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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: Senators Dimitri, Tikoian, Ciccone, Patalano, E Morgan, Raptakis, de la Cruz, Rogers, and Paolino

Date Introduced: February 26, 2025

Referred To: Senate Housing & Municipal Government

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 housing needs in a city or town that is prepared in accordance with
13 guidelines adopted by the state planning council, and/or to meet the provisions of § 45-53-4(e)(1)
14 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 local comprehensive
17 plan as promulgated by the state planning council; provided, however, that state review and
18 approval, for plans submitted by December 31, 2004, shall not be contingent on the city or town
19 having completed, adopted, or amended its comprehensive plan as provided for in § 45-22.2-8, §

1 45-22.2-9, or § 45-22.2-12.

2 (4) “Comprehensive plan” means a comprehensive plan adopted and approved by a city or
3 town pursuant to chapters 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 impact to the total number of ~~low-income~~ persons
6 residing in the city or town affected and the need to protect the health and safety of the occupants
7 of the proposed housing and ~~or~~ of the residents of the city or town, to the impact on the public
8 school system, public transportation and public infrastructure in the city or town affected, to
9 promote better site and building design in relation to the surroundings, or to preserve open spaces,
10 and if the local zoning or land use ordinances, requirements, and regulations are applied as equally
11 as possible to both subsidized and unsubsidized housing. Local zoning and land use ordinances,
12 requirements, or regulations are consistent with local needs when imposed by a city or town council
13 after a comprehensive hearing in a city or town where:

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

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

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

29 (6) “Infeasible” means any condition brought about by any single factor or combination of
30 factors, as a result of limitations imposed on the development by conditions attached to the approval
31 of the comprehensive permit, to the extent that it makes it financially or logistically impracticable
32 for any applicant to proceed in building or operating low- or moderate-income housing within the
33 limitations set by the subsidizing agency of government or local review board, on the size or
34 character of the development, on the amount or nature of the subsidy, or on the tenants, rentals, and

1 income permissible, and without substantially changing the rent levels and unit sizes proposed by
2 the applicant.

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

5 (8) “Local review board” means the planning board as defined by § 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 (13) “Substantial multi-family housing project” means any application proposing to build
20 low- or moderate-income housing that exceeds sixty (60) units, inclusive of any density bonus
21 allowance under § 45-53-4, in any municipality with a population less than thirty-five thousand
22 (35,000) residents according to the United States Census Bureau.

23 **45-53-4. Procedure for approval of construction of low- or moderate-income housing.**

24 (a)(1) Excluding any application for a substantial multi-family housing project, Any any
25 applicant proposing to build low- or moderate-income housing may submit to the local review
26 board a single application for a comprehensive permit to build that housing in lieu of separate
27 applications to the applicable local boards. This procedure is only available for proposals in which
28 at least twenty-five percent (25%) of the housing is low- or moderate-income housing.

29 (2) Any applicant proposing to build a substantial multi-family housing project shall submit
30 separate applications to the applicable local boards who shall hear testimony and make findings
31 that the project is consistent with local needs.

32 (b) Municipal government subsidies, including adjustments and zoning incentives, are to
33 be made available to applications under this chapter to offset the differential costs of the low- or
34 moderate-incoming housing units in a development under this chapter. At a minimum, the

1 following zoning incentives shall be allowed for projects submitted under this chapter:

2 (1) **Density bonus.** A municipality shall provide an applicant with more dwelling units
3 than allowed by right under its zoning ordinance in the form of a density bonus to allow an increase
4 in the allowed dwelling units per acre (DU/A), as well as other incentives and municipal
5 government subsidies as defined in § 45-53-3. Furthermore, a municipality shall provide, at a
6 minimum, the following density bonuses for projects submitted under this chapter, provided that
7 the total land utilized in the density calculation shall exclude wetlands; wetland buffers; area
8 devoted to infrastructure necessary for development; and easements or rights of way of record:

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

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

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

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

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

31 (vi) For properties not connected to either public water or sewer or both, but which provide
32 competent evidence as to the availability of water to service the development and/or a permit for
33 on-site wastewater treatment facilities to service the dwelling units from the applicable state
34 agency, the density bonus for a project that provides one hundred percent (100%) low- and

1 moderate-income housing shall be at least eight (8) units per acre;

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

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

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

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

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

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

30 (ii) For any application for a substantial multi-family housing project, a municipality shall
31 require an applicant proposing such project to seek a pre-application conference with the local
32 review board, the technical review committee established pursuant to § 45-23-56, or with the
33 administrative officer for the local review board as appropriate. In advance of a pre-application
34 conference, the applicant shall be required to submit a description of the project in writing including

1 [the number of units, type of housing, density analysis, preliminary list of adjustments needed, as](#)
2 [well as a location map, and conceptual site plan. The purpose of the pre-application conference](#)
3 [shall be to review a concept plan of the proposed development and to elicit feedback from the](#)
4 [reviewing person or board. Upon receipt of a request by an applicant for a pre-application](#)
5 [conference, the municipality shall have thirty \(30\) days to schedule and hold the pre-application](#)
6 [conference, unless a different timeframe is agreed to by the applicant in writing. If thirty \(30\) days](#)
7 [has elapsed from the filing of the pre-application submission and no pre-application conference has](#)
8 [taken place, nothing shall be deemed to preclude an applicant from thereafter filing and proceeding](#)
9 [with an application for preliminary plan review for said project.](#)

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

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

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

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

20 (C) A proposed timetable for the commencement of construction and completion of the
21 project; and

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

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

30 [\(F\) Notwithstanding the submission requirements set forth above, for an application for a](#)
31 [substantial multi-family housing project, the local review board shall also require the applicant to](#)
32 [provide documentation that the project is consistent with local need.](#)

33 **(ii) Certification of completeness.** The preliminary plan application must be certified
34 complete or incomplete by the administrative officer according to the provisions of § 45-23-36;

1 provided, however, that the certificate shall be granted within twenty-five (25) days of submission
2 of the application. The running of the time period set forth herein will be deemed stopped upon the
3 issuance of a written certificate of incompleteness of the application by the administrative officer
4 and will recommence upon the resubmission of a corrected application by the applicant. However,
5 in no event will the administrative officer be required to certify a corrected submission as complete
6 or incomplete less than ten (10) days after its resubmission. If the administrative officer certifies
7 the application as incomplete, the officer shall set forth in writing with specificity the missing or
8 incomplete items.

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

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

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

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

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

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

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

34 (II) The proposed development is in compliance with the standards and provisions of the

1 municipality's zoning ordinance and subdivision regulations, and/or where adjustments are
2 requested by the applicant, that local concerns that have been affected by the relief granted do not
3 outweigh the state and local need for low- and moderate-income housing.

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

8 (IV) There will be no significant negative impacts on [the local needs including, but not](#)
9 [limited to, the public school system, public transportation, and public infrastructure in a](#)
10 [community](#), the health and safety of current or future residents of the community, in areas
11 including, but not limited to, safe circulation of pedestrian and vehicular traffic, provision of
12 emergency services, sewerage disposal, availability of potable water, adequate surface water run-
13 off, and the preservation of natural, historical, or cultural features that contribute to the
14 attractiveness of the community.

15 (V) All proposed land developments and all subdivisions lots will have adequate and
16 permanent physical access to a public street in accordance with the requirements of § 45-23-
17 60(a)(5).

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

22 (F) **Required findings for denial.** In reviewing the comprehensive permit request, the
23 local review board may deny the request for any of the following reasons: (I) If the city or town
24 has an approved affordable housing plan and is meeting housing needs, and the proposal is
25 inconsistent with the affordable housing plan; provided that, the local review board also finds that
26 the municipality has made significant progress in implementing that housing plan; (II) The proposal
27 is not consistent with local needs, including, but not limited to, [the impact on the public school](#)
28 [system, public transportation, and public infrastructure in a community](#), the needs identified in an
29 approved comprehensive plan, and/or local zoning ordinances and procedures promulgated in
30 conformance with the comprehensive plan; (III) The proposal is not in conformance with the
31 comprehensive plan; (IV) The community has met or has plans to meet the goal of ten percent
32 (10%) of the year-round units or, in the case of an urban town or city, fifteen percent (15%) of the
33 occupied rental housing units as defined in § 45-53-3(5)(i) being low- and moderate-income
34 housing; provided that, the local review board also finds that the community has achieved or has

1 made significant progress towards meeting the goals required by this section; or (V) Concerns for
2 the environment and the health and safety of current residents have not been adequately addressed.

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

11 (3) **Final plan review.** Excluding an application for a substantial multi-family housing
12 project, the ~~The~~ second and final stage of review for the comprehensive permit project shall be
13 done administratively, unless an applicant has requested and been granted any waivers from the
14 submission of checklist items for preliminary plan review, and then, at the local review board's
15 discretion, it may vote to require the applicant to return for final plan review and approval. All
16 applications for a substantial multi-family housing project shall require the applicant to return for
17 final plan review and approval.

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

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

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

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

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

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

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

34 (III) For phased projects, the final plan for phases following the first phase, shall be

1 accompanied by copies of as-built drawings not previously submitted of all existing public
2 improvements for prior phases.

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

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

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

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

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

25 (II) Minor changes, as defined in the local regulations, for any substantial multi-family
26 housing project and all major ~~Major~~ changes, as defined in the local regulations, to the plans
27 approved at preliminary plan may be approved only by the local review board and must follow the
28 same review and public hearing process required for approval of preliminary plans as described in
29 subsection (d)(2)(iii) of 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.** [Excluding an application for a substantial multi-family housing project,](#)
5 [failure](#) ~~Failure~~ of the reviewing authority to act within the prescribed period constitutes approval
6 of the final plan, and a certificate of the administrative officer as to the failure to act within the
7 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) **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) **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) **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) **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) **Majority vote required.** (i) [Excluding an application for a substantial multi-family](#)
34 [housing project, all](#) ~~AH~~ local review board decisions on comprehensive permits shall be by majority

1 vote of the members present at the proceeding.

2 [\(ii\) All local review board decisions on an application for a substantial multi-family](#)
3 [housing project shall be by a majority vote of the entire board.](#)

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

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

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

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

31 (e)(1) The general assembly finds and declares that in January 2004 towns throughout
32 Rhode Island have been confronted by an unprecedented volume and complexity of development
33 applications as a result of private for-profit developers using the provisions of this chapter and that
34 in order to protect the public health and welfare in communities and to provide sufficient time to

1 establish a reasonable and orderly process for the consideration of applications made under the
2 provisions of this chapter, and to have communities prepare plans to meet low- and moderate-
3 income housing goals, that it is necessary to impose a moratorium on the use of comprehensive
4 permit applications as herein provided by private for-profit developers; a moratorium is hereby
5 imposed on the use of the provisions of this chapter by private for-profit developers, which
6 moratorium shall be effective on passage and shall expire on January 31, 2005, and may be revisited
7 prior to expiration and extended to such other date as may be established by law. Notwithstanding
8 the provisions of subsection (a) of this section, private for-profit developers may not utilize the
9 procedure of this chapter until the expiration of the moratorium.

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

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

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

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

32 (h) In planning for, awarding, and otherwise administering programs and funds for housing
33 and for community development, state departments, agencies, boards and commissions, and public
34 corporations, as defined in chapter 18 of title 35, shall among the towns subject to the provision of

1 § 45-53-3(5)(ii), give priority to the maximum extent allowable by law to towns with an approved
2 affordable housing plan. The director of administration shall adopt not later than January 31, 2005,
3 regulations to implement the provisions of this section.

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

7 SECTION 2. This act shall take effect upon passage.

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LC001859
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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 create a process for applications proposing to build low- or moderate-
2 income housing that exceeds sixty (60) units. This act would require an applicant proposing such
3 project to seek a pre-application conference with the local review board. The applicant would also
4 be required to provide documentation that the project is consistent with local needs.

5 This act would take effect upon passage.

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