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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

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A N A C T

RELATING TO TOWNS AND CITIES -- LOW AND MODERATE INCOME HOUSING

Introduced By: Representative June Speakman

Date Introduced: February 27, 2025

Referred To: House Municipal Government & Housing

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-53-3 and 45-53-4 of the General Laws in Chapter 45-53 entitled
2 "Low and Moderate Income Housing" are hereby amended to read as follows:

3 **45-53-3. Definitions.**

4 The following words, wherever used in this chapter, unless a different meaning clearly
5 appears from the context, have the following meanings:

6 (1) "Adjustment(s)" means a request or requests by the applicant to seek relief from the
7 literal use and dimensional requirements of the municipal zoning ordinance and/or the design
8 standards or requirements of the municipal land development and subdivision regulations. The
9 standard for the local review board's consideration of adjustments is set forth in § 45-53-
10 4(d)(2)(iii)(E)(II).

11 (2) "Affordable housing plan" means a component of a housing element, as defined in §
12 45-22.2-4(1), that addresses low- and moderate-income housing needs in a city or town that is
13 prepared in accordance with guidelines adopted by the state planning council, and/or to meet the
14 provisions of § 45-53-4(e)(1) and (f).

15 (3) "Approved affordable housing plan" means an affordable housing plan that ~~has been~~
16 ~~approved by the director of administration as meeting the guidelines for the~~ is part of an approved
17 ~~local comprehensive plan as promulgated by the state planning council; provided, however, that~~
18 ~~state review and approval, for plans submitted by December 31, 2004, shall not be contingent on~~
19 ~~the city or town having completed, adopted, or amended its comprehensive plan~~ as provided for in

1 § 45-22.2-8, § 45-22.2-9, or § 45-22.2-12.

2 (4) “Comprehensive plan” means a comprehensive plan adopted and approved by a city or
3 town pursuant to ~~chapters~~ chapter 22.2 ~~and 22.3~~ of this title.

4 (5) “Consistent with local needs” means reasonable in view of the state need for low- and
5 moderate-income housing, considered with the number of low-income persons in the city or town
6 affected and the need to protect the health and safety of the occupants of the proposed housing or
7 of the residents of the city or town, to promote better site and building design in relation to the
8 surroundings, or to preserve open spaces, and if the local zoning or land use ordinances,
9 requirements, and regulations are applied as equally as possible to both subsidized and
10 unsubsidized housing. Local zoning and land use ordinances, requirements, or regulations are
11 consistent with local needs when imposed by a city or town council after a comprehensive hearing
12 in a city or town where:

13 (i) Low- or moderate-income housing exists which is: (A) In the case of an urban city or
14 town which has at least 5,000 occupied year-round rental units and the units, as reported in the
15 latest decennial census of the city or town, comprise twenty-five percent (25%) or more of the year-
16 round housing units, and is in excess of fifteen percent (15%) of the total occupied year-round
17 rental units; or (B) In the case of all other cities or towns, is in excess of ten percent (10%) of the
18 year-round housing units reported in the census.

19 (ii) The city or town has promulgated zoning or land use ordinances, requirements, and
20 regulations to implement a comprehensive plan that has been adopted and approved pursuant to
21 chapters 22.2 and 22.3 of this title, and the housing element of the comprehensive plan provides
22 for low- and moderate-income housing in excess of either ten percent (10%) of the year-round
23 housing units or fifteen percent (15%) of the occupied year-round rental housing units as provided
24 in subsection (5)(i).

25 (iii) Multi-family rental units built under a comprehensive permit may be calculated
26 towards meeting the requirements of a municipality’s low- or moderate-income housing inventory,
27 as long as the units meet and are in compliance with the provisions of § 45-53-3.1.

28 (6) “Infeasible” means any condition brought about by any single factor or combination of
29 factors, as a result of limitations imposed on the development by conditions attached to the approval
30 of the comprehensive permit, to the extent that it makes it financially or logistically impracticable
31 for any applicant to proceed in building or operating low- or moderate-income housing within the
32 limitations set by the subsidizing agency of government or local review board, on the size or
33 character of the development, on the amount or nature of the subsidy, or on the tenants, rentals, and
34 income permissible, and without substantially changing the rent levels and unit sizes proposed by

1 the applicant.

2 (7) “Letter of eligibility” means a letter issued by the Rhode Island housing and mortgage
3 finance corporation in accordance with § 42-55-5.3(a).

4 (8) “Local review board” means the [local](#) planning board [or commission](#) as defined by §
5 45-22.2-4.

6 (9) “Low- or moderate-income housing” shall be synonymous with “affordable housing”
7 as defined in § 42-128-8.1, and further means any type of housing whether built or operated by any
8 public agency or any nonprofit organization or by any limited equity housing cooperative or any
9 private developer, that is subsidized by a federal, state, or municipal government subsidy under any
10 program to assist the construction or rehabilitation of affordable housing and that will remain
11 affordable through a land lease and/or deed restriction for ninety-nine (99) years or such other
12 period that is either agreed to by the applicant and town or prescribed by the federal, state, or
13 municipal government subsidy program but that is not less than thirty (30) years from initial
14 occupancy.

15 (i) Any housing unit that qualifies under this subsection (9) and under § 42-128-8.1 shall
16 be counted as one whole unit toward the municipality’s requirement for low- or moderate-income
17 housing.

18 (ii) Any mobile or manufactured home(s) that meet the requirements of § 42-128-
19 8.1(d)(1)(ii) but are not subsidized by a federal, state, or municipal government subsidy and/or do
20 not have a deed restriction or land lease as described in this subsection (9), shall count as one-half
21 (½) of one unit for the purpose of the calculation of the total of low- or moderate-income year-
22 round housing within a city or town, as long as a municipality contracts with a monitoring agent to
23 verify that the requirements of § 42-128-8.1(d)(1)(ii) are met for these units. Such units shall not
24 be required to meet the income verification requirements of § 42-128-8.1. The monitoring agent
25 shall provide a listing of the eligible units to Rhode Island Housing, who shall provide a report as
26 to the qualifying mobile or manufactured homes under this subsection (9) to the governor, speaker
27 of the house of representatives, senate president, and secretary of housing on an annual basis,
28 beginning on or before December 31, 2025.

29 (iii) Low- or moderate-income housing also includes rental property located within a
30 municipality that is secured with a federal government rental assistance voucher.

31 (iv) For the period beginning on or after July 1, 2024, any housing unit that qualifies as
32 low- or moderate-income housing under this subsection (9) and under § 42-128-8.1 and any rental
33 property secured with a federal government rental assistance voucher that does not otherwise meet
34 the other requirements to qualify as low- or moderate-income housing under this section shall be

1 counted as one whole unit toward the municipality’s requirement for low- or moderate-income
2 housing, as long as a municipality confirms with the issuing authority that the voucher is in good
3 standing and active.

4 (10) “Meeting local housing needs” means as a result of the adoption of the implementation
5 program of an approved affordable housing plan, the absence of unreasonable denial of applications
6 that are made pursuant to an approved affordable housing plan in order to accomplish the purposes
7 and expectations of the approved affordable housing plan, and a showing that at least twenty percent
8 (20%) of the total residential units approved by a local review board or any other municipal board
9 in a calendar year are for low- and moderate-income housing as defined in § 42-128-8.1.

10 (11) “Monitoring agents” means those monitoring agents appointed by the Rhode Island
11 housing resources commission pursuant to § 45-53-3.2 and to provide the monitoring and oversight
12 set forth in this chapter, including, but not limited to, §§ 45-53-3.2 and 45-53-4.

13 (12) “Municipal government subsidy” means assistance that is made available through a
14 city or town program sufficient to make housing affordable, as affordable housing is defined in §
15 42-128-8.1(d)(1); such assistance shall include a combination of, but is not limited to, direct
16 financial support, abatement of taxes, waiver of fees and charges, and ~~approval of~~ density bonuses
17 and/or internal subsidies, zoning incentives, and adjustments as defined in this section and any
18 combination of forms of assistance.

19 **45-53-4. Procedure for approval of construction of low- or moderate-income housing.**

20 (a) Any applicant proposing to build low- or moderate-income housing may submit to the
21 local review board a single application for a comprehensive permit to build that housing in lieu of
22 separate applications to the applicable local boards. This procedure is only available for proposals
23 in which at least twenty-five percent (25%) of the housing is low- or moderate-income housing.

24 (b) Municipal government subsidies, including [density bonuses](#), adjustments and zoning
25 incentives, are to be made available to applications under this chapter to offset the differential costs
26 of the low- or moderate-incoming housing units in a development under this chapter. At a
27 minimum, the following zoning incentives shall be allowed for projects submitted under this
28 chapter:

29 (1) **Density bonus.** A municipality shall provide an applicant with more dwelling units
30 than allowed by right under its zoning ordinance in the form of a density bonus to allow an increase
31 in the allowed dwelling units per acre (DU/A), as well as other incentives and municipal
32 government subsidies as defined in § 45-53-3.

33 Furthermore, a municipality shall provide, at a minimum, the following density bonuses
34 for projects submitted under this chapter, provided that the total land utilized in the density

1 calculation shall exclude wetlands; ~~wetland buffers~~; area devoted to roadway infrastructure
2 necessary for development; and easements or rights of way of record:

3 (i) For properties connected to public sewer and water, or eligible to be connected to public
4 sewer and water based on written confirmation from each respective service provider, the density
5 bonus for a project that provides at least twenty-five percent (25%) low- and moderate-income
6 housing shall be at least five (5) units per acre;

7 (ii) For properties connected to public sewer and water, or eligible to be connected to public
8 sewer and water based on written confirmation from each respective service provider, the density
9 bonus for a project that provides at least fifty percent (50%) low- and moderate-income housing
10 shall be at least nine (9) units per acre;

11 (iii) For properties connected to public sewer and water, or eligible to be connected to
12 public sewer and water based on written confirmation from each respective service provider, the
13 density bonus for a project that provides one hundred percent (100%) low- and moderate-income
14 housing shall be at least twelve (12) units per acre;

15 (iv) For properties not connected to either public water or sewer or both, but which provide
16 competent evidence as to the availability of water to service the development and/or a permit for
17 on-site wastewater treatment facilities to service the dwelling units from the applicable state
18 agency, the density bonus for a project that provides at least twenty-five percent (25%) low- and
19 moderate-income housing shall be at least three (3) units per acre;

20 (v) For properties not connected to either public water or sewer or both, but which provide
21 competent evidence as to the availability of water to service the development and/or a permit for
22 on-site wastewater treatment facilities to service the dwelling units from the applicable state
23 agency, the density bonus for a project that provides at least fifty percent (50%) low- and moderate-
24 income housing shall be at least five (5) units per acre;

25 (vi) For properties not connected to either public water or sewer or both, but which provide
26 competent evidence as to the availability of water to service the development and/or a permit for
27 on-site wastewater treatment facilities to service the dwelling units from the applicable state
28 agency, the density bonus for a project that provides one hundred percent (100%) low- and
29 moderate-income housing shall be at least eight (8) units per acre;

30 (2) **Parking.** A municipality shall not require more than one off-street parking space per
31 dwelling unit for units up to and including two (2) bedrooms in applications submitted under this
32 chapter;

33 (3) **Bedrooms.** A municipality shall not limit the number of bedrooms for applications
34 submitted under this chapter to anything less than three (3) bedrooms per dwelling unit for single-

1 family dwelling units;

2 (4) **Floor area.** A municipality shall not utilize floor area requirements to limit any
3 application, except as provided by § 45-24.3-11.

4 (c) A municipality shall not restrict comprehensive permit applications and permits by any
5 locally adopted ordinance or policy that places a limit or moratorium on the development of
6 residential units.

7 (d) The application and review process for a comprehensive permit shall be as follows:

8 (1) **Pre-application conference.** A municipality may require an applicant proposing a
9 project under this chapter, [who is not electing to have master plan review](#), to complete, or the
10 applicant proposing a project under this chapter may request a pre-application conference with the
11 local review board, the technical review committee established pursuant to § 45-23-56, or with the
12 administrative officer for the local review board as appropriate. In advance of a pre-application
13 conference, the applicant shall be required to submit only a short description of the project in
14 writing including the number of units, type of housing, density analysis, preliminary list of
15 adjustments needed, as well as a location map, and conceptual site plan. The purpose of the pre-
16 application conference shall be to review a concept plan of the proposed development and to elicit
17 feedback from the reviewing person or board. Upon receipt of a request by an applicant for a pre-
18 application conference, the municipality shall have thirty (30) days to schedule and hold the pre-
19 application conference, unless a different timeframe is agreed to by the applicant in writing. If thirty
20 (30) days has elapsed from the filing of the pre-application submission and no pre-application
21 conference has taken place, nothing shall be deemed to preclude an applicant from thereafter filing
22 and proceeding with an application for preliminary plan review for a comprehensive permit.

23 [\(2\) Optional master plan. An applicant may elect to apply for and be heard on master plan](#)
24 [review prior to preliminary plan submission. If a master plan review is elected by the applicant the](#)
25 [following shall apply:](#)

26 [\(i\) Submission requirements. Submission requirements for master plan review shall be](#)
27 [limited to the following:](#)

28 [\(A\) An application form and fee;](#)

29 [\(B\) A short description of the project in writing including the number of units, type of](#)
30 [housing, density analysis, list of adjustments needed, as well as a location map, and preliminary](#)
31 [determinations as to site constraints;](#)

32 [\(C\) Conceptual site plans showing infrastructure locations for roadways, preliminary](#)
33 [locations and design of conceptual stormwater facilities, location of sewer and water lines and/or](#)
34 [wells and on-site wastewater treatment systems, locations of housing units, estimated locations of](#)

1 site constraints and wetlands;

2 (D) A preliminary traffic opinion for projects of over thirty (30) dwelling units;

3 (E) If the applicant submits any requests for adjustments at master plan, a public hearing
4 shall be held in the same manner as during preliminary plan review as set forth in this section and
5 the applicant shall be responsible for providing the list of abutters and all advertising costs.

6 (ii) Certification of completeness. The master plan application must be certified complete
7 or incomplete by the administrative officer according to the provisions of § 45-23-36; provided,
8 however, that the certificate shall be granted within twenty-five (25) days of submission of the
9 application. The running of the time period set forth herein will be deemed stopped upon the
10 issuance of a written certificate of incompleteness of the application by the administrative officer
11 and will recommence upon the resubmission of a corrected application by the applicant. However,
12 in no event will the administrative officer be required to certify a corrected submission as complete
13 or incomplete less than ten (10) days after its resubmission. If the administrative officer certifies
14 the application as incomplete, the officer shall set forth in writing with specificity the missing or
15 incomplete items.

16 (iii) Review of applications. A master plan application filed in accordance with this chapter
17 shall be reviewed in accordance with the following provisions:

18 (A) Timeframe for review. The local review board shall render a decision on the master
19 plan application within sixty (60) days of the date the application is certified complete, or within a
20 further amount of time that may be consented to by the applicant through the submission of a
21 written consent.

22 (B) Failure to act. Failure of the local review board to act within the prescribed period
23 constitutes approval of the master plan, and a certificate of the administrative officer as to the failure
24 of the local review board to act within the required time and the resulting approval shall be issued
25 on request of the applicant.

26 (C) Required findings. In voting on an application, the local review board shall make
27 findings, supported by legally competent evidence on the record that discloses the nature and
28 character of the observations upon which the fact finders acted, on the standards required for
29 preliminary plan review in this section, to the extent applicable at the master plan. The failure to
30 provide information which is required later at preliminary plan review shall not form a basis for
31 denial. If the board votes to defer a finding to preliminary plan it shall do so on the record during
32 the proceedings and in the written decision and specify what items are necessary for review at the
33 preliminary plan stage in order to address that finding.

34 (iv) Vesting. The approved master plan is vested for a period of two (2) years with the right

1 to extend for two (2), one-year extensions upon written request by the applicant, who must appear
2 before the planning board for each annual review. Thereafter, vesting may be extended for a longer
3 period, for good cause shown, if requested, in writing by the applicant, and approved by the local
4 review board. The vesting for the master plan approval includes all ordinance provisions and
5 regulations at the time of the approval, general and specific conditions shown on the approved
6 preliminary plan drawings and supporting material.

7 ~~(2)~~(3) **Preliminary plan review.**

8 (i) **Submission requirements.** Applications for preliminary plan review under this chapter
9 shall include:

10 (A) A letter of eligibility issued by the Rhode Island housing and mortgage finance
11 corporation, or in the case of projects primarily funded by the U.S. Department of Housing and
12 Urban Development or other state or federal agencies, an award letter indicating the subsidy, or
13 application in such form as may be prescribed for a municipal government subsidy; and

14 (B) A letter signed by the authorized representative of the applicant, setting forth the
15 specific sections and provisions of applicable local ordinances and regulations from which the
16 applicant is seeking adjustments; and

17 (C) A proposed timetable for the commencement of construction and completion of the
18 project; and

19 (D) Those items required by local regulations promulgated pursuant to applicable state law,
20 with the exception of evidence of state or federal permits; and for comprehensive permit
21 applications included in the checklist for the preliminary plan review in the local regulations
22 promulgated pursuant to chapter 23 of this title; and

23 (E) Notwithstanding the submission requirements set forth above, the local review board
24 may request additional, reasonable documentation throughout the public hearing, including, but not
25 limited to, opinions of experts, credible evidence of application for necessary federal and/or state
26 permits, statements and advice from other local boards and officials.

27 (ii) **Certification of completeness.** The preliminary plan application must be certified
28 complete or incomplete by the administrative officer according to the provisions of § 45-23-36;
29 provided, however, that the certificate shall be granted within twenty-five (25) days of submission
30 of the application. The running of the time period set forth herein will be deemed stopped upon the
31 issuance of a written certificate of incompleteness of the application by the administrative officer
32 and will recommence upon the resubmission of a corrected application by the applicant. However,
33 in no event will the administrative officer be required to certify a corrected submission as complete
34 or incomplete less than ten (10) days after its resubmission. If the administrative officer certifies

1 the application as incomplete, the officer shall set forth in writing with specificity the missing or
2 incomplete items.

3 (iii) **Review of applications.** An application filed in accordance with this chapter shall be
4 reviewed in accordance with the following provisions:

5 (A) **Public hearing.** A public hearing shall be noticed and held as soon as practicable after
6 the issuance of a certificate of completeness.

7 (B) **Notice.** Public notice for the public hearing will be the same notice required under local
8 regulations for a public hearing for a preliminary plan promulgated in accordance with § 45-23-42.
9 The cost of notice shall be paid by the applicant.

10 (C) **Timeframe for review.** The local review board shall render a decision on the
11 preliminary plan application within ninety (90) days of the date the application is certified
12 complete, or within a further amount of time that may be consented to by the applicant through the
13 submission of a written consent.

14 (D) **Failure to act.** Failure of the local review board to act within the prescribed period
15 constitutes approval of the preliminary plan, and a certificate of the administrative officer as to the
16 failure of the local review board to act within the required time and the resulting approval shall be
17 issued on request of the applicant. Further, if the public hearing is not convened or a decision is not
18 rendered within the time allowed in subsections (d)(2)(iii)(A) and (d)(2)(iii)(C) of this section, the
19 application is deemed to have been allowed and the preliminary plan approval shall be issued
20 immediately.

21 (E) **Required findings for approval.** In ~~approving~~ voting on an application, the local
22 review board shall make ~~positive~~ findings, supported by legally competent evidence on the record
23 that discloses the nature and character of the observations upon which the fact finders acted, on
24 each of the following ~~standard provisions~~ standards, where applicable:

25 (I) Whether the ~~The~~ proposed development is consistent with local needs as identified in
26 the ~~local comprehensive community plan with particular emphasis on the~~ community's affordable
27 housing plan and/or has satisfactorily addressed the issues where there may be inconsistencies. If
28 the board makes a negative finding on this standard, it must also find that the municipality has made
29 significant progress in implementing that housing plan.

30 (II) Whether the ~~The~~ proposed development is in compliance with the standards and
31 provisions of the municipality's zoning ordinance and subdivision regulations, and/or where
32 adjustments are requested by the applicant, ~~that~~ whether local concerns that have been affected by
33 the relief granted do not outweigh the state and local need for low- and moderate-income housing.

34 (III) Whether the ~~All~~ low- and moderate-income housing units proposed are integrated

1 throughout the development; are compatible in scale ~~and~~ , meaning that the footprint and height of
2 the low- and moderate- units shall not be less than twenty-five percent (25%) of the footprint and
3 height of the market rate units are of similar architectural style to the market rate units within the
4 project so that the exterior of the units looks like an integrated neighborhood with similar rooflines,
5 window patterns, materials and colors; and will be built and occupied prior to, or simultaneous with
6 the construction and occupancy of any market rate units. Except that for housing units that are
7 intended to be occupied by persons fifty-five (55) years of age or older, or sixty-two (62) years of
8 age or older, as permitted by the federal Fair Housing Act pursuant to 42 U.S.C.A. § 3607(b) and
9 24 CFR § 100.300-308 and the Rhode Island fair housing practices act pursuant to § 34-37-4.1,
10 need not be integrated in any building or phase within the development that contains housing units
11 that are not age-restricted, and neither age-restricted housing units nor any building or phase
12 containing age-restricted housing units must be compatible in scale and architectural style to other
13 housing unit types to the extent the age-restricted housing units are designed to meet the physical
14 or social needs of older persons or necessary to provide housing opportunities for older persons.

15 (IV) Whether there ~~There~~ will be ~~no~~ significant negative impacts on the health and safety
16 of current or future residents of the community, in areas including, but not limited to, safe
17 circulation of pedestrian and vehicular traffic, provision of emergency services, sewerage disposal,
18 availability of potable water, adequate surface water run-off, and the preservation of natural,
19 historical, or cultural features ~~that contribute to the attractiveness of the community.~~

20 (V) Whether the ~~All~~ proposed land developments ~~and all~~ or subdivisions lots will have
21 adequate and permanent physical access to a public street in accordance with the requirements of
22 § 45-23-60(a)(5), or the local review board has approved other access, such as a private road.

23 (VI) Whether the ~~The~~ proposed development will ~~not~~ result in the creation of individual
24 lots with any physical constraints to development that building on those lots according to pertinent
25 regulations and building standards would be impracticable, unless created only as permanent open
26 space or permanently reserved for a public purpose on the approved, recorded plans.

27 ~~(F) **Required findings for denial.** In reviewing the comprehensive permit request, the~~
28 ~~local review board may deny the request for any of the following reasons: (I) If the city or town~~
29 ~~has an approved affordable housing plan and is meeting housing needs, and the proposal is~~
30 ~~inconsistent with the affordable housing plan; provided that, the local review board also finds that~~
31 ~~the municipality has made significant progress in implementing that housing plan; (II) The proposal~~
32 ~~is not consistent with local needs, including, but not limited to, the needs identified in an approved~~
33 ~~comprehensive plan, and/or local zoning ordinances and procedures promulgated in conformance~~
34 ~~with the comprehensive plan; (III) The proposal is not in conformance with the comprehensive~~

~~1 plan; (IV) The community has met or has plans to meet the goal of ten percent (10%) of the year-
2 round units or, in the case of an urban town or city, fifteen percent (15%) of the occupied rental
3 housing units as defined in § 45-53-3(5)(i) being low and moderate income housing; provided
4 that, the local review board also finds that the community has achieved or has made significant
5 progress towards meeting the goals required by this section; or (V) Concerns for the environment
6 and the health and safety of current residents have not been adequately addressed.~~

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

15 ~~(3)~~(4) **Final plan review.** The second and final stage of review for the comprehensive
16 permit project shall be done administratively, unless an applicant has requested and been granted
17 any waivers from the submission of checklist items for preliminary plan review, and then, at the
18 local review board's discretion, it may vote to require the applicant to return for final plan review
19 and approval.

20 (i) **Submission requirements.** Applications for final plan review under this chapter shall
21 include:

22 (A) All required state and federal permits must be obtained prior to the final plan approval
23 or the issuance of a building permit; and

24 (B) A draft monitoring agreement which identifies an approved entity that will monitor the
25 long-term affordability of the low- and moderate-income units pursuant to § 45-53-3.2; and

26 (C) A sample land lease or deed restriction with affordability liens that will restrict use as
27 low- and moderate-income housing in conformance with the guidelines of the agency providing
28 the subsidy for the low- and moderate-income housing, but for a period of not less than thirty (30)
29 years; and

30 (D) Those items required by local regulations promulgated pursuant to applicable state law
31 included in the checklist for final plan review in the local regulations promulgated pursuant to
32 chapter 23 of this title, including, but not limited to:

33 (I) Arrangements for completion of the required public improvements, including
34 construction schedule and/or financial guarantees; and

1 (II) Certification by the tax collector that all property taxes are current; and

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

5 (ii) **Certification of completeness.** The final plan application must be certified complete
6 or incomplete by the administrative officer according to the provisions of § 45-23-36; provided
7 however, that the certificate shall be granted within twenty-five (25) days of submission of the
8 application. The running of the time period set forth herein will be deemed stopped upon the
9 issuance of a written certificate of incompleteness of the application by the administrative officer
10 and will recommence upon the resubmission of a corrected application by the applicant. However,
11 in no event will the administrative officer be required to certify a corrected submission as complete
12 or incomplete less than ten (10) days after its resubmission. If the administrative officer certifies
13 the application as incomplete, the officer shall set forth in writing with specificity the missing or
14 incomplete items.

15 (iii) **Review of applications.**

16 (A) **Timeframe for review.** The reviewing authority shall render a decision on the final
17 plan application within forty-five (45) days of the date the application is certified complete.

18 (B) **Modifications and changes to plans:**

19 (I) Minor changes, as defined in the local regulations, to the approved plans approved ~~at~~
20 ~~preliminary plan~~ may be approved administratively, by the administrative officer, ~~whereupon final~~
21 ~~plan approval may be issued~~. The changes may be authorized without additional public hearings,
22 at the discretion of the administrative officer. All changes shall be made part of the permanent
23 record of the project application. This provision does not prohibit the administrative officer from
24 requesting a recommendation from either the technical review committee or the local review board.
25 Denial of the proposed change(s) shall be referred to the local review board for review as a major
26 change.

27 (II) Major changes, as defined in the local regulations, to the plans ~~approved at preliminary~~
28 ~~plan~~ may be approved only by the local review board and must follow the same review and public
29 hearing process required for approval of preliminary plans as described in subsection (d)(2)(iii) of
30 this section.

31 (III) The administrative officer shall notify the applicant in writing within fourteen (14)
32 days of submission of the final plan application if the administrative officer is referring the
33 application to the local review board under this subsection.

34 (C) **Decision on final plan.** An application filed in accordance with this chapter shall be

1 approved by the administrative officer unless such application does not satisfy conditions set forth
2 in the preliminary plan approval decision or such application does not have the requisite state and/or
3 federal approvals or other required submissions, does not post the required improvement bonds, or
4 such application is a major modification of the plans approved at preliminary plan.

5 (D) **Failure to act.** Failure of the reviewing authority to act within the prescribed period
6 constitutes approval of the final plan, and a certificate of the administrative officer as to the failure
7 to act within the required time and the resulting approval shall be issued on request of the applicant.

8 (iv) **Vesting.** The approved final plan is vested for a period of two (2) years with the right
9 to extend for one one-year extension upon written request by the applicant, who must appear before
10 the planning board for the extension request. Thereafter, vesting may be extended for a longer
11 period, for good cause shown, if requested, in writing by the applicant, and approved by the local
12 review board.

13 ~~(4)~~(5) **Infeasibility of conditions of approval.** The burden is on the applicant to show, by
14 competent evidence before the local review board, that proposed conditions of approval are
15 infeasible, as defined in § 45-53-3. Upon request, the applicant shall be provided a reasonable
16 opportunity to respond to such proposed conditions prior to a final vote on the application.

17 ~~(5)~~(6) **Fees.** Municipalities may impose fees on comprehensive permit applications that are
18 consistent with but do not exceed fees that would otherwise be assessed for a project of the same
19 scope and type, but not proceeding under this chapter; provided, however, the imposition of such
20 fees shall not preclude a showing by an applicant that the fees make the project financially
21 infeasible.

22 ~~(6)~~(7) **Recording of written decisions.** All written decisions on applications under this
23 chapter shall be recorded in the land evidence records within twenty (20) days after the local review
24 board's vote or the administrative officer's decision, as applicable. A copy of the recorded decision
25 shall be mailed within one business day of recording, by any method that provides confirmation of
26 receipt, to the applicant and to any objector who has filed a written request for notice with the
27 administrative officer.

28 ~~(7)~~(8) **Local review board powers.** The local review board has the same power to issue
29 permits or approvals that any local board or official who would otherwise act with respect to the
30 application, including, but not limited to, the power to attach to the permit or approval, conditions,
31 and requirements with respect to height, site plan, size or shape, or building materials, as are
32 consistent with the terms of this section.

33 ~~(8)~~(9) **Majority vote required.** All local review board decisions on comprehensive permits
34 shall be by majority vote of the members present at the proceeding.

1 ~~(9)~~**(10) Construction timetable.** A comprehensive permit shall expire unless construction
2 is started within twelve (12) months and completed within sixty (60) months of the recording of
3 the final plan unless a longer and/or phased period for development is agreed to by the local review
4 board and the applicant. Low- and moderate-income housing units shall be built and occupied prior
5 to, or simultaneous with the construction and occupancy of market rate units.

6 ~~(10)~~**(11) For-profit developers — Limits.** A town or city with an approved affordable
7 housing plan and that is meeting local housing needs, as defined in this chapter, may by council
8 action limit the annual total number of dwelling units in comprehensive permit applications from
9 for-profit developers to an aggregate of one percent (1%) of the total number of year-round housing
10 units in the town or city, as recognized in the affordable housing plan and notwithstanding the
11 timetables set forth elsewhere in this section, the local review board shall have the authority to
12 consider comprehensive permit applications from for-profit developers, which are made pursuant
13 to this paragraph, sequentially in the order in which they are submitted.

14 ~~(11)~~**(12) Report.** The local review board of a town with an approved affordable housing
15 plan shall report the status of implementation to the housing resources commission, including the
16 disposition of any applications made under the plan, as of June 30, 2006, by September 1, 2006,
17 and for each June 30 thereafter by September 1 through 2010. The housing resources commission
18 shall prepare by October 15 and adopt by December 31, a report on the status of implementation,
19 which shall be submitted to the governor, the speaker and the president of the senate, and shall find
20 which towns are not in compliance with implementation requirements.

21 ~~(12)~~**(13) Remanded applications.** Notwithstanding the provisions of § 45-53-4 in effect
22 on February 13, 2004, a local review board shall commence hearings within thirty (30) days of
23 receiving an application remanded pursuant to § 45-53-5 or, effective January 1, 2024, § 45-53-
24 5.1. In any town with more than one remanded application, applications may be scheduled for
25 hearing in the order in which they were received, and may be taken up sequentially, with the thirty-
26 day (30) requirement for the initiation of hearings, commencing upon the decision of the earlier
27 filed application.

28 (e)(1) The general assembly finds and declares that in January 2004 towns throughout
29 Rhode Island have been confronted by an unprecedented volume and complexity of development
30 applications as a result of private for-profit developers using the provisions of this chapter and that
31 in order to protect the public health and welfare in communities and to provide sufficient time to
32 establish a reasonable and orderly process for the consideration of applications made under the
33 provisions of this chapter, and to have communities prepare plans to meet low- and moderate-
34 income housing goals, that it is necessary to impose a moratorium on the use of comprehensive

1 permit applications as herein provided by private for-profit developers; a moratorium is hereby
2 imposed on the use of the provisions of this chapter by private for-profit developers, which
3 moratorium shall be effective on passage and shall expire on January 31, 2005, and may be revisited
4 prior to expiration and extended to such other date as may be established by law. Notwithstanding
5 the provisions of subsection (a) of this section, private for-profit developers may not utilize the
6 procedure of this chapter until the expiration of the moratorium.

7 (2) No for-profit developer shall submit a new application for comprehensive permits until
8 July 1, 2005, except by mutual agreement with the local review board.

9 (3) Notwithstanding the provisions of subsection (e)(2) of this section, a local review board
10 in a town which has submitted a plan in accordance with subsection (f) of this section, shall not be
11 required to accept an application for a new comprehensive permit from a for-profit developer until
12 October 1, 2005.

13 (f) Towns and cities that are not in conformity with the provisions of § 45-53-3(5)(i) shall
14 prepare by December 31, 2004, a comprehensive plan housing element for low- and moderate-
15 income housing as specified by § 45-53-3(5)(ii), consistent with applicable law and regulation.
16 That the secretary of the planning board or commission of each city or town subject to the
17 requirements of this paragraph shall report in writing the status of the preparation of the housing
18 element for low- and moderate-income housing on or before June 30, 2004, and on or before
19 December 31, 2004, to the secretary of the state planning council, to the chair of the house
20 committee on corporations and to the chair of the senate committee on commerce, housing and
21 municipal government.

22 (g) If any provision of this section or the application thereof shall for any reason be judged
23 invalid, the judgment shall not affect, impair, or invalidate the remainder of this section or of any
24 other provision of this chapter, but shall be confined in its effect to the provision or application
25 directly involved in the controversy giving rise to the judgment, and a moratorium on the
26 applications of for-profit developers pursuant to this chapter shall remain and continue to be in
27 effect for the period commencing on the day this section becomes law [February 13, 2004] and
28 continue until it shall expire on January 31, 2005, or until amended further.

29 (h) In planning for, awarding, and otherwise administering programs and funds for housing
30 and for community development, state departments, agencies, boards and commissions, and public
31 corporations, as defined in chapter 18 of title 35, shall among the towns subject to the provision of
32 § 45-53-3(5)(ii), give priority to the maximum extent allowable by law to towns with an approved
33 affordable housing plan. The director of administration shall adopt not later than January 31, 2005,
34 regulations to implement the provisions of this section.

1 (i) Multi-family rental units built under a comprehensive permit may be calculated towards
2 meeting the requirements of a municipality's low- or moderate-income housing inventory, as long
3 as the units meet and are in compliance with the provisions of § 45-53-3.1.

4 SECTION 2. Sections 45-53-3 and 45-53-4 of the General Laws in Chapter 45-53 entitled
5 "Low and Moderate Income Housing" are hereby amended to read as follows:

6 **45-53-3. Definitions. [Effective January 1, 2026, inclusive of existing language in § 45-**
7 **53-3.]**

8 The following words, wherever used in this chapter, unless a different meaning clearly
9 appears from the context, have the following meanings:

10 (1) "Adjustment(s)" means a request or requests by the applicant to seek relief from the
11 literal use and dimensional requirements of the municipal zoning ordinance and/or the design
12 standards or requirements of the municipal land development and subdivision regulations. The
13 standard for the local review board's consideration of adjustments is set forth in § 45-53-
14 4(d)(2)(iii)(E)(II).

15 (2) "Affordable housing plan" means a component of a housing element, as defined in §
16 45-22.2-4(1), that addresses low- and moderate-income housing needs in a city or town that is
17 prepared in accordance with guidelines adopted by the state planning council, and/or to meet the
18 provisions of § 45-53-4(e)(1) and (f).

19 (3) "Approved affordable housing plan" means an affordable housing plan that has been
20 approved by the director of administration as meeting the guidelines for the local comprehensive
21 plan as promulgated by the state planning council; provided, however, that state review and
22 approval, for plans submitted by December 31, 2004, shall not be contingent on the city or town
23 having completed, adopted, or amended its comprehensive plan as provided for in § 45-22.2-8, §
24 45-22.2-9, or § 45-22.2-12.

25 (4) "Comprehensive plan" means a comprehensive plan adopted and approved by a city or
26 town pursuant to chapters 22.2 and 22.3 of this title.

27 (5) "Consistent with local needs" means reasonable in view of the state need for low- and
28 moderate-income housing, considered with the number of low-income persons in the city or town
29 affected and the need to protect the health and safety of the occupants of the proposed housing or
30 of the residents of the city or town, to promote better site and building design in relation to the
31 surroundings, or to preserve open spaces, and if the local zoning or land use ordinances,
32 requirements, and regulations are applied as equally as possible to both subsidized and
33 unsubsidized housing. ~~Local zoning and land use ordinances, requirements, or regulations are~~
34 ~~consistent with local needs when imposed by a city or town council after a comprehensive hearing~~

1 ~~in a city or town where:~~

2 ~~(i) Low or moderate income housing exists which is: (A) In the case of an urban city or~~
3 ~~town which has at least 5,000 occupied year round rental units and the units, as reported in the~~
4 ~~latest decennial census of the city or town, comprise twenty five percent (25%) or more of the year-~~
5 ~~round housing units, and is in excess of fifteen percent (15%) of the total occupied year round~~
6 ~~rental units; or (B) In the case of all other cities or towns, is in excess of ten percent (10%) of the~~
7 ~~year round housing units reported in the census.~~

8 ~~(ii) The city or town has promulgated zoning or land use ordinances, requirements, and~~
9 ~~regulations to implement a comprehensive plan that has been adopted and approved pursuant to~~
10 ~~chapters 22.2 and 22.3 of this title, and the housing element of the comprehensive plan provides~~
11 ~~for low and moderate income housing in excess of either ten percent (10%) of the year round~~
12 ~~housing units or fifteen percent (15%) of the occupied year round rental housing units as provided~~
13 ~~in subsection (5)(i).~~

14 ~~(iii) Multi family rental units built under a comprehensive permit may be calculated~~
15 ~~towards meeting the requirements of a municipality's low or moderate income housing inventory,~~
16 ~~as long as the units meet and are in compliance with the provisions of § 45-53-3.1.~~

17 (6) “Infeasible” means any condition brought about by any single factor or combination of
18 factors, as a result of limitations imposed on the development by conditions attached to the approval
19 of the comprehensive permit, to the extent that it makes it financially or logistically impracticable
20 for any applicant to proceed in building or operating low- or moderate-income housing within the
21 limitations set by the subsidizing agency of government or local review board, on the size or
22 character of the development, on the amount or nature of the subsidy, or on the tenants, rentals, and
23 income permissible, and without substantially changing the rent levels and unit sizes proposed by
24 the applicant.

25 (7) “Letter of eligibility” means a letter issued by the Rhode Island housing and mortgage
26 finance corporation in accordance with § 42-55-5.3(a).

27 (8) “Local review board” means the planning board as defined by § 45-22.2-4.

28 (9) “Low- or moderate-income housing” shall be synonymous with “affordable housing”
29 as defined in § 42-128-8.1, and further means any type of housing whether built or operated by any
30 public agency or any nonprofit organization or by any limited equity housing cooperative or any
31 private developer, that is subsidized by a federal, state, or municipal government subsidy under any
32 program to assist the construction or rehabilitation of affordable housing and that will remain
33 affordable through a land lease and/or deed restriction for ninety-nine (99) years or such other
34 period that is either agreed to by the applicant and town or prescribed by the federal, state, or

1 municipal government subsidy program but that is not less than thirty (30) years from initial
2 occupancy.

3 (i) Any housing unit that qualifies under this subsection (9) and under § 42-128-8.1 shall
4 be counted as one whole unit toward the municipality's requirement for low- or moderate-income
5 housing.

6 (ii) Any mobile or manufactured home(s) that meet the requirements of § 42-128-
7 8.1(d)(1)(ii) but are not subsidized by a federal, state, or municipal government subsidy and/or do
8 not have a deed restriction or land lease as described in this subsection (9), shall count as one-half
9 (½) of one unit for the purpose of the calculation of the total of low- or moderate-income year-
10 round housing within a city or town, as long as a municipality contracts with a monitoring agent to
11 verify that the requirements of § 42-128-8.1(d)(1)(ii) are met for these units. Such units shall not
12 be required to meet the income verification requirements of § 42-128-8.1. The monitoring agent
13 shall provide a listing of the eligible units to Rhode Island Housing, who shall provide a report as
14 to the qualifying mobile or manufactured homes under this subsection (9) to the governor, speaker
15 of the house of representatives, senate president, and secretary of housing on an annual basis,
16 beginning on or before December 31, 2025.

17 (iii) Low- or moderate-income housing also includes rental property located within a
18 municipality that is secured with a federal government rental assistance voucher.

19 (iv) For the period beginning on or after July 1, 2024, any housing unit that qualifies as
20 low- or moderate-income housing under this subsection (9) and under § 42-128-8.1 and any rental
21 property secured with a federal government rental assistance voucher that does not otherwise meet
22 the other requirements to qualify as low- or moderate-income housing under this section shall be
23 counted as one whole unit toward the municipality's requirement for low- or moderate-income
24 housing, as long as a municipality confirms with the issuing authority that the voucher is in good
25 standing and active.

26 ~~(10) "Meeting local housing needs" means as a result of the adoption of the implementation~~
27 ~~program of an approved affordable housing plan, the absence of unreasonable denial of applications~~
28 ~~that are made pursuant to an approved affordable housing plan in order to accomplish the purposes~~
29 ~~and expectations of the approved affordable housing plan, and a showing that at least twenty percent~~
30 ~~(20%) of the total residential units approved by a local review board or any other municipal board~~
31 ~~in a calendar year are for low- and moderate income housing as defined in § 42-128-8.1.~~

32 ~~(11)~~(10) "Monitoring agents" means those monitoring agents appointed by the Rhode
33 Island housing resources commission pursuant to § 45-53-3.2 and to provide the monitoring and
34 oversight set forth in this chapter, including, but not limited to, §§ 45-53-3.2 and 45-53-4.

1 ~~(12)~~(11) “Municipal government subsidy” means assistance that is made available through
2 a city or town program sufficient to make housing affordable, as affordable housing is defined in §
3 42-128-8.1(d)(1); such assistance shall include a combination of, but is not limited to, direct
4 financial support, abatement of taxes, waiver of fees and charges, and approval of density bonuses
5 and/or internal subsidies, zoning incentives, and adjustments as defined in this section and any
6 combination of forms of assistance.

7 **45-53-4. Procedure for approval of construction of low- or moderate-income housing.**
8 **[Effective January 1, 2026, inclusive of existing language in § 45-53-4.]**

9 (a) Any applicant proposing to build low- or moderate-income housing may submit to the
10 local review board a single application for a comprehensive permit to build that housing in lieu of
11 separate applications to the applicable local boards. This procedure is only available for proposals
12 in which at least twenty-five percent (25%) of the housing is low- or moderate-income housing.

13 (b) Municipal government subsidies, including adjustments and zoning incentives, are to
14 be made available to applications under this chapter to offset the differential costs of the low- or
15 moderate-income housing units in a development under this chapter. At a minimum, the
16 following zoning incentives shall be allowed for projects submitted under this chapter:

17 (1) **Density bonus.** ~~A municipality shall provide an applicant with more dwelling units~~
18 ~~than allowed by right under its zoning ordinance in the form of a density bonus to allow an increase~~
19 ~~in the allowed dwelling units per acre (DU/A), as well as other incentives and municipal~~
20 ~~government subsidies as defined in § 45-53-3. (i) Cities and towns that have low- or moderate-~~
21 ~~income housing in excess of ten percent (10%) of its year-round housing units in the respective city~~
22 ~~or town shall provide an applicant with more dwelling units than allowed by right under its zoning~~
23 ~~ordinance in the form of a density bonus to allow an increase in the allowed dwelling units per acre~~
24 ~~(DU/A), as well as other incentives and municipal government subsidies as defined in § 45-53-3;~~

25 (ii) Cities and towns that do not have low- or moderate-income housing in excess of ten
26 percent (10%) of its year-round housing units shall provide an applicant with more dwelling units
27 than allowed by right under its zoning ordinances in the form of a density bonus to allow an increase
28 in the allowed dwelling units per acre (DU/A), as well as other incentives and municipal
29 government subsidies as defined in § 45-53-3. Furthermore, ~~a municipality~~ these municipalities
30 shall provide, at a minimum, the following density bonuses for projects submitted under this
31 chapter, provided that the total land utilized in the density calculation shall exclude wetlands;
32 wetland buffers; area devoted to infrastructure necessary for development; and easements or rights
33 of way of record:

34 ~~(A)~~(A) For properties connected to public sewer and water, or eligible to be connected to

1 public sewer and water based on written confirmation from each respective service provider, the
2 density bonus for a project that provides at least twenty-five percent (25%) low- and moderate-
3 income housing shall be at least five (5) units per acre;

4 ~~(ii)~~(B) For properties connected to public sewer and water, or eligible to be connected to
5 public sewer and water based on written confirmation from each respective service provider, the
6 density bonus for a project that provides at least fifty percent (50%) low- and moderate-income
7 housing shall be at least nine (9) units per acre;

8 ~~(iii)~~(C) For properties connected to public sewer and water, or eligible to be connected to
9 public sewer and water based on written confirmation from each respective service provider, the
10 density bonus for a project that provides one hundred percent (100%) low- and moderate-income
11 housing shall be at least twelve (12) units per acre;

12 ~~(iv)~~(D) For properties not connected to either public water or sewer or both, but which
13 provide competent evidence as to the availability of water to service the development and/or a
14 permit for on-site wastewater treatment facilities to service the dwelling units from the applicable
15 state agency, the density bonus for a project that provides at least twenty-five percent (25%) low-
16 and moderate-income housing shall be at least three (3) units per acre;

17 ~~(v)~~(E) For properties not connected to either public water or sewer or both, but which
18 provide competent evidence as to the availability of water to service the development and/or a
19 permit for on-site wastewater treatment facilities to service the dwelling units from the applicable
20 state agency, the density bonus for a project that provides at least fifty percent (50%) low- and
21 moderate-income housing shall be at least five (5) units per acre;

22 ~~(vi)~~(F) For properties not connected to either public water or sewer or both, but which
23 provide competent evidence as to the availability of water to service the development and/or a
24 permit for on-site wastewater treatment facilities to service the dwelling units from the applicable
25 state agency, the density bonus for a project that provides one hundred percent (100%) low- and
26 moderate-income housing shall be at least eight (8) units per acre;

27 (2) **Parking.** A municipality shall not require more than one off-street parking space per
28 dwelling unit for units up to and including two (2) bedrooms in applications submitted under this
29 chapter;

30 (3) **Bedrooms.** A municipality shall not limit the number of bedrooms for applications
31 submitted under this chapter to anything less than three (3) bedrooms per dwelling unit for single-
32 family dwelling units;

33 (4) **Floor area.** A municipality shall not utilize floor area requirements to limit any
34 application, except as provided by § 45-24.3-11.

1 (c) A municipality shall not restrict comprehensive permit applications and permits by any
2 locally adopted ordinance or policy that places a limit or moratorium on the development of
3 residential units.

4 (d) The application and review process for a comprehensive permit shall be as follows:

5 (1) **Pre-application conference.** A municipality may require an applicant proposing a
6 project under this chapter to complete, or the applicant proposing a project under this chapter may
7 request a pre-application conference with the local review board, the technical review committee
8 established pursuant to § 45-23-56, or with the administrative officer for the local review board as
9 appropriate. In advance of a pre-application conference, the applicant shall be required to submit
10 only a short description of the project in writing including the number of units, type of housing,
11 density analysis, preliminary list of adjustments needed, as well as a location map, and conceptual
12 site plan. The purpose of the pre-application conference shall be to review a concept plan of the
13 proposed development and to elicit feedback from the reviewing person or board. Upon receipt of
14 a request by an applicant for a pre-application conference, the municipality shall have thirty (30)
15 days to schedule and hold the pre-application conference, unless a different timeframe is agreed to
16 by the applicant in writing. If thirty (30) days has elapsed from the filing of the pre-application
17 submission and no pre-application conference has taken place, nothing shall be deemed to preclude
18 an applicant from thereafter filing and proceeding with an application for preliminary plan review
19 for a comprehensive permit.

20 (2) **Preliminary plan review.**

21 (i) **Submission requirements.** Applications for preliminary plan review under this chapter
22 shall include:

23 (A) A letter of eligibility issued by the Rhode Island housing and mortgage finance
24 corporation, or in the case of projects primarily funded by the U.S. Department of Housing and
25 Urban Development or other state or federal agencies, an award letter indicating the subsidy, or
26 application in such form as may be prescribed for a municipal government subsidy; and

27 (B) A letter signed by the authorized representative of the applicant, setting forth the
28 specific sections and provisions of applicable local ordinances and regulations from which the
29 applicant is seeking adjustments; and

30 (C) A proposed timetable for the commencement of construction and completion of the
31 project; and

32 (D) Those items required by local regulations promulgated pursuant to applicable state law,
33 with the exception of evidence of state or federal permits; and for comprehensive permit
34 applications included in the checklist for the preliminary plan review in the local regulations

1 promulgated pursuant to chapter 23 of this title; and

2 (E) Notwithstanding the submission requirements set forth above, the local review board
3 may request additional, reasonable documentation throughout the public hearing, including, but not
4 limited to, opinions of experts, credible evidence of application for necessary federal and/or state
5 permits, statements and advice from other local boards and officials.

6 (ii) **Certification of completeness.** The preliminary plan application must be certified
7 complete or incomplete by the administrative officer according to the provisions of § 45-23-36;
8 provided, however, that the certificate shall be granted within twenty-five (25) days of submission
9 of the application. The running of the time period set forth herein will be deemed stopped upon the
10 issuance of a written certificate of incompleteness of the application by the administrative officer
11 and will recommence upon the resubmission of a corrected application by the applicant. However,
12 in no event will the administrative officer be required to certify a corrected submission as complete
13 or incomplete less than ten (10) days after its resubmission. If the administrative officer certifies
14 the application as incomplete, the officer shall set forth in writing with specificity the missing or
15 incomplete items.

16 (iii) **Review of applications.** An application filed in accordance with this chapter shall be
17 reviewed in accordance with the following provisions:

18 (A) **Public hearing.** A public hearing shall be noticed and held as soon as practicable after
19 the issuance of a certificate of completeness.

20 (B) **Notice.** Public notice for the public hearing will be the same notice required under local
21 regulations for a public hearing for a preliminary plan promulgated in accordance with § 45-23-42.
22 The cost of notice shall be paid by the applicant.

23 (C) **Timeframe for review.** The local review board shall render a decision on the
24 preliminary plan application within ninety (90) days of the date the application is certified
25 complete, or within a further amount of time that may be consented to by the applicant through the
26 submission of a written consent.

27 (D) **Failure to act.** Failure of the local review board to act within the prescribed period
28 constitutes approval of the preliminary plan, and a certificate of the administrative officer as to the
29 failure of the local review board to act within the required time and the resulting approval shall be
30 issued on request of the applicant. Further, if the public hearing is not convened or a decision is not
31 rendered within the time allowed in subsections (d)(2)(iii)(A) and (d)(2)(iii)(C) of this section, the
32 application is deemed to have been allowed and the preliminary plan approval shall be issued
33 immediately.

34 (E) **Required findings for approval.** In approving an application, the local review board

1 shall make positive findings, supported by legally competent evidence on the record that discloses
2 the nature and character of the observations upon which the fact finders acted, on each of the
3 following standard provisions, where applicable:

4 (I) The proposed development is consistent with local needs as identified in the local
5 comprehensive community plan with particular emphasis on the community's affordable housing
6 plan and/or has satisfactorily addressed the issues where there may be inconsistencies.

7 (II) The proposed development is in compliance with the standards and provisions of the
8 municipality's zoning ordinance and subdivision regulations, and/or where adjustments are
9 requested by the applicant, that local concerns that have been affected by the relief granted do not
10 outweigh the state and local need for low- and moderate-income housing.

11 (III) All low- and moderate-income housing units proposed are integrated throughout the
12 development; are compatible in scale and architectural style to the market rate units within the
13 project; and will be built and occupied prior to, or simultaneous with the construction and
14 occupancy of any market rate units.

15 (IV) There will be no significant negative impacts on the health and safety of current or
16 future residents of the community, in areas including, but not limited to, safe circulation of
17 pedestrian and vehicular traffic, provision of emergency services, sewerage disposal, availability
18 of potable water, adequate surface water run-off, and the preservation of natural, historical, or
19 cultural features that contribute to the attractiveness of the community.

20 (V) All proposed land developments and all subdivisions lots will have adequate and
21 permanent physical access to a public street in accordance with the requirements of § 45-23-
22 60(a)(5).

23 (VI) The proposed development will not result in the creation of individual lots with any
24 physical constraints to development that building on those lots according to pertinent regulations
25 and building standards would be impracticable, unless created only as permanent open space or
26 permanently reserved for a public purpose on the approved, recorded plans.

27 (F) **Required findings for denial.** In reviewing the comprehensive permit request, the
28 local review board may deny the request for any of the following reasons: (I) If the city or town
29 has an approved affordable housing plan and is meeting housing needs, and the proposal is
30 inconsistent with the affordable housing plan; provided that, the local review board also finds that
31 the municipality has made significant progress in implementing that housing plan; (II) The proposal
32 is not consistent with local needs, including, but not limited to, the needs identified in an approved
33 comprehensive plan, and/or local zoning ordinances and procedures promulgated in conformance
34 with the comprehensive plan; (III) The proposal is not in conformance with the comprehensive

1 plan; (IV) The community has met or has plans to meet the goal of ten percent (10%) of the year-
2 round units or, in the case of an urban town or city, fifteen percent (15%) of the occupied rental
3 housing units as defined in § 45-53-3(5)(i) being low- and moderate-income housing; provided
4 that, the local review board also finds that the community has achieved or has made significant
5 progress towards meeting the goals required by this section; or (V) Concerns for the environment
6 and the health and safety of current residents have not been adequately addressed.

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

15 (3) **Final plan review.** The second and final stage of review for the comprehensive permit
16 project shall be done administratively, unless an applicant has requested and been granted any
17 waivers from the submission of checklist items for preliminary plan review, and then, at the local
18 review board's discretion, it may vote to require the applicant to return for final plan review and
19 approval.

20 (i) **Submission requirements.** Applications for final plan review under this chapter shall
21 include:

22 (A) All required state and federal permits must be obtained prior to the final plan approval
23 or the issuance of a building permit; and

24 (B) A draft monitoring agreement which identifies an approved entity that will monitor the
25 long-term affordability of the low- and moderate-income units pursuant to § 45-53-3.2; and

26 (C) A sample land lease or deed restriction with affordability liens that will restrict use as
27 low- and moderate-income housing in conformance with the guidelines of the agency providing
28 the subsidy for the low- and moderate-income housing, but for a period of not less than thirty (30)
29 years; and

30 (D) Those items required by local regulations promulgated pursuant to applicable state law
31 included in the checklist for final plan review in the local regulations promulgated pursuant to
32 chapter 23 of this title, including, but not limited to:

33 (I) Arrangements for completion of the required public improvements, including
34 construction schedule and/or financial guarantees; and

1 (II) Certification by the tax collector that all property taxes are current; and

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

5 (ii) **Certification of completeness.** The final plan application must be certified complete
6 or incomplete by the administrative officer according to the provisions of § 45-23-36; provided
7 however, that the certificate shall be granted within twenty-five (25) days of submission of the
8 application. The running of the time period set forth herein will be deemed stopped upon the
9 issuance of a written certificate of incompleteness of the application by the administrative officer
10 and will recommence upon the resubmission of a corrected application by the applicant. However,
11 in no event will the administrative officer be required to certify a corrected submission as complete
12 or incomplete less than ten (10) days after its resubmission. If the administrative officer certifies
13 the application as incomplete, the officer shall set forth in writing with specificity the missing or
14 incomplete items.

15 (iii) **Review of applications.**

16 (A) **Timeframe for review.** The reviewing authority shall render a decision on the final
17 plan application within forty-five (45) days of the date the application is certified complete.

18 (B) **Modifications and changes to plans:**

19 (I) Minor changes, as defined in the local regulations, to the plans approved at preliminary
20 plan may be approved administratively, by the administrative officer, whereupon final plan
21 approval may be issued. The changes may be authorized without additional public hearings, at the
22 discretion of the administrative officer. All changes shall be made part of the permanent record of
23 the project application. This provision does not prohibit the administrative officer from requesting
24 a recommendation from either the technical review committee or the local review board. Denial of
25 the proposed change(s) shall be referred to the local review board for review as a major change.

26 (II) Major changes, as defined in the local regulations, to the plans approved at preliminary
27 plan may be approved only by the local review board and must follow the same review and public
28 hearing process required for approval of preliminary plans as described in subsection (d)(2)(iii) of
29 this section.

30 (III) The administrative officer shall notify the applicant in writing within fourteen (14)
31 days of submission of the final plan application if the administrative officer is referring the
32 application to the local review board under this subsection.

33 (C) **Decision on final plan.** An application filed in accordance with this chapter shall be
34 approved by the administrative officer unless such application does not satisfy conditions set forth

1 in the preliminary plan approval decision or such application does not have the requisite state and/or
2 federal approvals or other required submissions, does not post the required improvement bonds, or
3 such application is a major modification of the plans approved at preliminary plan.

4 (D) **Failure to act.** Failure of the reviewing authority to act within the prescribed period
5 constitutes approval of the final plan, and a certificate of the administrative officer as to the failure
6 to act within the required time and the resulting approval shall be issued on request of the applicant.

7 (iv) **Vesting.** The approved final plan is vested for a period of two (2) years with the right
8 to extend for one one-year extension upon written request by the applicant, who must appear before
9 the planning board for the extension request. Thereafter, vesting may be extended for a longer
10 period, for good cause shown, if requested, in writing by the applicant, and approved by the local
11 review board.

12 (4) **Infeasibility of conditions of approval.** The burden is on the applicant to show, by
13 competent evidence before the local review board, that proposed conditions of approval are
14 infeasible, as defined in § 45-53-3. Upon request, the applicant shall be provided a reasonable
15 opportunity to respond to such proposed conditions prior to a final vote on the application.

16 (5) **Fees.** Municipalities may impose fees on comprehensive permit applications that are
17 consistent with but do not exceed fees that would otherwise be assessed for a project of the same
18 scope and type, but not proceeding under this chapter; provided, however, the imposition of such
19 fees shall not preclude a showing by an applicant that the fees make the project financially
20 infeasible.

21 (6) **Recording of written decisions.** All written decisions on applications under this
22 chapter shall be recorded in the land evidence records within twenty (20) days after the local review
23 board's vote or the administrative officer's decision, as applicable. A copy of the recorded decision
24 shall be mailed within one business day of recording, by any method that provides confirmation of
25 receipt, to the applicant and to any objector who has filed a written request for notice with the
26 administrative officer.

27 (7) **Local review board powers.** The local review board has the same power to issue
28 permits or approvals that any local board or official who would otherwise act with respect to the
29 application, including, but not limited to, the power to attach to the permit or approval, conditions,
30 and requirements with respect to height, site plan, size or shape, or building materials, as are
31 consistent with the terms of this section.

32 (8) **Majority vote required.** All local review board decisions on comprehensive permits
33 shall be by majority vote of the members present at the proceeding.

34 (9) **Construction timetable.** A comprehensive permit shall expire unless construction is

1 started within twelve (12) months and completed within sixty (60) months of the recording of the
2 final plan unless a longer and/or phased period for development is agreed to by the local review
3 board and the applicant. Low- and moderate-income housing units shall be built and occupied prior
4 to, or simultaneous with the construction and occupancy of market rate units.

5 (10) **For-profit developers — Limits.** A town ~~with an approved affordable housing plan~~
6 ~~and that is meeting local housing needs, as defined in this chapter~~ or city in which ten percent (10%)
7 of the year-round housing units are low-or moderate-income housing, may by council action limit
8 the annual total number of dwelling units in comprehensive permit applications from for-profit
9 developers to an aggregate of one percent (1%) of the total number of year-round housing units in
10 the town, ~~as recognized in the affordable housing plan~~ and notwithstanding the timetables set forth
11 elsewhere in this section, the local review board shall have the authority to consider comprehensive
12 permit applications from for-profit developers, which are made pursuant to this paragraph,
13 sequentially in the order in which they are submitted.

14 (11) **Report.** The local review board of a town with an approved affordable housing plan
15 shall report the status of implementation to the housing resources commission, including the
16 disposition of any applications made under the plan, as of June 30, 2006, by September 1, 2006,
17 and for each June 30 thereafter by September 1 through 2010. The housing resources commission
18 shall prepare by October 15 and adopt by December 31, a report on the status of implementation,
19 which shall be submitted to the governor, the speaker and the president of the senate, and shall find
20 which towns are not in compliance with implementation requirements.

21 (12) **Remanded applications.** Notwithstanding the provisions of § 45-53-4 in effect on
22 February 13, 2004, a local review board shall commence hearings within thirty (30) days of
23 receiving an application remanded pursuant to § 45-53-5 or, effective January 1, 2024, § 45-53-
24 5.1. In any town with more than one remanded application, applications may be scheduled for
25 hearing in the order in which they were received, and may be taken up sequentially, with the thirty-
26 day (30) requirement for the initiation of hearings, commencing upon the decision of the earlier
27 filed application.

28 (e)(1) The general assembly finds and declares that in January 2004 towns throughout
29 Rhode Island have been confronted by an unprecedented volume and complexity of development
30 applications as a result of private for-profit developers using the provisions of this chapter and that
31 in order to protect the public health and welfare in communities and to provide sufficient time to
32 establish a reasonable and orderly process for the consideration of applications made under the
33 provisions of this chapter, and to have communities prepare plans to meet low- and moderate-
34 income housing goals, that it is necessary to impose a moratorium on the use of comprehensive

1 permit applications as herein provided by private for-profit developers; a moratorium is hereby
2 imposed on the use of the provisions of this chapter by private for-profit developers, which
3 moratorium shall be effective on passage and shall expire on January 31, 2005, and may be revisited
4 prior to expiration and extended to such other date as may be established by law. Notwithstanding
5 the provisions of subsection (a) of this section, private for-profit developers may not utilize the
6 procedure of this chapter until the expiration of the moratorium.

7 (2) No for-profit developer shall submit a new application for comprehensive permits until
8 July 1, 2005, except by mutual agreement with the local review board.

9 (3) Notwithstanding the provisions of subsection (e)(2) of this section, a local review board
10 in a town which has submitted a plan in accordance with subsection (f) of this section, shall not be
11 required to accept an application for a new comprehensive permit from a for-profit developer until
12 October 1, 2005.

13 (f) Towns and cities that are not in conformity with the provisions of § 45-53-3(5)(i) shall
14 prepare by December 31, 2004, a comprehensive plan housing element for low- and moderate-
15 income housing as specified by § 45-53-3(5)(ii), consistent with applicable law and regulation.
16 That the secretary of the planning board or commission of each city or town subject to the
17 requirements of this paragraph shall report in writing the status of the preparation of the housing
18 element for low- and moderate-income housing on or before June 30, 2004, and on or before
19 December 31, 2004, to the secretary of the state planning council, to the chair of the house
20 committee on corporations and to the chair of the senate committee on commerce, housing and
21 municipal government.

22 (g) If any provision of this section or the application thereof shall for any reason be judged
23 invalid, the judgment shall not affect, impair, or invalidate the remainder of this section or of any
24 other provision of this chapter, but shall be confined in its effect to the provision or application
25 directly involved in the controversy giving rise to the judgment, and a moratorium on the
26 applications of for-profit developers pursuant to this chapter shall remain and continue to be in
27 effect for the period commencing on the day this section becomes law [February 13, 2004] and
28 continue until it shall expire on January 31, 2005, or until amended further.

29 (h) In planning for, awarding, and otherwise administering programs and funds for housing
30 and for community development, state departments, agencies, boards and commissions, and public
31 corporations, as defined in chapter 18 of title 35, shall among the towns subject to the provision of
32 § 45-53-3(5)(ii), give priority to the maximum extent allowable by law to towns with an approved
33 affordable housing plan. The director of administration shall adopt not later than January 31, 2005,
34 regulations to implement the provisions of this section.

1 (i) Multi-family rental units built under a comprehensive permit may be calculated towards
2 meeting the requirements of a municipality's low- or moderate-income housing inventory, as long
3 as the units meet and are in compliance with the provisions of § 45-53-3.1.

4 SECTION 3. Section 1 of this act shall take effect upon passage and section 2 of this act
5 shall take effect on January 1, 2026.

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LC002161
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES -- LOW AND MODERATE INCOME HOUSING

1 This act would amend several definitions relating to low- or moderate-income housing as
2 well as the procedure for the approval of low- or moderate-income housing.

3 Section 1 of this act would take effect upon passage and section 2 of this act would take
4 effect on January 1, 2026.

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