact on the adjacent municipality.

20 (d) Notice cost. The cost of all ~~notice~~ newspaper and mailing notices shall be borne by the
21 applicant.

22 **45-23-53. Local regulations — Public hearing and notice requirements.**

23 (a) No local regulations shall be adopted, repealed, or amended until after a public hearing
24 has been held upon the question before the city or town planning board. The city or town planning
25 board shall first give notice of the public hearing by publication of notice in a newspaper of ~~general~~
26 local circulation within the municipality at least once each week for three (3) successive weeks
27 prior to the date of the hearing, which may include the week in which the hearing is to be held. The
28 same notice shall be posted in the town or city clerk's office and one other municipal building in
29 the municipality and the municipality must make the notice accessible on their municipal home
30 page of its website at least fourteen (14) days prior to the hearing. At this hearing, opportunity shall
31 be given to all persons interested on being heard upon the matter of the proposed regulations. The
32 newspaper notice ~~shall be published as a display advertisement, using a type size at least as large~~
33 ~~as the normal type size used by the newspaper in its news articles, and~~ shall:

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

1 (2) Indicate that adoption, amendment, or repeal of local regulations is under consideration;

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

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

7 (5) State that the proposals shown on the notice may be altered or amended prior to the
8 close of the public hearing without further advertising as a result of further study or because of the
9 views expressed at the public hearing. Any alteration or amendment must be presented for comment
10 in the course of the hearing.

11 (b) Notice of the public hearing shall be sent by first-class mail to the city or town planning
12 board of any municipality where there is a public or quasi-public water source, or private water
13 source that is used, or is suitable for use, as a public water source, located within two thousand feet
14 (2,000') of the municipal boundaries.

15 (c) Notice of a public hearing shall be sent to the governing body of any state or municipal
16 water department or agency, special water district, or private water company that has riparian rights
17 to a surface water resource and/or surface watershed that is used, or is suitable for use, as a public
18 water source, located within either the municipality or two thousand feet (2,000') of the municipal
19 boundaries; provided, that a map survey has been filed with the building inspector as specified in
20 § 45-24-53(f).

21 (d) Notwithstanding any of the requirements set forth in subsections (a) through (c) above,
22 each municipality shall establish and maintain a public notice registry allowing any person or entity
23 to register for electronic notice of any changes to the local regulations. Municipalities shall annually
24 provide public notice of the existence of the registry by a publication of notice in a newspaper of
25 general circulation within the municipality. In addition, each municipality is hereby encouraged to
26 provide public notice of the existence of the public notice registry in all of its current and future
27 communications with the public, including, but not limited to, governmental websites, electronic
28 newsletters, public bulletins, press releases, and all other means the municipality may use to impart
29 information to the local community.

30 (1) Provided, however, notice pursuant to a public notice registry as per this section does
31 not alone qualify a person or entity on the public notice registry as an “aggrieved party” under §
32 45-24-31(4).

33 (e) No defect in the form of any notice under this section renders any regulations invalid,
34 unless the defect is found to be intentional or misleading.

1 [\(f\) The cost of newspaper notice and mailings shall be borne by the applicant.](#)

2 ~~(f)~~(g) The requirements in this section are to be construed as minimum requirements.

3 SECTION 3. Sections 45-24-41 and 45-24-53 of the General Laws in Chapter 45-24
4 entitled "Zoning Ordinances" are hereby amended to read as follows:

5 **45-24-41. General provisions — Variances.**

6 (a) An application for relief from the literal requirements of a zoning ordinance because of
7 hardship may be made by any person, group, agency, or corporation by filing with the zoning
8 enforcement officer or agency an application describing the request and supported by any data and
9 evidence as may be required by the zoning board of review or by the terms of the ordinance. The
10 zoning enforcement officer or agency shall immediately transmit each application received to the
11 zoning board of review and a copy of each application to the planning board or commission.

12 (b) A zoning ordinance provides that the zoning board of review, immediately upon receipt
13 of an application for a variance in the application of the literal terms of the zoning ordinance, may
14 request that the planning board or commission and/or staff report its findings and recommendations,
15 including a statement on the general consistency of the application with the goals and purposes of
16 the comprehensive plan of the city or town, in writing, to the zoning board of review within thirty
17 (30) days of receipt of the application from that board. The zoning board shall hold a public hearing
18 on any application for variance in an expeditious manner, after receipt, in proper form, of an
19 application, and shall give public notice at least fourteen (14) days prior to the date of the hearing
20 in a newspaper of ~~general~~ [local](#) circulation in the city or town. Notice of hearing shall be sent by
21 first-class mail to the applicant, and to at least all those who would require notice under § 45-24-
22 53. The notice shall also include the street address of the subject property. A zoning ordinance may
23 require that a supplemental notice, that an application for a variance is under consideration, be
24 posted at the location in question. The posting is for information purposes only and does not
25 constitute required notice of a public hearing. [The same notice shall be posted in the town or city
26 clerk's office and one other municipal building in the municipality and the municipality must make
27 the notice accessible on their municipal home page of its website at least fourteen \(14\) days prior
28 to the hearing. For any notice sent by first-class mail, the sender of the notice shall submit a
29 notarized affidavit to attest to such mailing.](#) The cost of [newspaper and mailing](#) notification shall
30 be borne by the applicant.

31 (c) A zoning ordinance may provide for unified development review, pursuant to § 45-24-
32 46.4. Requests for dimensional and use variances submitted under a unified development review
33 provision of a zoning ordinance shall be submitted as part of the subdivision or land-development
34 application to the administrative officer of the planning board or commission, pursuant to § 45-24-

1 46.4(a). All subdivision or land-development applications submitted under the unified development
2 review provisions of a zoning ordinance shall have a public hearing, which shall meet the
3 requirements of § 45-23-50.1(c).

4 (d) In granting a variance, the zoning board of review, or, where unified development
5 review is enabled pursuant to § 45-24-46.4, the planning board or commission, shall require that
6 evidence to the satisfaction of the following standards is entered into the record of the proceedings:

7 (1) That the hardship from which the applicant seeks relief is due to the unique
8 characteristics of the subject land or structure and not to the general characteristics of the
9 surrounding area; and is not due to a physical or economic disability of the applicant, excepting
10 those physical disabilities addressed in § 45-24-30(a)(16);

11 (2) That the hardship is not the result of any prior action of the applicant and does not result
12 primarily from the desire of the applicant to realize greater financial gain;

13 (3) That the granting of the requested variance will not alter the general character of the
14 surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan
15 upon which the ordinance is based; and

16 (4) That the relief to be granted is the least relief necessary.

17 (e) The zoning board of review, or, where unified development review is enabled pursuant
18 to § 45-24-46.4, the planning board or commission, shall, in addition to the above standards, require
19 that evidence is entered into the record of the proceedings showing that:

20 (1) In granting a use variance, the subject land or structure cannot yield any beneficial use
21 if it is required to conform to the provisions of the zoning ordinance. Nonconforming use of
22 neighboring land or structures in the same district and permitted use of lands or structures in an
23 adjacent district shall not be considered in granting a use variance; and

24 (2) In granting a dimensional variance, that the hardship suffered by the owner of the
25 subject property if the dimensional variance is not granted amounts to more than a mere
26 inconvenience. The fact that a use may be more profitable or that a structure may be more valuable
27 after the relief is granted is not grounds for relief. The zoning board of review, or, where unified
28 development review is enabled pursuant to § 45-24-46.4, the planning board or commission has the
29 power to grant dimensional variances where the use is permitted by special-use permit if provided
30 for in the special use permit sections of the zoning ordinance.

31 **45-24-53. Adoption — Notice and hearing requirements.**

32 (a) No zoning ordinance shall be adopted, repealed, or amended until after a public hearing
33 has been held upon the question before the city or town council. The city or town council shall first
34 give notice of the public hearing by publication of notice in a newspaper of ~~general~~ [local](#) circulation

1 within the city or town at least once each week for three (3) successive weeks prior to the date of
2 the hearing, which may include the week in which the hearing is to be held, at which hearing
3 opportunity shall be given to all persons interested to be heard upon the matter of the proposed
4 ordinance. Written notice, ~~which may be a copy of the newspaper notice,~~ shall be mailed to the
5 parties specified in subsections (b), (c), (d), (e), and (f) of this section, at least two (2) weeks prior
6 to the hearing. ~~The newspaper notice shall be published as a display advertisement, using a type~~
7 ~~size at least as large as the normal type size used by the newspaper in its news articles, and~~ The
8 same notice shall be posted in the town or city clerk's office and one other municipal building in
9 the municipality and the municipality must make the notice accessible on their municipal home
10 page of its website at least fourteen (14) days prior to the hearing. The notice shall:

- 11 (1) Specify the place of the hearing and the date and time of its commencement;
- 12 (2) Indicate that adoption, amendment, or repeal of a zoning ordinance is under
13 consideration;
- 14 (3) Contain a statement of the proposed amendments to the ordinance that may be printed
15 once in its entirety, or summarize and describe the matter under consideration as long as the intent
16 and effect of the proposed ordinance is expressly written in that notice;
- 17 (4) Advise those interested where and when a copy of the matter under consideration may
18 be obtained or examined and copied; and
- 19 (5) State that the proposals shown on the ordinance may be altered or amended prior to the
20 close of the public hearing without further advertising, as a result of further study or because of the
21 views expressed at the public hearing. Any alteration or amendment must be presented for comment
22 in the course of the hearing.

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

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

1 [the sender of the notice shall submit a notarized affidavit to attest to such mailing.](#)

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

5 (1) Notice shall include a map showing the existing and proposed boundaries, zoning
6 district boundaries, existing streets and roads and their names, and city and town boundaries where
7 appropriate; and

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

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

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

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

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

1 (g) Notwithstanding any of the requirements set forth in subsections (a) through (e), each
2 municipality shall establish and maintain a public notice registry allowing any person or entity to
3 register for electronic notice of any changes to the zoning ordinance. The city or town shall provide
4 public notice annually of the existence of the electronic registry by publication of notice in a
5 newspaper of general circulation within the city or town. In addition, each municipality is hereby
6 encouraged to provide public notice of the existence of the public notice registry in all of its current
7 and future communications with the public, including, but not limited to, governmental websites,
8 electronic newsletters, public bulletins, press releases, and all other means the municipality may
9 use to impart information to the local community.

10 (1) Provided, however, notice pursuant to a public notice registry as per this section does
11 not alone qualify a person or entity on the public notice registry as an “aggrieved party” under §
12 45-24-31(4).

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

15 (i) Costs of ~~any notice~~ newspaper and mailing notices required under this section shall be
16 borne by the applicant.

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

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

1 SECTION 4. This act shall take effect upon passage.

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LC001890/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO TOWNS AND CITIES -- RHODE ISLAND COMPREHENSIVE PLANNING
AND LAND USE ACT

- 1 This act would amend certain notification procedures relating to comprehensive planning
- 2 and land use, subdivision of land and zoning ordinances.
- 3 This act would take effect upon passage.

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LC001890/SUB A
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R 229
2023 -- H 6088
Enacted 04/06/2023

HOUSE RESOLUTION

EXTENDING THE REPORTING AND EXPIRATION DATES AND AMENDING THE PURPOSE, NAME, AND MEMBERSHIP OF THE SPECIAL LEGISLATIVE COMMISSION TO STUDY THE LOW AND MODERATE INCOME HOUSING ACT

Introduced By: Representatives Speakman, Giraldo, Shekarchi, Kazarian, Cotter, Knight, Cruz, Cortvriend, Casey, and Potter

Date Introduced: March 03, 2023

RESOLVED, That the special legislative commission created by resolution No. 140 and passed by the House of Representatives at its January session, A.D. 2021, and approved March 3 25, 2021, entitled "House Resolution Creating a Special Legislative Commission to Study the Low and Moderate Income Housing Act" and as amended by resolution No. 66 and passed by the House of Representatives at its January session, A.D. 2022, and approved January 25, 2022, entitled "House Resolution Extending the Reporting and Expiration Dates for the Special Legislative Commission to Study the Low and Moderate Income Housing Act" is hereby authorized to continue its study and make a report to the House of Representatives on or before June 7, 2025, and said commission shall expire on June 28, 2025; and be it further

RESOLVED, That the time for reporting authorized by resolution No. 140 passed by the House of Representatives at its January session, A.D. 2021, and approved March 25, 2021, and as amended by resolution No. 066 passed by the House of Representatives at its January session, A.D. 2022, and approved January 25, 2022, be and the same is hereby rescinded; and be it further

RESOLVED, That the purpose of said house commission is hereby amended by expanding the purpose of the commission to include a comprehensive review of housing affordability for the State; and be it further

RESOLVED, The composition of said house commission is hereby increased from seventeen (17) members to eighteen (18) members by adding the Director of Housing WorksRI, or designee; and be it further

RESOLVED, That the name of said commission shall be changed from “the Special Legislative Commission to Study the Low and Moderate Income Housing Act” to “the Special Legislative Commission to Study Housing Affordability.”

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LC001417
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R 230
2023 -- H 6089
Enacted 04/06/2023

HOUSE RESOLUTION
EXTENDING THE REPORTING AND EXPIRATION DATES, AND REQUIRING
REAPPOINTMENT OF THE MEMBERSHIP OF THE LEGISLATIVE COMMISSION TO STUDY
THE ENTIRE AREA OF LAND USE, PRESERVATION, DEVELOPMENT, HOUSING,
ENVIRONMENT, AND REGULATION

Introduced By: Representatives Giraldo, Speakman, Shekarchi, Solomon, Donovan, Biah, and Chippendale
Date Introduced: March 03, 2023

RESOLVED, That the special legislative commission created by resolution No. 139 passed by the House of Representatives at its January session, A.D. 2021, and approved March 25, 2021, entitled "HOUSE RESOLUTION CREATING A SPECIAL LEGISLATIVE COMMISSION TO STUDY THE ENTIRE AREA OF LAND USE, PRESERVATION, DEVELOPMENT, HOUSING, ENVIRONMENT, AND REGULATION" and as extended by resolution No. 194 passed by the House of Representatives at its January session, A.D. 2022, and approved March 24, 2022, entitled "HOUSE RESOLUTION EXTENDING THE REPORTING AND EXPIRATION DATES OF THE SPECIAL LEGISLATIVE COMMISSION TO STUDY THE ENTIRE AREA OF LAND USE, PRESERVATION, DEVELOPMENT, HOUSING, ENVIRONMENT, AND REGULATION" is hereby authorized to continue its study and make a report to the House of Representatives on or before June 8, 2025, and said commission shall expire on June 30, 2025; and be it further

RESOLVED, That membership in said commission shall be subject to and at the discretion of reappointment by the Speaker of the House through submission of a letter of interest to be submitted to the Speaker of the House by July 1, 2023; and be it further

RESOLVED, That the time for reporting authorized by resolution No. 139 passed by the House of Representatives at its January session, A.D. 2021, and approved March 25, 2021, and as extended by resolution No. 194 passed by the House of Representatives at its January session, A.D. 2022, and approved March 24, 2022, be and the same is hereby rescinded.

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LC002010
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