

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2026

A N A C T

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

Introduced By: Representatives Fellela, Fascia, Costantino, and Serpa

Date Introduced: February 06, 2026

Referred To: House Municipal Government & Housing

It is enacted by the General Assembly as follows:

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

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

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

(1) "Adjustment(s)" means a request or requests by the applicant to seek relief from the literal use and dimensional requirements of the municipal zoning ordinance and/or the design standards or requirements of the municipal land development and subdivision regulations. The standard for the local review board's consideration of adjustments is set forth in § 45-53-4(e)(3)(iii)(E)(II).

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

(3) "Approved affordable housing plan" means an affordable housing plan that is part of an approved and unexpired local comprehensive plan as provided for in § 45-22.2-8, § 45-22.2-9, or § 45-22.2-12.

(4) "Comprehensive plan" means a comprehensive plan adopted and approved by a city or

1 town pursuant to chapter 22.2 of this title.

2 (5) “Consistent with local needs” means reasonable in view of the state and local need for  
3 low- and moderate-income housing, considered with the impact to the total number of ~~low-income~~  
4 persons residing in the city or town affected and the need to protect the health and safety of the  
5 occupants of the proposed housing ~~or~~ and of the residents of the city or town, to the impact on the  
6 public school system, public transportation and public infrastructure in the city or town affected, to  
7 promote better site and building design in relation to the surroundings, or to preserve open spaces,  
8 and if the local zoning or land use ordinances, requirements, and regulations are applied as equally  
9 as possible to both subsidized and unsubsidized housing.

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

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

20 (8) “Local review board” means the local planning board or commission as defined by §  
21 45-22.2-4.

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

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

34 (ii) Any mobile or manufactured home(s) that meet the requirements of § 42-128-

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

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

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

20 (10) "Monitoring agents" means those monitoring agents appointed by the executive office  
21 of housing pursuant to § 45-53-3.2 and to provide the monitoring and oversight set forth in this  
22 chapter, including, but not limited to, §§ 45-53-3.2 and 45-53-4.

23 (11) "Municipal government subsidy" means assistance that is made available through a  
24 city or town program sufficient to make housing affordable, as affordable housing is defined in §  
25 42-128-8.1(d)(1); such assistance shall include a combination of, but is not limited to, direct  
26 financial support, abatement of taxes, waiver of fees and charges, and density bonuses and/or  
27 internal subsidies, zoning incentives, and adjustments as defined in this section and any  
28 combination of forms of assistance.

29 (12) "Substantial multi-family housing project" means any application proposing to build  
30 low- or moderate-income housing that exceeds sixty (60) units, inclusive of any density bonus  
31 allowance under § 45-53-4, in any municipality with a population of forty thousand (40,000)  
32 residents or less according to the United States Census Bureau.

33 **45-53-4. Procedure for approval of construction of low- or moderate-income housing.**  
34 **[Effective January 1, 2026, inclusive of existing language in § 45-53-4.]**

1           (a)(1) Excluding any application for a substantial multi-family housing project, any ~~Any~~  
2 applicant proposing to build low- or moderate-income housing may submit to the local review  
3 board a single application for a comprehensive permit to build that housing in lieu of separate  
4 applications to the applicable local boards. This procedure is only available for proposals in which  
5 at least twenty-five percent (25%) of the housing is low- or moderate-income housing. This  
6 procedure is not available in cities and towns that have low- or moderate-income housing in excess  
7 of ten percent (10%) of its year-round housing units which also have an inclusionary zoning  
8 ordinance which complies with § 45-24-46.1.

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

12           (b) Cities and towns that have low- or moderate-income housing in excess of ten percent  
13 (10%) of its year-round housing units:

14           (1) May provide an applicant with more dwelling units than allowed by right under its  
15 zoning ordinance in the form of a density bonus to allow an increase in the allowed dwelling units  
16 per acre (DU/A), as well as other incentives and municipal government subsidies as defined in §  
17 45-53-3;

18           (2) May, by council action, limit the annual total number of dwelling units in  
19 comprehensive permit applications from for-profit developers to an aggregate of one percent (1%)  
20 of the total number of year-round housing units in the town, and notwithstanding the timetables set  
21 forth elsewhere in this section, the local review board shall have the authority to consider  
22 comprehensive permit applications from for-profit developers, which are made pursuant to this  
23 subsection, sequentially in the order in which they are submitted.

24           (c) Cities and towns that do not have low- or moderate-income housing in excess of ten  
25 percent (10%) of its year-round housing units:

26           (1) Shall make available to applications under this chapter municipal government  
27 subsidies, including adjustments and zoning incentives, to offset the differential costs of the low-  
28 or moderate-incoming housing units. At a minimum, the following zoning incentives shall be  
29 allowed for in these cities or towns for projects submitted under this chapter:

30           (A) Density bonuses. These cities and towns shall provide an applicant with more dwelling  
31 units than allowed by right under its zoning ordinances in the form of a density bonus to allow an  
32 increase in the allowed dwelling units per acre (DU/A). At a minimum, the following density  
33 bonuses for projects submitted under this chapter, provided that the total land utilized in the density  
34 calculation shall exclude wetlands; area devoted to roadway infrastructure necessary for

1 development; and easements or rights of way of record:

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

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

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

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

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

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

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

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

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

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

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

7 (1) Pre-application conference.

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

24 (ii) For any application for a substantial multi-family housing project, a municipality shall  
25 require an applicant proposing such project to seek a pre-application conference with the local  
26 review board, the technical review committee established pursuant to § 45-23-56, or with the  
27 administrative officer for the local review board as appropriate. In advance if a pre-application  
28 conference, the applicant shall be required to submit a description of the project in writing including  
29 the number of units, type of housing, density analysis, preliminary list of adjustments needed, as  
30 well as a location map, and conceptual site plan. The purpose of the pre-application conference  
31 shall be to review a concept plan of the proposed development and to elicit feedback from the  
32 reviewing person or board. Upon receipt of a request by an applicant for a pre-application  
33 conference, the municipality shall have thirty (30) days to schedule and hold the pre-application  
34 conference, unless a different timeframe is agreed to by the applicant in writing. If thirty (30) days

1 [has elapsed from the filing of the pe-application submission and no pre-application conference has](#)  
2 [taken place, nothing shall be deemed to preclude an applicant from thereafter filing and proceeding](#)  
3 [with an application for preliminary plan review for said project.](#)

4 (2) Optional master plan. An applicant may elect to apply for and be heard on master plan  
5 review prior to preliminary plan submission. If a master plan review is elected by the applicant the  
6 following shall apply:

7 (i) Submission requirements. Submission requirements for master plan review shall be  
8 limited to the following:

9 (A) An application form and fee;

10 (B) A short description of the project in writing including the number of units, type of  
11 housing, density analysis, list of adjustments needed, as well as a location map, and preliminary  
12 determinations as to site constraints;

13 (C) Conceptual site plans showing infrastructure locations for roadways, preliminary  
14 locations and design of conceptual stormwater facilities, location of sewer and water lines and/or  
15 wells and on-site wastewater treatment systems, locations of housing units, estimated locations of  
16 site constraints and wetlands;

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

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

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

25 [\(G\) Provided however, the submission requirements set forth above, for an application for](#)  
26 [a substantial multi-family housing project, the local review board shall also require the applicant to](#)  
27 [provide documentation that the project is consistent with local need.](#)

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

1 or incomplete less than ten (10) days after its resubmission. If the administrative officer certifies  
2 the application as incomplete, the officer shall set forth in writing with specificity the missing or  
3 incomplete items.

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

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

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

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

22 (iv) Vesting. The approved master plan is vested for a period of two (2) years with the  
23 right to extend for two (2), one-year extensions upon written request by the applicant, who must  
24 appear before the planning board for each annual review. Thereafter, vesting may be extended for  
25 a longer period, for good cause shown, if requested, in writing by the applicant, and approved by  
26 the local review board. The vesting for the master plan approval includes all ordinance provisions  
27 and regulations at the time of the approval, general and specific conditions shown on the approved  
28 master plan drawings and supporting material.

29 **(3) Preliminary plan review.**

30 (i) Submission requirements. Applications for preliminary plan review under this chapter  
31 shall include:

32 (A) Unless already submitted at a master plan stage, a letter of eligibility issued by the  
33 Rhode Island housing and mortgage finance corporation, or in the case of projects primarily funded  
34 by the U.S. Department of Housing and Urban Development or other state or federal agencies, an



1 award letter indicating the subsidy, or application in such form as may be prescribed for a municipal  
2 government subsidy; and

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

6 (C) A proposed timetable for the commencement of construction and completion of the  
7 project; and

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

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

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

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

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

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

33 (C) Timeframe for review. The local review board shall render a decision on the  
34 preliminary plan application within ninety (90) days of the date the application is certified

complete, or within a further amount of time that may be consented to by the applicant through the submission of a written consent.

(D) Failure to act. Failure of the local review 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 local review board to act within the required time and the resulting approval shall be issued on request of the applicant. Further, if the public hearing is not convened or a decision is not rendered within the time allowed in subsections (e)(3)(iii)(A) and (e)(3)(iii)(C) of this section, the application is deemed to have been allowed and the preliminary plan approval shall be issued immediately.

(E) Required findings. In voting on an application, the local review board shall make findings, supported by legally competent evidence on the record that discloses the nature and character of the observations upon which the fact finders acted, on each of the following standards, where applicable:

(I) Whether the proposed development is consistent with local needs as identified in the community's affordable housing plan and/or has satisfactorily addressed the issues where there may be inconsistencies. If the local board finds that the proposed development is inconsistent with the community's affordable housing plan, it must also find that the municipality has made significant progress in implementing its housing plan.

(II) Whether the proposed development is in compliance with the standards and provisions of the municipality's zoning ordinance and subdivision regulations, and/or where adjustments are requested by the applicant, whether local concerns that have been affected by the relief granted do not outweigh the state and local need for low- and moderate-income housing. For cities and towns that have low- or moderate-income housing in excess of ten percent (10%) of its year-round housing units, where adjustments are requested, in addition to the above-showing, the proposed development must show it has mitigated any impact of the proposed development on the general character of the surrounding area.

(III) Whether the low- and moderate-income housing units proposed are integrated throughout the development; are compatible in scale, meaning that: (1) The size of the low- and moderate-income units shall not be less than seventy-five percent (75%) of the size of the market rate units, unless otherwise allowed by the local board; (2) The affordable units are of similar architectural style to the market rate units within the project so that the exterior of the units look like an integrated neighborhood with similar rooflines, window patterns, materials and colors; and (3) The affordable units will be built and occupied in a proportional manner with the construction and occupancy of the market rate units. Except that for housing units that are intended to be

1 occupied by persons fifty-five (55) years of age or older, or sixty-two (62) years of age or older, as  
2 permitted by the federal Fair Housing Act pursuant to 42 U.S.C. § 3607(b) and 24 C.F.R. §§  
3 100.300-308 and the Rhode Island fair housing practices act pursuant to § 34-37-4.1, such units  
4 need not be integrated in any building or phase within the development that contains housing units  
5 that are not age-restricted, and neither age-restricted housing units nor any building or phase  
6 containing age-restricted housing units must be compatible in scale and architectural style to other  
7 housing unit types to the extent the age-restricted housing units are designed to meet the physical  
8 or social needs of older persons or necessary to provide housing opportunities for older persons.

9 (IV) Whether there will be significant negative impacts on [the local needs including, but](#)  
10 [not limited to, the public school system, public transportation, and public infrastructure in a](#)  
11 [community](#), the health and safety of current or future residents of the community, in areas  
12 including, but not limited to, safe circulation of pedestrian and vehicular traffic, provision of  
13 emergency services, sewerage disposal, availability of potable water, adequate surface water run-  
14 off, and the preservation of natural, historical, or cultural features.

15 (V) Whether the proposed land developments or 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), or the local review board has approved other access, such as a private road.

18 (VI) Whether the proposed development will result in the creation of individual lots with  
19 any physical constraints to development that building on those lots according to pertinent  
20 regulations and building standards would be impracticable, unless created only as permanent open  
21 space or permanently reserved for a public purpose on the approved, recorded plans.

22 (F) [Deleted by P.L. 2025, ch. 363, § 1 and P.L. 2025, ch. 364, § 1.]

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

31 (4) Final plan review. [Excluding an application for a substantial multi-family housing](#)  
32 [project, the](#) ~~The~~ second and final stage of review for the comprehensive permit project shall be  
33 done administratively, unless an applicant has requested and been granted any waivers from the  
34 submission of checklist items for preliminary plan review, and then, at the local review board's

discretion, it may vote to require the applicant to return for final plan review and approval. [All applications for a substantial multi-family housing project shall require the applicant to return for final plan review and approval.](#)

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

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

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

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

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

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

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

(III) 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.

(ii) Certification of completeness. The final plan application must be certified complete or incomplete by the administrative officer according to the provisions of § 45-23-36; provided however, that the certificate shall be granted within twenty-five (25) days of submission of the application. The running of the time period set forth herein will be deemed stopped upon the issuance of a written 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 as complete or incomplete less than ten (10) days after its resubmission. If the administrative officer certifies the application as incomplete, the officer shall set forth in writing with specificity the missing or incomplete items.

(iii) **Review of applications.**

(A) Timeframe for review. The reviewing authority shall render a decision on the final plan

1 application within forty-five (45) days of the date the application is certified complete.

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

3 (I) Excluding an application for a substantial multi-family housing project, minor ~~Minor~~  
4 changes, as defined in the local regulations, to the approved plans may be approved  
5 administratively, by the administrative officer. The changes may be authorized without additional  
6 public hearings, at the discretion of the administrative officer. All changes shall be made part of  
7 the permanent record of the project application. This provision does not prohibit the administrative  
8 officer from requesting a recommendation from either the technical review committee or the local  
9 review board. Denial of the proposed change(s) shall be referred to the local review board for  
10 review as a major change.

11 (II) Minor changes, as defined in the local regulations, for any substantial multi-family  
12 housing project and all major ~~Major~~ changes, as defined in the local regulations, to the plans may  
13 be approved only by the local review board and must follow the same review and public hearing  
14 process required for approval of preliminary plans as described in subsection (e)(3)(iii) of this  
15 section.

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

19 (C) Decision on final plan. An application filed in accordance with this chapter shall be  
20 approved by the administrative officer unless such application does not satisfy conditions set forth  
21 in the preliminary plan approval decision or such application does not have the requisite state and/or  
22 federal approvals or other required submissions, does not post the required improvement bonds, or  
23 such application is a major modification of the plans approved at preliminary plan.

24 (D) Failure to act. Excluding an application for a substantial multi-family housing project,  
25 failure ~~Failure~~ of the reviewing authority to act within the prescribed period constitutes approval  
26 of the final plan, and a certificate of the administrative officer as to the failure to act within the  
27 required time and the resulting approval shall be issued on request of the applicant.

28 (iv) Vesting. The approved final plan decision is vested for a period of two (2) years with  
29 the right to extend for one one-year extension upon written request by the applicant, who must  
30 appear before the planning board for the extension request, unless, within that period, the plat or  
31 plan has been submitted for signature and recording as specified in § 45-23-64. Thereafter, vesting  
32 may be extended for a longer period, for good cause shown, if requested, in writing by the applicant,  
33 and approved by the local review board.

34 (5) Infeasibility of conditions of approval. The burden is on the applicant to show, by

1 competent evidence before the local review board, that proposed conditions of approval are  
2 infeasible, as defined in § 45-53-3. Upon request, the applicant shall be provided a reasonable  
3 opportunity to respond to such proposed conditions prior to a final vote on the application.

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

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

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

20 (9) Majority vote required.

21 (i) Excluding an application for a substantial multi-family housing project, all ~~AH~~ local  
22 review board decisions on comprehensive permits shall be by majority vote of the members present  
23 at the proceeding.

24 (ii) All local review board decisions on an application for a substantial multi-family  
25 housing project shall be by a majority vote of the entire board.

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

31 (11) [Deleted by P.L. 2025, ch. 363, § 2 and P.L. 2025, ch. 364, § 2.]

32 (12) Report. The local review board of a town with an approved affordable housing plan  
33 shall report the status of implementation to the housing resources commission, including the  
34 disposition of any applications made under the plan, as of June 30, 2006, by September 1, 2006,

1 and for each June 30 thereafter by September 1 through 2010. The housing resources commission  
2 shall prepare by October 15 and adopt by December 31, a report on the status of implementation,  
3 which shall be submitted to the governor, the speaker and the president of the senate, and shall find  
4 which towns are not in compliance with implementation requirements.

5 (13) Remanded applications. Notwithstanding the provisions of § 45-53-4 in effect on  
6 February 13, 2004, a local review board shall commence hearings within thirty (30) days of  
7 receiving an application remanded pursuant to § 45-53-5 or, effective January 1, 2024, § 45-53-  
8 5.1. In any town with more than one remanded application, applications may be scheduled for  
9 hearing in the order in which they were received, and may be taken up sequentially, with the thirty-  
10 day (30) requirement for the initiation of hearings, commencing upon the decision of the earlier  
11 filed application.

12 (f)(1) The general assembly finds and declares that in January 2004 towns throughout  
13 Rhode Island have been confronted by an unprecedented volume and complexity of development  
14 applications as a result of private for-profit developers using the provisions of this chapter and that  
15 in order to protect the public health and welfare in communities and to provide sufficient time to  
16 establish a reasonable and orderly process for the consideration of applications made under the  
17 provisions of this chapter, and to have communities prepare plans to meet low- and moderate-  
18 income housing goals, that it is necessary to impose a moratorium on the use of comprehensive  
19 permit applications as herein provided by private for-profit developers; a moratorium is hereby  
20 imposed on the use of the provisions of this chapter by private for-profit developers, which  
21 moratorium shall be effective on passage and shall expire on January 31, 2005, and may be revisited  
22 prior to expiration and extended to such other date as may be established by law. Notwithstanding  
23 the provisions of subsection (a) of this section, private for-profit developers may not utilize the  
24 procedure of this chapter until the expiration of the moratorium.

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

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

31 (g) Towns and cities that are not in conformity with the provisions of § 45-53-3(5)(i) shall  
32 prepare by December 31, 2004, a comprehensive plan housing element for low- and moderate-  
33 income housing as specified by § 45-53-3(5)(ii), consistent with applicable law and regulation.  
34 That the secretary of the planning board or commission of each city or town subject to the

1 requirements of this paragraph shall report in writing the status of the preparation of the housing  
2 element for low- and moderate-income housing on or before June 30, 2004, and on or before  
3 December 31, 2004, to the secretary of the state planning council, to the chair of the house  
4 committee on corporations and to the chair of the senate committee on commerce, housing and  
5 municipal government.

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

13 (i) In planning for, awarding, and otherwise administering programs and funds for housing  
14 and for community development, state departments, agencies, boards and commissions, and public  
15 corporations, as defined in chapter 18 of title 35, shall among the towns subject to the provision of  
16 § 45-53-3(5)(ii), give priority to the maximum extent allowable by law to towns with an approved  
17 affordable housing plan. The director of administration shall adopt not later than January 31, 2005,  
18 regulations to implement the provisions of this section.

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

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

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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

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- 1           This act would change the residential limit for any substantial multi-family housing project
- 2   not to exceed forty thousand (40,000) residents according to the United States Census Bureau.
- 3           This act would take effect upon passage.

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