

2025 -- H 5794 SUBSTITUTE A

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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:

- 1 SECTION 1. Section 45-22-7 of the General Laws in Chapter 45-22 entitled "Local
2 Planning Board or Commission" is hereby amended to read as follows:
- 3 **45-22-7. Powers and duties of a planning board or commission.**
- 4 (a) A planning board or commission shall have the sole responsibility for performing all
5 those acts necessary to prepare a comprehensive plan for a municipality in accordance with the
6 provisions of chapter 22.2 of this title.
- 7 (b) Pursuant to § 45-23-51, a planning board or commission shall be empowered by the
8 city or town council, by ordinance, to adopt, modify, and amend regulations and rules governing
9 land-development and subdivision projects within that municipality and to control land-
10 development and subdivision projects pursuant to those regulations and rules. The planning board
11 or commission shall also provide for the administration, interpretation, and enforcement of land-
12 development and subdivision review regulations, pursuant to § 45-23-52.
- 13 (c) When directed by the city or town zoning ordinance pursuant to § 45-24-46.4 ~~and~~ or
14 the city or town land development and subdivision review regulations pursuant to § 45-23-50.1, a
15 planning board or commission shall have the power to review and approve, approve with
16 conditions, or deny requests for variances and special-use permits submitted as part of land-
17 development and subdivision applications or development plan review.
- 18 (d) A planning board or commission established under the provisions of this chapter shall
19 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;

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3 need not be published in its entirety;

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

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

10 SECTION 3. Sections 45-23-32, 45-23-35, 45-23-36, 45-23-39, 45-23-57, 45-23-60 and
11 45-23-71 of the General Laws in Chapter 45-23 entitled "Subdivision of Land" are hereby amended
12 to read as follows:

13 **45-23-32. Definitions.**

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

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

29 (2) **Board of appeal.** The local review authority for appeals of actions of the administrative
30 officer, which shall be the local zoning board of review constituted as the board of appeal. See §
31 45-23-57.

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

33 (4) **Buildable lot.** A lot where construction for the use(s) permitted on the site under the
34 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

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

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

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

(ii) **Minor subdivision.** A subdivision creating nine (9) or fewer buildable lots [where a street extension or creation is required. A subdivision of an unlimited number of lots on an existing improved public street also qualifies as a minor subdivision](#). The process by which a municipal planning board, commission, technical review committee, and/or administrative officer reviews a minor subdivision is set forth in § 45-23-38.

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

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

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

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

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

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

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

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

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

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

11 (e) Provided that at least one pre-application meeting has been held for major land
12 development or subdivision application or sixty (60) days has elapsed from the filing of the pre-
13 application submission and no pre-application meeting has been scheduled to occur within those
14 sixty (60) days, nothing shall be deemed to preclude an applicant from thereafter filing and
15 proceeding with an application for a land development or subdivision project in accordance with §
16 45-23-36.

17 **45-23-36. General provisions — Authority and application for development and**
18 **certification of completeness.**

19 (a) **Authority.** Municipalities shall provide for the submission and approval of land
20 development projects and subdivisions, as such terms are defined in the Rhode Island Zoning
21 Enabling Act of 1991, and/or this chapter, and such are subject to the local regulations which shall
22 be consistent with the requirements of this chapter. The local regulations must include all
23 requirements, procedures, and standards necessary for proper review and approval of applications
24 made under this chapter to ensure consistency with the intent and purposes of this chapter and with
25 § 45-24-47 of the Rhode Island Zoning Enabling Act of 1991.

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

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

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

32 (3) Development plan review.

33 (c) **Certification of a complete application.** [An application shall initially be reviewed by](#)
34 [the administrative officer solely for the purpose to determine whether the application lacks](#)

1 [information required for the respective applications type as specified in the local checklist, and](#)
2 [whether the applicant lacks items or information which was required as a condition of a previous](#)
3 [approval stage\(s\) for the same project.](#) An application shall be complete for purposes of
4 commencing the applicable time period for action when so certified by the administrative officer.
5 Every certification of completeness required by this chapter shall be in writing. In the event the
6 certification of the application is not made within the time specified in this chapter for the type of
7 plan, the application is deemed complete for purposes of commencing the review period unless the
8 application lacks information required for these applications as specified in the local regulations
9 and the administrative officer has notified the applicant, in writing, of the deficiencies in the
10 application. See §§ 45-23-38, 45-23-39, and 45-23-50 for applicable certification timeframes and
11 requirements. [An application shall not be deemed incomplete for reasons other than the failure to](#)
12 [supply an item or items listed on the applicable checklist.](#)

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

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

21 **45-23-39. General provisions — Major land development and major subdivision**
22 **review stages.**

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

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

31 (c) **Master plan review.**

32 (1) **Submission requirements.**

33 (i) The applicant shall first submit to the administrative officer the items required by the
34 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 under § 45-24-46 and local ordinances may proceed by filing a master plan application under this section to the administrative officer and, separately, a request for a modification to the zoning enforcement officer. If such modification is granted, the application shall then proceed to be reviewed by the planning board pursuant to the applicable requirements of this section. If the modification is denied or an objection is received as set forth in § 45-24-46, such application shall proceed under unified development review pursuant to § 45-23-50.1.

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

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

1 as complete or incomplete less than ten (10) days after its resubmission.

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

5 (4) **Public hearing.**

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

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

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

16 (5) **Decision.** The planning board shall, within ninety (90) days of certification of
17 completeness, or within a further amount of time that may be consented to by the applicant through
18 the submission of a written waiver, approve of the master plan as submitted, approve with changes
19 and/or conditions, or deny the application, according to the requirements of §§ 45-23-60 and 45-
20 23-63.

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

25 (7) **Vesting.**

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

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

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

1 **(1) Submission requirements.**

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

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

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

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

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

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

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

33 **(3) Technical review committee.** To the extent the community utilizes a technical review
34 committee, it shall review the application prior to the first planning board meeting and shall

comment and make recommendations to the planning board.

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

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

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

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

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

(e) Final plan.

(1) Submission requirements.

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

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

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

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

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

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

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

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

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

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

1 **(6) Acceptance of public improvements.** Signature and recording as specified in § 45-23-
2 64 constitute the acceptance by the municipality of any street or other public improvement or other
3 land intended for dedication. Final plan approval shall not impose any duty upon the municipality
4 to maintain or improve those dedicated areas until the governing body of the municipality accepts
5 the completed public improvements as constructed in compliance with the final plans.

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

9 **(f) Modifications and changes to approved plans.**

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

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

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

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

24 **45-23-57. Administration — The board of appeal.**

25 The city or town council shall establish the city or town zoning board of review as the
26 board of appeal to hear appeals of decisions of the ~~planning board or the administrative officer on~~
27 administrative matters, of review and approval of land development and subdivision projects
28 interpretations and determinations made pursuant to § 45-23-36. This section shall not apply to
29 decisions of the administrative officer made pursuant to §§ 45-23-38 or 45-23-50 which approve
30 or deny an application.

31 **45-23-60. Procedure — Required findings.**

32 (a) Except as set forth in this section, all ~~All~~ local regulations shall require that for all
33 administrative, minor, and major development applications the approving authorities responsible
34 for land development and subdivision review and approval shall ~~address each of the general~~

1 ~~purposes stated in § 45-23-30 and~~ make positive findings on the following standard provisions, as
2 part of the proposed project's record prior to approval:

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

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

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

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

15 (5) All proposed land developments and all subdivision lots have adequate [physical](#) and
16 permanent physical access to a public street. ~~Lot frontage on a public street without physical access~~
17 ~~shall not be considered in compliance with this requirement~~ [unless there are local zoning ordinance](#)
18 [provisions allowing exceptions to this requirement or the applicant has obtained the required relief](#)
19 [from this provision.](#)

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

23 [\(c\) Minor subdivisions subject to administrative review and approval only, as set forth in](#)
24 [§ 45-23-38\(a\)\(2\) shall only be subject to the standard provisions set forth in subsections \(a\)\(1\),](#)
25 [\(a\)\(2\) and \(a\)\(5\) of this section.](#)

26 **45-23-71. Appeals to the superior court.**

27 (a) An aggrieved party may appeal a decision of the board of appeal; a decision of an
28 administrative officer made pursuant to § 45-23-38 or § 45-23-50 where authorized to approve or
29 deny an application; a decision of the technical review committee where authorized to approve or
30 deny an application; or a decision of the planning board, to the superior court for the county in
31 which the municipality is situated by filing a complaint stating the reasons for the appeal within
32 twenty (20) days after the decision has been recorded and posted in the office of the city or town
33 clerk. Recommendations by any public body or officer under this chapter are not appealable under
34 this section. The authorized permitting authority shall file the original documents acted upon by it

1 and constituting the record of the case appealed from, or certified copies of the original documents,
2 together with any other facts that may be pertinent, with the clerk of the court within thirty (30)
3 days after being served with a copy of the complaint. When the complaint is filed by someone other
4 than the original applicant or appellant, the original applicant or appellant and the ~~planning board~~
5 [permitting authority](#) shall be made parties to the proceedings. No responsive pleading is required
6 for an appeal filed pursuant to this section. The appeal does not stay proceedings upon the decision
7 appealed from, but the court may, in its discretion, grant a stay on appropriate terms and make any
8 other orders that it deems necessary for an equitable disposition of the appeal.

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

13 (c) The review shall be conducted by the superior court without a jury. The court shall
14 consider the record ~~of the hearing before the planning board~~ [board of appeal or permitting authority,](#)
15 [as applicable](#) and, if it appears to the court that additional evidence is necessary for the proper
16 disposition of the matter, it may allow any party to the appeal to present evidence in open court,
17 which evidence, along with the report, shall constitute the record upon which the determination of
18 the court shall be made.

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

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

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

27 (3) Made upon unlawful procedure;

28 (4) Affected by other error of law;

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

31 (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted
32 exercise of discretion.

33 SECTION 4. Sections 45-24-37, 45-24-38, 45-24-46, 45-24-46.1, 45-24-46.4 and 45-24-
34 77 of the General Laws in Chapter 45-24 entitled "Zoning Ordinances" are hereby amended to read

as follows:

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

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

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

- (1) Households;
- (2) Community residences; and
- (3) Family daycare homes.

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

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

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

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

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

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

(1) Prohibitions. Adaptive reuse under this section shall not be allowed where:

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

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

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

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

(2) Density.

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

(3) Dimensional Requirements.

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

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

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

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

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

11 ~~(C) The development has access to public sewer and water service or has access to adequate~~
12 ~~private water, such as a well and and/or wastewater treatment system(s) approved by the relevant~~
13 ~~state agency for the entire development as applicable.~~

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

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

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

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

33 (i) Notwithstanding any other provisions of this chapter, all towns and cities ~~may~~ shall
34 allow manufactured homes that comply with § 23-27.3-109.1.3 as a type of single-family home on

any lot zoned for single-family use. Such home shall comply with all dimensional requirements of a single-family home in the district or seek relief for the same under the provisions of this chapter.

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

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

(b) Notwithstanding the failure of that lot or those lots to meet the dimensional and/or quantitative requirements, and/or road frontage or other access requirements, applicable in the district as stated in the ordinance, a substandard lot of record shall not be required to seek any zoning relief based solely on the failure to meet minimum ~~requirements for~~ lot size ~~requirements,~~ lot frontage, lot width or lot depth of the district in which such lot is located. For any structure proposed under this section on a substandard lot of record, the following dimensional regulations shall apply:

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

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

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

1 applicable.

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

11 **45-24-46. Special provisions — Modification.**

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

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

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

26 (3) 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 (4) The modification requested does not violate any rules or regulations with respect to
29 freshwater or coastal wetlands.

30 (b) Upon an affirmative determination, in the case of a modification of five percent (5%)
31 or less, the zoning enforcement officer shall have the authority to issue a permit approving the
32 modification, without any public notice requirements. In the case of a modification of greater than
33 five percent (5%), the zoning enforcement officer shall notify, by first class mail, all property
34 owners abutting the property which is the subject of the modification request, and shall indicate the

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

14 **45-24-46.1. Inclusionary zoning. [Effective January 1, 2025.]**

15 (a) A zoning ordinance requiring the inclusion of affordable housing as part of a
16 development shall provide that the housing will be affordable housing, as defined in § 42-128-
17 8.1(d)(1); that the affordable housing will constitute not less than fifteen percent (15%) of the total
18 units proposed for the development; and that the units will remain affordable for a period of not
19 less than thirty (30) years from initial occupancy enforced through a land lease and/or deed
20 restriction enforceable by the municipality and the state of Rhode Island. A zoning ordinance that
21 requires the inclusion of affordable housing as part of a development shall specify the threshold in
22 which the inclusion of affordable housing is required, but in no event shall a minimum threshold
23 triggering the inclusion of affordable housing be higher than ten (10) dwelling units. The total
24 number of units for the development may include less than fifteen percent (15%) affordable units
25 after the density bonus described in subsection (c) of this section is determined. [A municipality](#)
26 [shall not limit the number of bedrooms for applications submitted under this section to anything](#)
27 [less than three \(3\) bedrooms per dwelling unit for single-family dwelling units.](#)

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

33 (c) **Density bonus, zoning incentives, and municipal subsidies.** For all projects subject
34 to inclusionary zoning, subject to applicable setback, lot width, or frontage requirements or the

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

13 [\(1\) Inclusionary zoning requirements shall not be applied where there is a limitation on the](#)
14 [development density at the subject property under the regulations of a state agency, such as the](#)
15 [coastal resources management council or department of environmental management that prevents](#)
16 [the use of the density bonus set forth in this section.](#)

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

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

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

31 (3) Amount of fee-in-lieu. For affordable single-family homes and condominium units, the
32 per-unit fee shall be the difference between the maximum affordable sales price for a family of four

33 (4) earning eighty percent (80%) of the area median income as determined annually by the U.S.
34 Department of Housing and Urban Development and the average cost of developing a single unit

1 of affordable housing. The average cost of developing a single unit of affordable housing shall be
2 determined annually based on the average, per-unit development cost of affordable homes financed
3 by Rhode Island housing and mortgage finance corporation (RIHMFC) over the previous three (3)
4 years, excluding existing units that received preservation financing.

5 (i) Notwithstanding subsection (d)(3) of this section, in no case shall the per-unit fee for
6 affordable single family homes and condominium units be less than forty thousand dollars
7 (\$40,000).

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

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

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

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

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

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

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

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

34 (2) Provide that any person, group, agency, or corporation that files an application for a

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

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

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

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

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

20 (h) An appeal from any decision made pursuant to this section may be taken pursuant to §
21 45-23-71.

22 **45-24-77. Transit-oriented development pilot program.**

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

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

31 (c) **Applicability.** Effective January 1, 2024, in addition to the criteria to be established by
32 the department of housing as set forth in subsection (d) of this section, to qualify for funding
33 through the pilot program, ~~a municipality must have~~ the development must include developable
34 land or properties that is within a one-quarter (¼) mile radius of an existing or planned regional

mobility hub or a one-eighth (1/8) mile radius of a [an existing or planned](#) frequent transit stop as such terms are defined in the 2020 Rhode Island transit master plan or its successor document.

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

(1) The criteria to qualify for consideration into the pilot program, [including but not limited to](#);

(i) [For municipalities to apply to have zoning districts certified into the program, an established zoning district or overlay, or other provisions that provide for high density residential development, provisions that provide for or require some portion of the development to include affordable housing, and the easing of dimensional restrictions and parking requirements for such development; and](#)

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

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

(3) ~~Criteria~~ [The process](#) for acceptance into the pilot program;

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

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

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

SECTION 5. This act shall take effect upon passage.

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LC002154/SUB A
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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.

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LC002154/SUB A
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