

2025 -- H 5794 SUBSTITUTE B

LC002154/SUB B

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

A N A C T

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

Introduced By: Representatives Craven, Speakman, Spears, Noret, McEntee, Bennett,
Solomon, Casimiro, Fogarty, and Casey
Date Introduced: February 27, 2025

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

SECTION 1. Section 45-22-7 of the General Laws in Chapter 45-22 entitled "Local Planning Board or Commission" is hereby amended to read as follows:

45-22-7. Powers and duties of a planning board or commission.

(a) A planning board or commission shall have the sole responsibility for performing all those acts necessary to prepare a comprehensive plan for a municipality in accordance with the provisions of chapter 22.2 of this title.

(b) Pursuant to § 45-23-51, a planning board or commission shall be empowered by the city or town council, by ordinance, to adopt, modify, and amend regulations and rules governing land-development and subdivision projects within that municipality and to control land-development and subdivision projects pursuant to those regulations and rules. The planning board or commission shall also provide for the administration, interpretation, and enforcement of land-development and subdivision review regulations, pursuant to § 45-23-52.

(c) When directed by the city or town zoning ordinance pursuant to § 45-24-46.4 ~~and~~ [or](#) the city or town land development and subdivision review regulations pursuant to § 45-23-50.1, a planning board or commission shall have the power to review and approve, approve with conditions, or deny requests for variances and special-use permits submitted as part of land-development and subdivision applications [or development plan review](#).

(d) A planning board or commission established under the provisions of this chapter shall make studies and prepare plans and reports on the needs and resources of the community with

1 reference to its physical, economic, and social growth and development as affecting the health,
2 safety, morals, and general welfare of the people. The studies, plans, and reports shall concern, but
3 not necessarily be limited to, the following:

- 4 (1) Land use and land-use regulation;
- 5 (2) Transportation facilities;
- 6 (3) Public facilities, including recreation areas, utilities, schools, fire stations, police
7 stations, and others;
- 8 (4) Blighted areas, including the designation of general areas for redevelopment, renewal,
9 rehabilitation, or conservation;
- 10 (5) Problems of housing and the development of housing programs;
- 11 (6) Environmental protection;
- 12 (7) Natural resource conservation;
- 13 (8) Protection from disaster;
- 14 (9) Economic and social characteristics of the population;
- 15 (10) Preservation of historic sites and buildings; and
- 16 (11) Economic development.

17 (e) When directed by the city or town council or by the appointing authority, a planning
18 board or commission shall prepare an annual capital budget and a comprehensive, long-range
19 capital-improvement program for submission to the council, the appointing authority, or other
20 designated official or agency.

21 (f) A planning board or commission shall submit an advisory opinion and recommendation
22 on all zoning matters referred to it by the zoning board of review under the provisions of the city
23 or town zoning ordinance and report on any other matter referred to it, by the city or town council,
24 the chief executive, or the appointing authority.

25 (g) A planning board or commission shall perform any other duties that may be assigned
26 to the board or commission, from time to time, by any act of the general assembly or by any
27 ordinance, code, regulation order, or resolution of the city or town council or by the appointing
28 authority.

29 (h) A planning board or commission has authority to call upon other departments, boards,
30 and committees of the city or town and upon regional, state, and federal agencies for information
31 and assistance necessary to the performance of its duties, and shall cooperate with the city or town,
32 regional, state, and federal agencies on matters of community, regional, and state planning and
33 development.

34 (i) Each planning board or commission must adopt a provision requiring any person who

1 will be required to file a request for access pursuant to § 24-8-34 to file that request not later than
2 the day on which that person files any document in connection with the project in question with the
3 applicable town or city, and to provide a copy of the request to the town or city.

4 (j) Each member of a planning board or commission shall participate in training and
5 education classes concerning the effects of development in a flood plain and the effects of sea-level
6 rise once every two (2) years pursuant to chapter 70 of this title entitled "Continuing education for
7 local planning and zoning boards and historic district commissions" which requires annual
8 continuing education and biennial education components.

9 SECTION 2. Section 45-22.2-8 of the General Laws in Chapter 45-22.2 entitled "Rhode
10 Island Comprehensive Planning and Land Use Act" is hereby amended to read as follows:

11 **45-22.2-8. Preparation, adoption, and amendments of comprehensive plans.**

12 (a) The preparation of a comprehensive plan shall be conducted according to the following
13 provisions in addition to any other provision that may be required by law:

14 (1) In addition to the duties established by chapter 22 of this title, local planning board or
15 commission, to the extent that those provisions do not conflict with the requirements of this chapter,
16 a planning board or commission has the sole responsibility for performing all those acts necessary
17 to prepare a comprehensive plan for a municipality.

18 (2) Municipalities that choose to conduct joint planning and regulatory programs pursuant
19 to this section shall designate and establish a local planning committee that has responsibility for
20 the comprehensive planning program.

21 (3) The conduct of the planning board, commission, or the local planning committee shall
22 include:

23 (i) Preparation of the comprehensive plan, including the implementation program
24 component.

25 (ii) Citizen participation through the dissemination of information to the public and
26 solicitation of both written and oral comments during the preparation of the plan.

27 (iii) Conducting a minimum of one public hearing.

28 (iv) Submission of recommendations to the municipal legislative body regarding the
29 adoption of the plan or amendment.

30 (4) The municipality may enter into a formal written agreement with the chief to conduct
31 a review of a draft plan or amendment in order to provide comments prior to the public hearing by
32 the planning board, commission, or committee.

33 (b) The adoption or amendment of a comprehensive plan shall be conducted according to
34 the following provisions in addition to any other provision that may be required by law:

1 (1) Prior to the adoption or amendment of a comprehensive plan, the city or town council
2 shall first conduct a minimum of one public hearing.

3 (2) A comprehensive plan is adopted, for the purpose of conforming municipal land use
4 decisions and for the purpose of being transmitted to the chief for state review, when it has been
5 incorporated by reference into the municipal code of ordinances by the legislative body of the
6 municipality. All ordinances dealing with the adoption of or amendment to a municipal
7 comprehensive plan shall contain language stating that the comprehensive plan ordinance or
8 amendment shall not become effective for the purposes of guiding state agency actions until it is
9 approved by the State of Rhode Island pursuant to the methods stated in this chapter, or pursuant
10 to any rules and regulations adopted pursuant to this chapter. The comprehensive plan of a
11 municipality shall not take effect for purposes of guiding state agency actions until approved by
12 the chief or the Rhode Island superior court.

13 (3) A municipality may not amend its comprehensive plan more than four (4) times in any
14 one calendar year. Amendments that are required to address the findings of the chief, changes to
15 the state guide plan, ~~or~~ changes to this act, [or changes which allow for an increase in new housing](#)
16 [units](#) shall not be included under this provision.

17 (c) The intent of this section is to provide for the dissemination and discussion of proposals
18 and alternatives to the proposed comprehensive plan by means of either individual or joint
19 legislative and planning commission hearings which disseminate information to the public and
20 which seek both written and oral comments from the public. Public hearing requirements for either
21 joint hearings or for individual hearings of the planning board or commission and for the municipal
22 legislative body shall include the following:

23 (1) Prior to the adoption of, or amendment to, a comprehensive plan, notice shall be given
24 of the public hearing by publication of notice in a newspaper of local circulation within the city or
25 town at least once each week for three (3) successive weeks prior to the date of the hearing, which
26 may include the week in which the hearing is to be held, at which hearing opportunity shall be
27 given to all persons interested to be heard. The same notice shall be posted in the town or city
28 clerk's office and one other municipal building in the municipality and the municipality must make
29 the notice accessible on the municipal home page of its website at least fourteen (14) days prior to
30 the hearing. The notice shall be mailed to the statewide planning program of the department of
31 administration at least fourteen (14) days prior to the hearing. The notice shall:

32 (i) Specify the place of the hearing and the date and time of its commencement;

33 (ii) Indicate that adoption of, or amendment to, the comprehensive plan is under
34 consideration;

(iii) Contain a statement of the proposed amendments to the comprehensive plan that may be printed once in its entirety, or summarize and describe the matter under consideration; the plan need not be published in its entirety;

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

(v) State that the plan or amendment may be altered or amended prior to the close of the public hearing without further advertising, as a result of further study or because of the views expressed at the public hearing. Any alteration or amendment must be presented for comment in the course of the hearing.

SECTION 3. Sections 45-23-32, 45-23-35, 45-23-36, 45-23-39, 45-23-57, 45-23-60 and 45-23-71 of the General Laws in Chapter 45-23 entitled "Subdivision of Land" are hereby amended to read as follows:

45-23-32. Definitions.

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

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

(2) **Board of appeal.** The local review authority for appeals of actions of the administrative officer, which shall be the local zoning board of review constituted as the board of appeal. See § 45-23-57.

(3) **Bond.** See improvement guarantee.

(4) **Buildable lot.** A lot where construction for the use(s) permitted on the site under the local zoning ordinance is considered practicable by the planning board, considering the physical

constraints to development of the site as well as the requirements of the pertinent federal, state, and local regulations. See § 45-23-60(a)(4).

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

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

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

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

(9) **Development plan review.** Design or site plan review of a development of a permitted use. A municipality may utilize development plan review under limited circumstances to encourage development to comply with design and/or performance standards of the community under specific and objective guidelines, for the following categories of developments:

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

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

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

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

(v) Institutional development for educational or hospital facilities.

(vi) [Deleted by P.L. 2024, ch. 292, § 1 and P.L. 2024, ch. 293, § 1.]

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

(11) **Division of land.** A subdivision.

(12) **Environmental constraints.** Natural features, resources, or land characteristics that

are sensitive to change and may require conservation measures or the application of special development techniques to prevent degradation of the site, or may require limited development, or in certain instances, may preclude development. See also physical constraints to development.

(13) **Final plan.** The final stage of land development and subdivision review or a formal development plan review application. See §§ 45-23-38, 45-23-39, and 45-23-50.

(14) **Final plat.** The final drawing(s) of all or a portion of a subdivision to be recorded after approval by the planning board and any accompanying material as described in the community's regulations and/or required by the planning board.

(15) **Floor area, gross.** See R.I. State Building Code.

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

(17) **Improvement.** Any natural or built item that becomes part of, is placed upon, or is affixed to, real estate.

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

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

(i) **Minor land development project.** A land development project involving any one of the following categories which has not otherwise been specifically designated by local ordinance as development plan review:

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

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

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

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

3 (E) Change in use at the property where no extensive construction of improvements is
4 sought; or

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

8 (G) An adaptive reuse project located in a residential zone that results in less than nine (9)
9 residential units.

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

14 (ii) **Major land development project.** A land development project that exceeds the
15 thresholds for a minor land development project as set forth in this section and local ordinance or
16 regulation. The process by which major land development projects are reviewed by the local
17 planning board, commission, technical review committee, or administrative officer is set forth in §
18 45-23-39.

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

23 (21) **Maintenance guarantee.** Any security instrument that may be required and accepted
24 by a municipality to ensure that necessary improvements will function as required for a specific
25 period of time. See improvement guarantee.

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

31 (23) **Modification of requirements.** See § 45-23-62.

32 (24) **Parcel.** A lot, or contiguous group of lots in single ownership or under single control,
33 and usually considered a unit for purposes of development. Also referred to as a tract.

34 (25) **Parking area or lot.** All that portion of a development that is used by vehicles, the

1 total area used for vehicular access, circulation, parking, loading, and unloading.

2 (26) **Permitting authority.** The local agency of government, meaning any board,
3 commission, or administrative officer specifically empowered by state enabling law and local
4 regulation or ordinance to hear and decide on specific matters pertaining to local land use.

5 (27) **Phased development.** Development, usually for large-scale projects, where
6 construction of public and/or private improvements proceeds by sections subsequent to approval
7 of a master plan for the entire site. See § 45-23-48.

8 (28) **Physical constraints to development.** Characteristics of a site or area, either natural
9 or man-made, which present significant difficulties to construction of the uses permitted on that
10 site, or would require extraordinary construction methods. See also environmental constraints.

11 (29) **Planning board.** The official planning agency of a municipality, whether designated
12 as the plan commission, planning commission, plan board, or as otherwise known.

13 (30) **Plat.** A drawing or drawings of a land development or subdivision plan showing the
14 location, boundaries, and lot lines of individual properties, as well as other necessary information
15 as specified in the local regulations.

16 (31) **Pre-application conference.** An initial meeting between developers and municipal
17 representatives that affords developers the opportunity to present their proposals informally and to
18 receive comments and directions from the municipal officials and others. See § 45-23-35.

19 (32) **Preliminary plan.** A required stage of land development and subdivision review that
20 generally requires detailed engineered drawings. See § 45-23-39.

21 (33) **Public hearing.** A hearing before the planning board that is duly noticed in accordance
22 with § 45-23-42 and that allows public comment. A public hearing is not required for an application
23 or stage of approval unless otherwise stated in this chapter.

24 (34) **Public improvement.** Any street or other roadway, sidewalk, pedestrian way, tree,
25 lawn, off-street parking area, drainage feature, or other facility for which the local government or
26 other governmental entity either is presently responsible, or will ultimately assume the
27 responsibility for maintenance and operation upon municipal acceptance.

28 (35) **Slope of land.** The grade, pitch, rise, or incline of the topographic landform or surface
29 of the ground.

30 (36) **Storm water detention.** A provision for storage of storm water runoff and the
31 controlled release of the runoff during and after a flood or storm.

32 (37) **Storm water retention.** A provision for storage of storm water runoff.

33 (38) **Street.** A public or private thoroughfare used, or intended to be used, for passage or
34 travel by motor vehicles. Streets are further classified by the functions they perform. See street

1 classification.

2 (39) **Street, access to.** An adequate and permanent way of entering a lot. All lots of record
3 shall have access to a public street for all vehicles normally associated with the uses permitted for
4 that lot.

5 (40) **Street, alley.** A public or private thoroughfare primarily designed to serve as
6 secondary access to the side or rear of those properties whose principal frontage is on some other
7 street.

8 (41) **Street, cul-de-sac.** A local street with only one outlet and having an appropriate
9 vehicular turnaround, either temporary or permanent, at the closed end.

10 (42) **Street, limited access highway.** A freeway or expressway providing for through
11 traffic. Owners or occupants of abutting property on lands and other persons have no legal right to
12 access, except at the points and in the manner as may be determined by the public authority having
13 jurisdiction over the highway.

14 (43) **Street, private.** A thoroughfare established as a separate tract for the benefit of
15 multiple, adjacent properties and meeting specific, municipal improvement standards. This
16 definition does not apply to driveways.

17 (44) **Street, public.** All public property reserved or dedicated for street traffic.

18 (45) **Street, stub.** A portion of a street reserved to provide access to future development,
19 which may provide for utility connections.

20 (46) **Street classification.** A method of roadway organization that identifies a street
21 hierarchy according to function within a road system, that is, types of vehicles served and
22 anticipated volumes, for the purposes of promoting safety, efficient land use, and the design
23 character of neighborhoods and districts. Local classifications use the following as major
24 categories:

25 (i) **Arterial.** A major street that serves as an avenue for the circulation of traffic into, out
26 of, or around the municipality and carries high volumes of traffic.

27 (ii) **Collector.** A street whose principal function is to carry traffic between local streets and
28 arterial streets but that may also provide direct access to abutting properties.

29 (iii) **Local.** Streets whose primary function is to provide access to abutting properties.

30 (47) **Subdivider.** Any person who: (i) Having an interest in land, causes it, directly or
31 indirectly, to be divided into a subdivision; or who (ii) Directly or indirectly sells, leases, or
32 develops, or offers to sell, lease, or develop, or advertises to sell, lease, or develop, any interest,
33 lot, parcel, site, unit, or plat in a subdivision; or who (iii) Engages directly or through an agent in
34 the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision

1 or any interest, lot, parcel, site, unit, or plat in a subdivision.

2 (48) **Subdivision.** The division of a lot, tract, or parcel of land into two or more lots, tracts,
3 or parcels or any adjustment to existing lot lines is considered a subdivision.

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

9 (ii) **Minor subdivision.** A subdivision creating nine (9) or fewer buildable lots and a
10 subdivision creating ten (10) or more buildable lots on an existing improved public street. The
11 process by which a municipal planning board, commission, technical review committee, and/or
12 administrative officer reviews a minor subdivision is set forth in § 45-23-38. Minor subdivisions
13 shall include oversized lot subdivisions. Oversized lot subdivision. Subdivision of an existing
14 lot:

15 (A) Which results in the creation of a vacant lot or lots for residential use; and

16 (B) Which resulting vacant residential lots are equal to or greater in lot area than the lot
17 area of at least fifty percent (50%) of the developed residential lots within two hundred feet (200')
18 of the lot proposed for subdivision, as confirmed by a professional land surveyor based on a
19 compilation plan, as such term is defined by the rules and regulations for professional land
20 surveying; and

21 (C) Which resulting residential lots have access to available sewer and water, or have
22 demonstrated the ability to drill a private well meeting state standards if no public water is available
23 and/or the suitability and setbacks required for an on-site wastewater treatment system, where no
24 public sewer is available; and

25 (D) The resulting lots are not less than three thousand square feet (3,000 ft²) in lot size for
26 each.

27 A lot, qualifying for this type of subdivision shall be reviewed under the requirements and
28 procedures set forth in § 45-23-38, but shall not require zoning relief solely based on the resulting
29 reduced lot area of the newly created lots. The resulting subdivided lots shall have the benefit of
30 reduced requirements as set forth in § 45-24-38, and/or are eligible for the processes set forth in §
31 45-24-46, as applicable.

32 (iii) **Major subdivision.** A subdivision creating ten (10) or more buildable lots where a
33 street extension or street creation is required. The process by which a municipal planning board or
34 commission reviews any subdivision qualifying for this review under § 45-23-39.

1 (49) **Technical review committee.** A committee or committees appointed by the
2 municipality for the purpose of reviewing, commenting, approving, and/or making
3 recommendations to the planning board or administrative officer, as set forth in this chapter.

4 (50) **Temporary improvement.** Improvements built and maintained by a developer during
5 construction of a development project and prior to release of the improvement guarantee, but not
6 intended to be permanent.

7 (51) **Vested rights.** The right to initiate or continue the development of an approved project
8 for a specified period of time, under the regulations that were in effect at the time of approval, even
9 if, after the approval, the regulations change prior to the completion of the project.

10 (52) **Waiver of requirements.** See § 45-23-62.

11 **45-23-35. General provisions — Pre-application meetings and concept review.**

12 (a) One or more pre-application meetings ~~shall~~ may be held for all major land development
13 or subdivision applications at the request of the applicant. Pre-application meetings may be held
14 for administrative and minor applications, upon request of ~~either the municipality or~~ the applicant.
15 Pre-application meetings allow the applicant to meet with appropriate officials, boards and/or
16 commissions, planning staff, and, where appropriate, state agencies, for advice as to the required
17 steps in the approvals process, the pertinent local plans, ordinances, regulations, rules and
18 procedures and standards which may bear upon the proposed development project.

19 (b) At the pre-application stage the applicant may request the planning board or the
20 technical review committee for an informal concept plan review for a development. The purpose
21 of the concept plan review is also to provide planning board or technical review committee input
22 in the formative stages of major subdivision and land development concept design.

23 (c) Applicants seeking a pre-application meeting or an informal concept review shall
24 submit general, conceptual materials in advance of the meeting(s) as requested by municipal
25 officials.

26 (d) Pre-application meetings aim to encourage information sharing and discussion of
27 project concepts among the participants. Pre-application discussions are intended for the guidance
28 of the applicant and are not considered approval of a project or its elements.

29 (e) Provided that at least one pre-application meeting has been held for major land
30 development or subdivision application or sixty (60) days has elapsed from the filing of the pre-
31 application submission and no pre-application meeting has been scheduled to occur within those
32 sixty (60) days, nothing shall be deemed to preclude an applicant from thereafter filing and
33 proceeding with an application for a land development or subdivision project in accordance with §
34 45-23-36.

1 **45-23-36. General provisions — Authority and application for development and**
2 **certification of completeness.**

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

10 (b) **Classification.** In accordance with this chapter, the administrative officer shall advise
11 the applicant as to which category of approval is required for a project. An applicant shall not be
12 required to obtain both land development and development plan review, for the same project. The
13 following categories of applications, as defined in this chapter, may be filed:

14 (1) Subdivisions. Administrative subdivision, minor subdivision, or major subdivision;

15 (2) Land development projects. Minor land development or major land development; and

16 (3) Development plan review.

17 (c) **Certification of a complete application.** [An application shall initially be reviewed by](#)
18 [the administrative officer solely for the purpose to determine whether the application lacks](#)
19 [information required for the respective applications type as specified in the local checklist, and](#)
20 [whether the applicant lacks items or information which was required as a condition of a previous](#)
21 [approval stage\(s\) for the same project.](#) An application shall be complete for purposes of
22 commencing the applicable time period for action when so certified by the administrative officer.
23 Every certification of completeness required by this chapter shall be in writing. In the event the
24 certification of the application is not made within the time specified in this chapter for the type of
25 plan, the application is deemed complete for purposes of commencing the review period unless the
26 application lacks information required for these applications as specified in the local regulations
27 and the administrative officer has notified the applicant, in writing, of the deficiencies in the
28 application. See §§ 45-23-38, 45-23-39, and 45-23-50 for applicable certification timeframes and
29 requirements. [An application shall not be deemed incomplete for reasons other than the failure to](#)
30 [supply an item or items listed on the applicable checklist.](#)

31 (d) Notwithstanding other provisions of this section, the planning board may subsequently
32 require correction of any information found to be in error and submission of additional information
33 specified in the regulations but not required by the administrative officer prior to certification, as
34 is necessary to make an informed decision.

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

45-23-39. General provisions — Major land development and major subdivision review stages.

(a) **Stages of review.** Major land development and major subdivision review consists of three stages of review, master plan, preliminary plan, and final plan, following the pre-application meeting(s) specified in § 45-23-35, [if applicable](#). Also required is a public hearing at the master plan stage of review or, if combined at the first stage of review.

(b) The administrative officer may combine review stages but only the planning board may waive requirements as specified in § 45-23-62. Review stages may be combined only after the administrative officer determines that all necessary requirements have been met by the applicant or that the planning board has waived any submission requirements not included by the applicant.

(c) **Master plan review.**

(1) **Submission requirements.**

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

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

(iii) Initial comments will be solicited from:

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

(B) Adjacent communities;

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

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

(iv) Applications requesting relief from the zoning ordinance.

(A) Applications under this chapter that require relief that qualifies only as a modification

1 under § 45-24-46 and local ordinances may proceed by filing a master plan application under this
2 section to the administrative officer and, separately, a request for a modification to the zoning
3 enforcement officer. If such modification is granted, the application shall then proceed to be
4 reviewed by the planning board pursuant to the applicable requirements of this section. If the
5 modification is denied or an objection is received as set forth in § 45-24-46, such application shall
6 proceed under unified development review pursuant to § 45-23-50.1.

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

10 (2) **Certification.** The application must be certified, in writing, complete or incomplete by
11 the administrative officer within twenty-five (25) days of the submission, according to the
12 provisions of § 45-23-36(c), so long as a completed checklist of requirements is provided with the
13 submission. If an applicant also submits for a modification to the zoning enforcement officer, the
14 running of the time period set forth herein will not begin until the decision on the modification is
15 made as set forth in § 45-24-46. The running of the time period set forth herein will be deemed
16 stopped upon the issuance of a certificate of incompleteness of the application by the administrative
17 officer and will recommence upon the resubmission of a corrected application by the applicant.
18 However, in no event will the administrative officer be required to certify a corrected submission
19 as complete or incomplete less than ten (10) days after its resubmission.

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

23 (4) **Public hearing.**

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

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

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

34 (5) **Decision.** The planning board shall, within ninety (90) days of certification of

1 completeness, or within a further amount of time that may be consented to by the applicant through
2 the submission of a written waiver, approve of the master plan as submitted, approve with changes
3 and/or conditions, or deny the application, according to the requirements of §§ 45-23-60 and 45-
4 23-63.

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

9 (7) **Vesting.**

10 (i) The approved master plan is vested for a period of two (2) years, with the right to extend
11 for two (2), one-year extensions upon written request by the applicant, who must appear before the
12 planning board for the annual review. Thereafter, vesting may be extended for a longer period, for
13 good cause shown, if requested by the applicant, in writing, and approved by the planning board.
14 Master plan vesting includes the zoning requirements, conceptual layout, and all conditions shown
15 on the approved master plan drawings and supporting materials.

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

18 (d) **Preliminary plan review.**

19 (1) **Submission requirements.**

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

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

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

29 ~~(iv) Prior to approval of the preliminary plan, copies of all legal documents describing the~~
30 ~~property, proposed easements, and rights of way.~~

31 ~~(v) Prior to approval of the preliminary plan, an applicant must submit all permits required~~
32 ~~by state or federal agencies, including permits related to freshwater wetlands, the coastal zone,~~
33 ~~floodplains, preliminary suitability for individual septic disposal systems, public water systems,~~
34 ~~and connections to state roads. For a state permit from the Rhode Island department of~~

1 ~~transportation, a letter evidencing the issuance of such a permit upon the submission of a bond and~~
2 ~~insurance is sufficient, but such actual permit shall be required prior to the issuance of a building~~
3 ~~permit.~~

4 ~~(vi)~~(iv) If the applicant is requesting alteration of any variances and/or special-use permits
5 granted by the planning board or commission at the master plan stage of review pursuant to adopted
6 unified development review provisions, and/or any new variances and/or special-use permits, such
7 requests and all supporting documentation shall be included as part of the preliminary plan
8 application materials, pursuant to § 45-23-50.1(b).

9 (2) **Certification.** The application will be certified as complete or incomplete by the
10 administrative officer within twenty-five (25) days, according to the provisions of § 45-23-36(c) so
11 long as a completed checklist of requirements is provided with the submission. The running of the
12 time period set forth herein will be deemed stopped upon the issuance of a certificate of
13 incompleteness of the application by the administrative officer and will recommence upon the
14 resubmission of a corrected application by the applicant. However, in no event shall the
15 administrative officer be required to certify a corrected submission as complete or incomplete less
16 than ten (10) days after its resubmission.

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

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

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

25 (6) **Decision.** A complete application for a major subdivision or development plan shall be
26 approved, approved with conditions, or denied, in accordance with the requirements of §§ 45-23-
27 60 and 45-23-63, within ninety (90) days of the date when it is certified complete, or within a
28 further amount of time that may be consented to by the developer through the submission of a
29 written waiver. Provided that, the timeframe for decision is automatically extended if evidence of
30 state permits has not been provided, or otherwise waived in accordance with this section.

31 (7) **Failure to act.** Failure of the planning board to act within the prescribed period
32 constitutes approval of the preliminary plan, and a certificate of the administrative officer as to the
33 failure of the planning board to act within the required time and the resulting approval shall be
34 issued on request of the applicant.

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

8 (e) **Final plan.**

9 (1) **Submission requirements.**

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

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

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

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

19 (v) Prior to approval of the final plan, copies of all legal documents describing the property,
20 proposed easements, and rights-of-way.

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

27 (2) **Certification.** The application for final plan approval shall be certified complete or
28 incomplete by the administrative officer in writing, within fifteen (15) days, according to the
29 provisions of § 45-23-36(c) so long as a completed checklist of requirements is provided with the
30 submission. This time period may be extended to twenty-five (25) days by written notice from the
31 administrative officer to the applicant where the final plans contain changes to or elements not
32 included in the preliminary plan approval. The running of the time period set forth herein shall be
33 deemed stopped upon the issuance of a certificate of incompleteness of the application by the
34 administrative officer and shall recommence upon the resubmission of a corrected application by

1 the applicant. However, in no event shall the administrative officer be required to certify a corrected
2 submission as complete or incomplete less than ten (10) days after its resubmission. If the
3 administrative officer certifies the application as complete and does not require submission to the
4 planning board as per subsection (c) of this section, the final plan shall be considered approved.

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

9 (4) **Failure to act.** Failure of the administrative officer, or, if referred to it, the planning
10 board to act within the prescribed period constitutes approval of the final plan, and a certificate of
11 the administrative officer as to the failure of the planning board to act within the required time and
12 the resulting approval shall be issued on request of the applicant.

13 (5) **Expiration of approval.** The final approval of a major subdivision or land development
14 project expires ~~one-year~~ two (2) years from the date of approval with the right to extend for one
15 year upon written request by the applicant, who must appear before the planning board for the
16 annual review, unless, within that period, the plat or plan has been submitted for signature and
17 recording as specified in § 45-23-64. Thereafter, the planning board may, for good cause shown,
18 extend the period for recording.

19 (6) **Acceptance of public improvements.** Signature and recording as specified in § 45-23-
20 64 constitute the acceptance by the municipality of any street or other public improvement or other
21 land intended for dedication. Final plan approval shall not impose any duty upon the municipality
22 to maintain or improve those dedicated areas until the governing body of the municipality accepts
23 the completed public improvements as constructed in compliance with the final plans.

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

27 (f) ~~Modifications and changes to plans.~~ Modifications and changes to approved plans.

28 (1) Minor changes, as defined in the local regulations, to the plans approved at any stage
29 may be approved administratively, by the administrative officer. The changes may be authorized
30 without an additional planning board meeting. All changes shall be made part of the permanent
31 record of the project application. This provision does not prohibit the administrative officer from
32 requesting recommendation from either the technical review committee or the permitting authority.
33 Denial of the proposed change(s) shall be referred to the planning board for review as a major
34 change.

1 (2) Major changes, as defined in the local regulations, to the plans approved at any stage
2 may be approved only by the planning board and must include a public hearing.

3 (3) The administrative officer shall notify the applicant in writing within fourteen (14) days
4 of submission of the written request for a change if the administrative officer determines the change
5 to be a major change of the approved plans.

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

8 **45-23-57. Administration — The board of appeal.**

9 The city or town council shall establish the city or town zoning board of review as the
10 board of appeal to hear appeals of decisions of the ~~planning board or the~~ administrative officer on
11 administrative matters. ~~of review and approval of land development and subdivision projects~~
12 interpretations and determinations made pursuant to § 45-23-36. This section shall not apply to
13 decisions of the administrative officer made pursuant to §§ 45-23-38 or 45-23-50 which approve
14 or deny an application.

15 **45-23-60. Procedure — Required findings.**

16 (a) Except as set forth in this section, all ~~All~~ local regulations shall require that for all
17 administrative, minor, and major development applications the approving authorities responsible
18 for land development and subdivision review and approval shall ~~address each of the general~~
19 ~~purposes stated in § 45-23-30 and~~ make positive findings on the following standard provisions, as
20 part of the proposed project's record prior to approval:

21 (1) The proposed development is consistent with the comprehensive community plan
22 and/or has satisfactorily addressed the issues where there may be inconsistencies;

23 (2) The proposed development is in compliance with the standards and provisions of the
24 municipality's zoning ordinance or has obtained relief from the same, or another provision of this
25 chapter that exempts compliance with a specific provision or standard;

26 (3) There will be no significant negative environmental impacts from the proposed
27 development as shown on the final plan, with all required conditions for approval;

28 (4) The subdivision, as proposed, will not result in the creation of individual lots with any
29 physical constraints to development that building on those lots according to pertinent regulations
30 and building standards would be impracticable. (See definition of Buildable lot). Lots with physical
31 constraints to development may be created only if identified as permanent open space or
32 permanently reserved for a public purpose on the approved, recorded plans; and

33 (5) All proposed land developments and all subdivision lots have adequate physical and
34 permanent physical access to a public street. ~~Lot frontage on a public street without physical access~~

1 ~~shall not be considered in compliance with this requirement~~ unless there are local zoning ordinance
2 provisions allowing exceptions to this requirement or the applicant has obtained the required relief
3 from this provision.

4 (b) Except for administrative subdivisions, findings of fact must be supported by legally
5 competent evidence on the record which discloses the nature and character of the observations upon
6 which the fact finders acted.

7 (c) Minor subdivisions subject to administrative review and approval only, as set forth in
8 § 45-23-38(a)(2) shall only be subject to the standard provisions set forth in subsections (a)(1),
9 (a)(2) and (a)(5) of this section.

10 **45-23-71. Appeals to the superior court.**

11 (a) An aggrieved party may appeal a decision of the board of appeal; a decision of an
12 administrative officer made pursuant to § 45-23-38 or § 45-23-50 where authorized to approve or
13 deny an application; a decision of the technical review committee where authorized to approve or
14 deny an application; or a decision of the planning board, to the superior court for the county in
15 which the municipality is situated by filing a complaint stating the reasons for the appeal within
16 twenty (20) days after the decision has been recorded and posted in the office of the city or town
17 clerk. Recommendations by any public body or officer under this chapter are not appealable under
18 this section. The authorized permitting authority shall file the original documents acted upon by it
19 and constituting the record of the case appealed from, or certified copies of the original documents,
20 together with any other facts that may be pertinent, with the clerk of the court within thirty (30)
21 days after being served with a copy of the complaint. When the complaint is filed by someone other
22 than the original applicant or appellant, the original applicant or appellant and the ~~planning board~~
23 permitting authority shall be made parties to the proceedings. No responsive pleading is required
24 for an appeal filed pursuant to this section. The appeal does not stay proceedings upon the decision
25 appealed from, but the court may, in its discretion, grant a stay on appropriate terms and make any
26 other orders that it deems necessary for an equitable disposition of the appeal.

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

31 (c) The review shall be conducted by the superior court without a jury. The court shall
32 consider the record ~~of the hearing~~ before the ~~planning board~~ board of appeal or permitting authority,
33 as applicable and, if it appears to the court that additional evidence is necessary for the proper
34 disposition of the matter, it may allow any party to the appeal to present evidence in open court,

1 which evidence, along with the report, shall constitute the record upon which the determination of
2 the court shall be made.

3 (d) The court shall not substitute its judgment for that of the ~~planning~~ board of appeal or
4 permitting authority as applicable as to the weight of the evidence on questions of fact. The court
5 may affirm the decision of the board of appeal or permitting authority, as applicable or remand the
6 case for further proceedings, or may reverse or modify the decision if substantial rights of the
7 appellant have been prejudiced because of findings, inferences, conclusions, or decisions that are:

8 (1) In violation of constitutional, statutory, ordinance, or planning board regulations
9 provisions;

10 (2) In excess of the authority granted to the planning board by statute or ordinance;

11 (3) Made upon unlawful procedure;

12 (4) Affected by other error of law;

13 (5) Clearly erroneous in view of the reliable, probative, and substantial evidence of the
14 whole record; or

15 (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted
16 exercise of discretion.

17 SECTION 4. Sections 45-24-31, 45-24-37, 45-24-38, 45-24-46, 45-24-46.1, 45-24-46.4
18 and 45-24-77 of the General Laws in Chapter 45-24 entitled "Zoning Ordinances" are hereby
19 amended to read as follows:

20 **45-24-31. Definitions.**

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

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

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

33 (3) Accessory use. A use of land or of a building, or portion thereof, customarily incidental
34 and subordinate to the principal use of the land or building. An accessory use may be restricted to

1 the same lot as the principal use. An accessory use shall not be permitted without the principal use
2 to which it is related.

3 (4) Adaptive reuse. "Adaptive reuse," as defined in § 42-64.22-2.

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

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

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

9 (6) Agricultural land. "Agricultural land," as defined in § 45-22.2-4.

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

11 (8) Applicant. An owner, or authorized agent of the owner, submitting an application or
12 appealing an action of any official, board, or agency.

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

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

18 (11) Building. Any structure used or intended for supporting or sheltering any use or
19 occupancy.

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

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

34 (i) The base flood elevation on the FEMA FIRM plus up to five feet (5') of any utilized or

1 proposed freeboard, less the average existing grade elevation; or

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

3 one-hundred-year (100) storm, less the average existing grade elevation. CRMC shall reevaluate

4 the appropriate suggested design elevation map for the exclusion every ten (10) years, or as

5 otherwise necessary.

6 (14) Cluster. A site-planning technique that concentrates buildings in specific areas on the

7 site to allow the remaining land to be used for recreation, common open space, and/or preservation

8 of environmentally, historically, culturally, or other sensitive features and/or structures. The

9 techniques used to concentrate buildings shall be specified in the ordinance and may include, but

10 are not limited to, reduction in lot areas, setback requirements, and/or bulk requirements, with the

11 resultant open land being devoted by deed restrictions for one or more uses. Under cluster

12 development, there is no increase in the number of lots that would be permitted under conventional

13 development except where ordinance provisions include incentive bonuses for certain types or

14 conditions of development.

15 (15) Common ownership. Either:

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

17 or more contiguous lots; or

18 (ii) Ownership by any association (ownership may also include a municipality) of one or

19 more lots under specific development techniques.

20 (16) Community residence. A home or residential facility where children and/or adults

21 reside in a family setting and may or may not receive supervised care. This does not include halfway

22 houses or substance-use-disorder-treatment facilities. This does include, but is not limited to, the

23 following:

24 (i) Whenever six (6) or fewer children or adults with intellectual and/or developmental

25 disability reside in any type of residence in the community, as licensed by the state pursuant to

26 chapter 24 of title 40.1. All requirements pertaining to local zoning are waived for these community

27 residences;

28 (ii) A group home providing care or supervision, or both, to not more than eight (8) persons

29 with disabilities, and licensed by the state pursuant to chapter 24 of title 40.1;

30 (iii) A residence for children providing care or supervision, or both, to not more than eight

31 (8) children, including those of the caregiver, and licensed by the state pursuant to chapter 72.1 of

32 title 42;

33 (iv) A community transitional residence providing care or assistance, or both, to no more

34 than six (6) unrelated persons or no more than three (3) families, not to exceed a total of eight (8)

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

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

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

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

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

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

(22) Development plan review. See §§ 45-23-32 and 45-23-50.

(23) District. See "zoning use district."

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

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

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

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

- 1 (28) Floating zone. An unmapped zoning district adopted within the ordinance that is
2 established on the zoning map [is effective](#) only when an application for development, meeting the
3 zone requirements, is approved [and the approved plan is recorded](#).
- 4 (29) Floodplains, or Flood hazard area. As defined in § 45-22.2-4.
- 5 (30) 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 (31) Groundwater. “Groundwater” and associated terms, as defined in § 46-13.1-3.
- 10 (32) 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 (33) Hardship. See § 45-24-41.
- 14 (34) Historic district or historic site. As defined in § 45-22.2-4.
- 15 (35) 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 (36) 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 one person per bedroom and shall
26 not exceed five (5) unrelated persons per dwelling. The maximum number shall not apply to
27 NARR-certified recovery residences.
- 28 (37) Incentive zoning. The process whereby the local authority may grant additional
29 development capacity in exchange for the developer’s provision of a public benefit or amenity as
30 specified in local ordinances.
- 31 (38) Infrastructure. Facilities and services needed to sustain residential, commercial,
32 industrial, institutional, and other activities.
- 33 (39) Land development project. As defined in § 45-23-32.
- 34 (40) Lot. Either:

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

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

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

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

10 (43) Lot building coverage. That portion of the lot that is, or may be, covered by buildings
11 and accessory buildings.

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

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

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

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

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

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

26 (47) Lot size, minimum. Shall have the same meaning as "minimum lot area" defined
27 herein.

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

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

33 (50) Manufactured home. As used in this section, a manufactured home shall have the same
34 definition as in 42 U.S.C. § 5402, meaning a structure, transportable in one or more sections, which,

1 in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in
2 length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is
3 built on a permanent chassis and designed to be used as a dwelling with a permanent foundation
4 connected to the required utilities, and includes the plumbing, heating, air-conditioning, and
5 electrical systems contained therein; except that such term shall include any structure that meets
6 all the requirements of this definition except the size requirements and with respect to which the
7 manufacturer voluntarily files a certification required by the United States Secretary of Housing
8 and Urban Development and complies with the standards established under chapter 70 of Title 42
9 of the United States Code; and except that such term shall not include any self-propelled
10 recreational vehicle.

11 (51) Mere inconvenience. See § 45-24-41.

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

13 (53) Modification. Permission granted and administered by the zoning enforcement officer
14 of the city or town, and pursuant to the provisions of this chapter to grant a dimensional ~~variance~~
15 ~~other than lot area requirements~~ relief from the zoning ordinance to a limited degree as determined
16 by the zoning ordinance of the city or town, but not to exceed twenty-five percent (25%) of each
17 of the applicable dimensional requirements, except as set forth in § 45-24-46(c).

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

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

24 (ii) Nonconforming by dimension: a building, structure, or parcel of land not in compliance
25 with the dimensional regulations of the zoning ordinance. Dimensional regulations include all
26 regulations of the zoning ordinance, other than those pertaining to the permitted uses. A building
27 or structure containing more dwelling units than are permitted by the use regulations of a zoning
28 ordinance is nonconforming by use; a building or structure containing a permitted number of
29 dwelling units by the use regulations of the zoning ordinance, but not meeting the lot area per
30 dwelling unit regulations, is nonconforming by dimension.

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

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

3 (57) Permitted use. A use by right that is specifically authorized in a particular zoning
4 district.

5 (58) Planned development. A “land development project,” as defined in subsection (39),
6 and developed according to plan as a single entity and containing one or more structures or uses
7 with appurtenant common areas.

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

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

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

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

17 (63) Slope of land. The grade, pitch, rise, or incline of the topographic landform or surface
18 of the ground.

19 (64) Special use. A regulated use that is permitted pursuant to the special-use permit issued
20 by the authorized governmental entity, pursuant to § 45-24-42. Formerly referred to as a special
21 exception.

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

24 (66) Substandard lot of record. Any lot lawfully existing at the time of adoption or
25 amendment of a zoning ordinance and not in conformance with the dimensional or area provisions
26 of that ordinance.

27 (67) Use. The purpose or activity for which land or buildings are designed, arranged, or
28 intended, or for which land or buildings are occupied or maintained.

29 (68) Variance. Permission to depart from the literal requirements of a zoning ordinance.
30 An authorization for the construction or maintenance of a building or structure, or for the
31 establishment or maintenance of a use of land, that is prohibited by a zoning ordinance. There are
32 only two (2) categories of variance, a use variance or a dimensional variance.

33 (i) Use variance. Permission to depart from the use requirements of a zoning ordinance
34 where the applicant for the requested variance has shown by evidence upon the record that the

1 subject land or structure cannot yield any beneficial use if it is to conform to the provisions of the
2 zoning ordinance.

3 (ii) Dimensional variance. Permission to depart from the dimensional requirements of a
4 zoning ordinance under the applicable standards set forth in § 45-24-41.

5 (69) Waters. As defined in § 46-12-1(23).

6 (70) Wetland, coastal. As defined in § 45-22.2-4.

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

8 (72) Zoning certificate. A document signed by the zoning enforcement officer, as required
9 in the zoning ordinance, that acknowledges that a use, structure, building, or lot either complies
10 with, or is legally nonconforming to, the provisions of the municipal zoning ordinance or is an
11 authorized variance or modification therefrom.

12 (73) Zoning map. The map, or maps, that are a part of the zoning ordinance and that
13 delineate the boundaries of all mapped zoning districts within the physical boundary of the city or
14 town.

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

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

25 **45-24-37. General provisions — Permitted uses.**

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

33 (b) Notwithstanding any other provision of this chapter, the following uses are permitted
34 uses within all residential zoning use districts of a municipality and all industrial and commercial

1 zoning use districts except where residential use is prohibited for public health or safety reasons:

2 (1) Households;

3 (2) Community residences; and

4 (3) Family daycare homes.

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

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

17 (e) Notwithstanding any other provision of this chapter, an accessory dwelling unit
18 (“ADU”) that meets the requirements of §§ 45-24-31 and 45-24-73(a) shall be a permitted use in
19 all residential zoning districts. An ADU that meets the requirements of §§ 45-24-31 and 45-24-
20 73(a) shall be permitted through an administrative building permit process only.

21 (f) When used in this section the terms “people with disabilities” or “member, or members,
22 with disabilities” means a person(s) who has a physical or mental impairment that substantially
23 limits one or more major life activities, as defined in 42-87-1(5).

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

28 (h) Adaptive reuse. Notwithstanding any other provisions of this chapter, adaptive reuse
29 for the conversion of any commercial building, including offices, schools, religious facilities,
30 medical buildings, [mills](#), and malls into residential units or mixed-use developments which include
31 the development of at least fifty percent (50%) of the existing gross floor area into residential units,
32 shall be a permitted use and allowed by specific and objective provisions of a zoning ordinance;
33 ~~except where.~~

34 [\(1\) Prohibitions. Adaptive reuse under this section shall not be allowed where:](#)

1 (i) Residential use ~~such~~ is prohibited by environmental land use restrictions recorded on
2 the property by the state of Rhode Island department of environmental management or the United
3 States Environmental Protection Agency ~~preventing the conversion to residential use.~~

4 (ii) In any industrial or manufacturing zoning use district, or a portion thereof, where
5 residential use is prohibited for public health and safety reasons which are based on specific and
6 detailed findings;

7 (iii) In any building previously used for industrial or manufacturing use(s), which has not
8 been vacant of an industrial use for less than one year prior to the submission of the permit or
9 application for adaptive reuse.

10 ~~(1) The specific zoning ordinance provisions for adaptive reuse shall exempt adaptive reuse~~
11 ~~developments from off street parking requirements of over one space per dwelling unit.~~

12 **(2) Density.**

13 Provided that all minimum building, rehabilitation and fire code requirements are met for
14 all residential units, as applicable; and provided that, for projects with more than four (4) residential
15 units, not less than ten percent (10%) of low- or moderate-income housing is provided, the local
16 zoning ordinance shall not specify any maximum density of residential units. If less than ten percent
17 (10%) of low- or moderate-income housing is provided, then the allowable maximum density shall
18 be determined by the municipality.

19 **(3) Dimensional Requirements.**

20 (i) Building envelope. Unless a local zoning ordinance allows otherwise, the development
21 shall be limited to the existing building envelope, except that the envelope is allowed to be
22 expanded to accommodate upgrades of non-occupiable space related to the building and fire codes
23 and utilities such as HVAC equipment, stairs, and elevators.

24 (ii) Parking. A local zoning ordinance shall not require a development under this section to
25 provide more than one off-street parking space for the first two (2) bedrooms of any dwelling unit
26 and shall not require more than one off street parking space for any additional bedroom beyond the
27 second bedroom in any dwelling unit.

28 ~~(i) For projects that meet the following criteria, zoning ordinances shall allow for high~~
29 ~~density development and shall not limit the density to less than fifteen (15) dwelling units per acre:~~

30 ~~(A) Where the project is limited to the existing footprint, except that the footprint is allowed~~
31 ~~to be expanded to accommodate upgrades related to the building and fire codes and utilities; and~~

32 ~~(B) The development includes at least twenty percent (20%) low and moderate income~~
33 ~~housing; and~~

34 ~~(C) The development has access to public sewer and water service or has access to adequate~~

1 ~~private water, such as a well and and/or wastewater treatment system(s) approved by the relevant~~
2 ~~state agency for the entire development as applicable.~~

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

9 ~~(3)~~(iii) Existing setbacks. Notwithstanding any other provisions of this chapter, for
10 adaptive reuse projects, existing building setbacks shall remain and shall be considered legal
11 nonconforming, but no additional encroachments shall be permitted into any nonconforming
12 setback, unless otherwise allowed by local zoning ordinance or relief is granted by the applicable
13 authority.

14 ~~(4)~~(iv) Height. For adaptive reuse projects, notwithstanding any other provisions of this
15 chapter, the height of the existing structure, if it exceeds the maximum height of the zoning district,
16 may remain and shall be considered legal nonconforming, and any non-occupiable rooftop
17 construction such as HVAC equipment and stairs or elevator towers, but excluding rooftop decks,
18 shall be included within the height exemption.

19 (4) Water and sewer. The development shall have access to public water and sewer services
20 or shall have access to adequate private water, such as a well(s) and and/or on-site wastewater
21 treatment system(s) approved by the relevant state agency.

22 (i) Notwithstanding any other provisions of this chapter, all towns and cities ~~may~~ shall
23 allow manufactured homes, as defined in § 45-24-31, that comply with § 23-27.3-109.1.3 as a type
24 of single-family home on any lot zoned for single-family use. Such home shall comply with all
25 dimensional requirements of a single-family home in the district or seek relief for the same under
26 the provisions of this chapter.

27 **45-24-38. General provisions — Substandard lots of record.**

28 (a) Any city or town adopting or amending a zoning ordinance under this chapter shall
29 regulate the development of any single substandard lot of record or contiguous lots of record at the
30 effective date of adoption or amendment of the zoning ordinance.

31 (b) Notwithstanding the failure of that lot or those lots to meet the dimensional and/or
32 quantitative requirements, and/or road frontage or other access requirements, applicable in the
33 district as stated in the ordinance, a substandard lot of record shall not be required to seek any
34 zoning relief based solely on the failure to meet minimum requirements for lot size ~~requirements.~~

1 [lot frontage, lot width or lot depth](#) of the district in which such lot is located. For any structure
2 proposed under this section on a substandard lot of record, the following dimensional regulations
3 shall apply:

4 (1) Minimum building setbacks, lot frontage, and lot width requirements for a lot that is
5 nonconforming in area shall be reduced by ~~applying the building setback, lot frontage, and lot width~~
6 ~~requirements from another zoning district in the municipality in which the subject lot would be~~
7 ~~conforming as to lot area. If the subject lot is not conforming as to lot area in any zoning district in~~
8 ~~the municipality, the setbacks, lot frontage, and lot width shall be reduced by~~ the same proportion
9 that the area of such substandard lot meets the minimum lot area of the district in which the lot is
10 located. By way of example, if the lot area of a substandard lot only meets forty percent (40%) of
11 the minimum lot area required in the district in which it is located, the setbacks, lot frontage, and
12 lot width shall each be reduced to forty percent (40%) of the requirements for those dimensional
13 standards in the same district. [However, to the extent the city or town has a zoning district in which](#)
14 [the lot would be conforming as to size, the city or town may require compliance with the building](#)
15 [setback, lot frontage, and lot width requirements for said zoning district if such requirement is in](#)
16 [the local zoning ordinance.](#)

17 (2) Maximum lot building coverage for lots that are nonconforming in area shall be
18 increased by the inverse proportion that the area of such substandard lot meets the minimum area
19 requirements in the district in which the lot is located. By way of example, if the lot area of a
20 substandard lot only meets forty percent (40%) of the required minimum lot area, the maximum lot
21 building coverage is allowed to increase by sixty percent (60%) over the maximum permitted lot
22 building coverage in that district.

23 All proposals exceeding such reduced requirement shall proceed with a modification
24 request under § 45-24-46 or a dimensional variance request under § 45-24-41, whichever is
25 applicable.

26 (c) ~~Provisions~~ [Except as set forth otherwise in this chapter and in chapter 23 of title 45,](#)
27 [provisions](#) may be made for the merger of contiguous unimproved, or improved and unimproved,
28 substandard lots of record in the same ownership to create dimensionally conforming lots or to
29 reduce the extent of dimensional nonconformance. The ordinance shall specify the standards, on a
30 district by district basis, which determine the mergers. The standards shall include, but are not to
31 be limited to, the availability of infrastructure, the character of the neighborhood, and the
32 consistency with the comprehensive plan. The merger of lots shall not be required when the
33 substandard lot of record has an area equal to or greater than the area of fifty percent (50%) of the
34 lots within two hundred feet (200') of the subject lot, as confirmed ~~by the zoning enforcement~~

1 ~~officer~~ a compilation plan signed by a professional land surveyor as such term is defined by the
2 rules and regulations for professional land surveying.

3 **45-24-46. Special provisions — Modification.**

4 (a) A zoning ordinance shall provide for the issuance of modifications from the literal
5 dimensional requirements of the zoning ordinance in the instance of the construction, alteration, or
6 structural modification of a structure or lot of record. The zoning enforcement officer is authorized
7 to grant modification permits. The zoning ordinance shall permit modifications that are fifteen
8 percent (15%) or less of ~~the~~ any dimensional requirements specified in the zoning ordinance but
9 may permit modification up to twenty-five percent (25%). ~~A modification does not permit moving~~
10 ~~of lot lines.~~ Within ten (10) days of the receipt of a request for a modification, the zoning
11 enforcement officer shall make a decision as to the suitability of the requested modification based
12 on the following determinations:

13 (1) The modification requested is ~~reasonably necessary for the full enjoyment of the~~
14 ~~permitted use~~ minimal to a reasonable enjoyment of the permitted use to which the property is
15 proposed to be devoted;

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

18 (3) The modification requested does not require a variance of a flood hazard requirement,
19 unless the building is built in accordance with applicable regulations; and

20 (4) The modification requested does not violate any rules or regulations with respect to
21 freshwater or coastal wetlands.

22 (b) Upon an affirmative determination, in the case of a modification of five percent (5%)
23 or less, the zoning enforcement officer shall have the authority to issue a permit approving the
24 modification, without any public notice requirements. In the case of a modification of greater than
25 five percent (5%), the zoning enforcement officer shall notify, by first class mail, all property
26 owners abutting the property which is the subject of the modification request, and shall indicate the
27 street address of the subject property in the notice, and shall publish in a newspaper of local
28 circulation within the city or town that the modification will be granted unless written objection by
29 anyone who is entitled to notice under this section is received within fourteen (14) days of the
30 public notice. If written objection is received within fourteen (14) days, the request for a
31 modification shall be scheduled for the next available hearing before the zoning board of review
32 on application for a dimensional variance following the standard procedures for such variances,
33 including notice requirements provided for under this chapter. If no written objections are received
34 within fourteen (14) days, the zoning enforcement officer shall grant the modification. The zoning

1 enforcement officer may apply any special conditions to the permit as may, in the opinion of the
2 officer, be required to conform to the intent and purposes of the zoning ordinance. The zoning
3 enforcement officer shall keep public records of all requests for modifications, and of findings,
4 determinations, special conditions, and any objections received. Costs of any notice required under
5 this subsection shall be borne by the applicant requesting the modification.

6 (c) Neighborhood character-based modifications (“NCBM”). The zoning enforcement
7 officer is authorized to grant NCBM on any parcel with a public water and sewer connection, and
8 for purposes of residential use, from the literal dimensional requirements of the zoning ordinance
9 in the instance of the construction, alteration, creation or structural modification of a dwelling unit,
10 provided that:

11 (1) Such modifications shall only be granted for dimensional relief from frontage, lot width,
12 and lot depth, up to the average dimensions of the comparable existing built environment;

13 (2) The average dimensions of the comparable existing built environment shall be
14 calculated as follows:

15 (i) Comparable existing parcels shall mean all parcels that are:

16 (A) Within two hundred feet (200') of the subject property; and

17 (B) In the same base zone; and

18 (C) Used for residential purposes.

19 (ii) The average dimensions shall be confirmed by a professional land surveyor.

20 (iii) The average dimensions are to be determined without any additional review of zoning
21 or building code analysis of the legality of the existing dimensions of the comparable existing
22 parcels.

23 (3) Within ten (10) days of the receipt of a request for NCBM, the zoning enforcement
24 officer shall make a decision as to the suitability of the requested modification based on the
25 following determinations:

26 (i) The modification requested does not require a variance of a flood hazard requirement,
27 unless the building is built in accordance with applicable regulations; and

28 (ii) The modification requested does not violate any rules or regulations with respect to
29 freshwater or coastal wetlands; and

30 (iii) The NCBM does not violate any provisions regarding separation included in the state
31 building or fire code;

32 (4) Upon an affirmative determination, in the case of an NCBM modification of equal to
33 or less than thirty percent (30%) of the requirements of the zoning district, the zoning enforcement
34 officer shall have the authority to issue a permit approving the modification, without any public

1 [notice requirements. In the case of an NCBM modification of greater than thirty percent \(30%\), the](#)
2 [zoning enforcement officer shall notify, by first class mail, all property owners abutting the](#)
3 [property which is the subject of the NCBM modification request, and shall indicate the street](#)
4 [address of the subject property in the notice, and shall publish in a newspaper of local circulation](#)
5 [within the city or town that the modification will be granted unless written objection is received](#)
6 [within fourteen \(14\) days of the public notice. If written objection is received from any party](#)
7 [entitled to notice under this section within fourteen \(14\) days, the request for a modification shall](#)
8 [be scheduled for the next available hearing before the zoning board of review on application for a](#)
9 [dimensional variance following the standard procedures for such variances, including notice](#)
10 [requirements provided for under this chapter. If no written objections are received within fourteen](#)
11 [\(14\) days, the zoning enforcement officer shall grant the modification. The zoning enforcement](#)
12 [officer may apply any special conditions to the permit as may, in the opinion of the officer, be](#)
13 [required to conform to the intent and purposes of the zoning ordinance. The zoning enforcement](#)
14 [officer shall keep public records of all requests for modifications, and of findings, determinations,](#)
15 [special conditions, and any objections received. Costs of any notice required under this subsection](#)
16 [shall be borne by the applicant requesting the modification.](#)

17 **45-24-46.1. Inclusionary zoning. [Effective January 1, 2025.]**

18 (a) A zoning ordinance requiring the inclusion of affordable housing as part of a
19 development shall provide that the housing will be affordable housing, as defined in § 42-128-
20 8.1(d)(1); that the affordable housing will constitute not less than fifteen percent (15%) of the total
21 units proposed for the development; and that the units will remain affordable for a period of not
22 less than thirty (30) years from initial occupancy enforced through a land lease and/or deed
23 restriction enforceable by the municipality and the state of Rhode Island. A zoning ordinance that
24 requires the inclusion of affordable housing as part of a development shall specify the threshold in
25 which the inclusion of affordable housing is required, but in no event shall a minimum threshold
26 triggering the inclusion of affordable housing be higher than ten (10) dwelling units. The total
27 number of units for the development may include less than fifteen percent (15%) affordable units
28 after the density bonus described in subsection (c) of this section is determined. [A municipality](#)
29 [shall not limit the number of bedrooms for applications submitted under this section to anything](#)
30 [less than three \(3\) bedrooms per dwelling unit for single-family dwelling units.](#)

31 (b) A zoning ordinance that includes inclusionary zoning may provide that the affordable
32 housing must be built on-site or it may allow for one or more alternative methods of production,
33 including, but not limited to: off-site construction or rehabilitation; donation of land suitable for
34 development of the required affordable units; and/or the payment of a fee in lieu of the construction

1 or provision of affordable housing units.

2 (c) **Density bonus, zoning incentives, and municipal subsidies.** For all projects subject
3 to inclusionary zoning, subject to applicable setback, lot width, or frontage requirements or the
4 granting of relief from the same, a municipality shall allow the addition of one market rate unit for
5 each affordable unit required and the minimum lot area per dwelling unit normally required in the
6 applicable zoning district shall be reduced by that amount necessary to accommodate the
7 development. Larger density bonuses for the provision of an increased percentage of affordable
8 housing in a development may be provided by a municipality in the zoning ordinance. The total
9 number of units for the development shall equal the number originally proposed, including the
10 required affordable units, plus the additional units that constitute the density bonus. Local
11 regulations shall provide for reasonable relief from dimensional requirements to accommodate the
12 bonus density under this section. A municipality shall provide, and an applicant may request,
13 additional zoning incentives and/or municipal government subsidies as defined in § 45-53-3 to
14 offset differential costs of affordable units. Available zoning incentives and municipal government
15 subsidies may be listed in the zoning ordinance, but shall not be an exclusive list.

16 [\(1\) Inclusionary zoning requirements shall not be applied where there is a limitation on the](#)
17 [development density at the subject property under the regulations of a state agency, such as the](#)
18 [coastal resources management council or department of environmental management that prevents](#)
19 [the use of the density bonus set forth in this section.](#)

20 (d) **Fee-in-lieu.** To the extent a municipality provides an option for the payment of a fee-
21 in-lieu of the construction or provision of affordable housing, and an application seeks to utilize
22 fee-in-lieu, the use of such fee shall be the choice of the developer or builder applied on a per-unit
23 basis and may be used for new developments, purchasing property and/or homes, rehabilitating
24 properties, or any other manner that creates additional low- or moderate-income housing as defined
25 in § 45-53-3(9).

26 (1) Eligibility for density bonus. Notwithstanding any other provisions of this chapter, an
27 application that utilizes a fee-in-lieu, off-site construction or rehabilitation, or donation of land
28 suitable for development of the required affordable units shall not be eligible for the density bonus
29 outlined in this section.

30 (2) An application that seeks to utilize a fee-in-lieu of the construction or provision of
31 affordable housing must be reviewed by the planning board or commission and is not eligible for
32 administrative review under the Rhode Island Land Development and Subdivision Review
33 Enabling Act of 1992, codified at §§ 45-23-25 — 45-23-74.

34 (3) Amount of fee-in-lieu. For affordable single-family homes and condominium units, the

per-unit fee shall be the difference between the maximum affordable sales price for a family of four (4) earning eighty percent (80%) of the area median income as determined annually by the U.S. Department of Housing and Urban Development and the average cost of developing a single unit of affordable housing. The average cost of developing a single unit of affordable housing shall be determined annually based on the average, per-unit development cost of affordable homes financed by Rhode Island housing and mortgage finance corporation (RIHMFC) over the previous three (3) years, excluding existing units that received preservation financing.

(i) Notwithstanding subsection (d)(3) of this section, in no case shall the per-unit fee for affordable single family homes and condominium units be less than forty thousand dollars (\$40,000).

(4) Use of fee-in-lieu. The municipality shall deposit all in-lieu payments into restricted accounts that shall be allocated and spent only for the creation and development of affordable housing within the municipality serving individuals or families at or below eighty percent (80%) of the area median income. The municipality shall maintain a local affordable housing board to oversee the funds in the restricted accounts and shall allocate the funds within three (3) years of collection. The municipality shall include in the housing element of their local comprehensive plan and shall pass by ordinance, the process it will use to allocate the funds.

(e) As an alternative to the provisions of subsection (d), the municipality may elect to transfer in-lieu payments promptly upon receipt or within the three-year (3) period after receipt. A municipality shall transfer all fee-in-lieu payments that are not allocated within three (3) years of collection, including funds held as of July 1, 2024, to RIHMFC for the purpose of developing affordable housing within that community.

(f) Both the municipalities and RIHMFC shall report annually with the first report due December 31, 2024, to the general assembly, the secretary of housing, and the housing resources commission the amount of fees in lieu collected by community, the projects that were provided funding with the fees, the dollar amounts allocated to the projects, and the number of units created.

45-24-46.4. Special provisions — Unified development review.

(a) A zoning ordinance shall provide that review and decision on variances and/or special-use permits for properties undergoing review which qualifies for unified development review by the authorized permitting authority, be conducted and decided by the authorized permitting authority. This process is to be known as unified development review.

(b) The local ordinance and regulation shall provide for the application and review process pursuant to § 45-23-50.1.

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

1 (1) Empower the authorized permitting authority to grant, grant with conditions, or deny
2 zoning relief; and

3 (2) Provide that any person, group, agency, or corporation that files an application for a
4 project under this section shall also file specific requests for relief from the literal requirements of
5 a zoning ordinance on the subject property, pursuant to § 45-24-41, and/or for the issuance of
6 special-use permits for the subject property, pursuant to § 45-24-42, by including such within the
7 application to the administrative officer with the other required application materials, pursuant to
8 § 45-23-50.1(b).

9 (d) [Deleted by P.L. 2023, ch. 308, § 2 and P.L. 2023, ch. 309, § 2.]

10 (e) All land development and subdivision applications that include requests for variances
11 and/or special-use permits submitted pursuant to this section shall require a public hearing that
12 meets the requirements of § 45-23-50.1.

13 (f) In granting requests for dimensional and use variances, the authorized permitting
14 authority shall be bound to the requirements of § 45-24-41 relative to entering evidence into the
15 record in satisfaction of the applicable standards except that for subdivisions submitted under this
16 section, if an applicant seeks relief from the dimensional requirements as part of its proposed
17 subdivision, the standard in § 45-24-41(d)(2) shall not apply to prohibit the granting of the relief.

18 (g) In reviewing requests for special-use permits, the authorized permitting authority shall
19 be bound to the conditions and procedures under which a special-use permit may be issued and the
20 criteria for the issuance of such permits, as found within the zoning ordinance pursuant to § 45-24-
21 42, and shall be required to provide for the recording of findings of fact and written decisions as
22 described in the zoning ordinance pursuant to § 45-24-42.

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

25 **45-24-77. Transit-oriented development pilot program.**

26 (a) **Findings and declarations.** The general assembly finds and declares that in order to
27 increase the availability of residential housing near convenient public transportation, alleviate
28 traffic congestion, and further the goals of chapter 6.2 of title 42, the Act on Climate, enacted in
29 2021, there is a need to identify growth centers for higher density housing, considering the capacity
30 for water service, sewer service, transit connections, and employment centers.

31 (b) **Establishment.** To fulfill the findings and declarations of this section, a transit-oriented
32 development pilot program is hereby established that shall allow developers or municipalities to
33 apply for funds for residential development.

34 (c) **Applicability.** Effective January 1, 2024, in addition to the criteria to be established by

1 the department of housing as set forth in subsection (d) of this section, to qualify for funding
2 through the pilot program, ~~a municipality must have~~ the development must include developable
3 land or properties that is within a one-quarter (¼) mile radius of ~~a~~ an existing or planned regional
4 mobility hub or a one-eighth (⅛) mile radius of ~~a~~ an existing or planned frequent transit stop as
5 such terms are defined in the 2020 Rhode Island transit master plan or its successor document.

6 (d) **Authority.** The department of housing, in conjunction with input and data from the
7 department of transportation and division of statewide planning, is hereby authorized to promulgate
8 rules and regulations consistent with this section that establish:

9 (1) The criteria to qualify for consideration into the pilot program, including but not limited
10 to;

11 (i) For municipalities to apply to have zoning districts certified into the program, an
12 established zoning district or overlay, or other provisions that provide for high density residential
13 development, and the easing for dimensional restrictions and parking requirements for such
14 development; and

15 (ii) For developers to qualify for funding through the program, that the project includes
16 some portion of the residential units in the development to be affordable housing;

17 (2) The process for the application; ~~and~~ and submission requirements for municipalities to
18 apply to have zoning districts certified into the program and for developers or municipalities to
19 apply to receive funding ~~and pre-requisites, including, but not limited to, an established zoning~~
20 ~~overlay district or other provisions that provide increased density for residential development at a~~
21 ~~minimum of ten units per acre (10 U/A), mandates for the development of affordable housing, and~~
22 ~~the easing of dimensional restrictions and parking requirements for such development;~~

23 (3) ~~Criteria~~ The process for acceptance into the pilot program;

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

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

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

30 SECTION 5. This act shall take effect upon passage.

=====
LC002154/SUB B
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES -- LOCAL PLANNING BOARD OR COMMISSION

- 1 This act would provide technical amendments to the chapters on subdivision of land and
- 2 zoning ordinances for towns and cities.
- 3 This act would take effect upon passage.

=====
LC002154/SUB B
=====