

2025 -- H 5801 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 -- LOW AND MODERATE INCOME HOUSING

Introduced By: Representatives Speakman, Tanzi, Alzate, Kislak, Spears, Dawson,
Furtado, Casey, Boylan, and Donovan

Date Introduced: February 27, 2025

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.

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(d)(2)(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(e)(1) and (f).

(3) "Approved affordable housing plan" means an affordable housing plan that ~~has been~~
~~approved by the director of administration as meeting the guidelines for the~~ [is part of an approved](#)
[and unexpired](#) local comprehensive plan ~~as promulgated by the state planning council; provided,~~
~~however, that state review and approval, for plans submitted by December 31, 2004, shall not be~~
~~contingent on the city or town having completed, adopted, or amended its 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 town pursuant to ~~chapters~~ [chapter](#) 22.2 ~~and 22.3~~ of this title.

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

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

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

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

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

1 the applicant.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 family dwelling units;

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

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

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

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

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

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

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

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

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

1 site constraints and wetlands;

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

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

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

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

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

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

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

30 (C) Required findings. In voting on an application, the local review board shall make
31 findings, supported by legally competent evidence on the record that discloses the nature and
32 character of the observations upon which the fact finders acted, on the standards required for
33 preliminary plan review in this section, to the extent applicable at the master plan. The failure to
34 provide information which is required later at preliminary plan review shall not form a basis for

1 denial. If the board votes to defer a finding to preliminary plan it shall do so on the record during
2 the proceedings and in the written decision and specify what items are necessary for review at the
3 preliminary plan stage in order to address that finding.

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

11 ~~(2)~~(3) **Preliminary plan review.**

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

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

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

22 (C) A proposed timetable for the commencement of construction and completion of the
23 project; and

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

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

32 (ii) **Certification of completeness.** The preliminary plan application must be certified
33 complete or incomplete by the administrative officer according to the provisions of § 45-23-36;
34 provided, however, that the certificate shall be granted within twenty-five (25) days of submission

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

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

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

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

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

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

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

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

1 its housing plan.

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

6 (III) ~~All~~ Whether the low- and moderate-income housing units proposed are integrated
7 throughout the development; are compatible in scale ~~and~~ , meaning that: (1) The size of the low-
8 and moderate-income units shall not be less than seventy-five percent (75%) of the size of the
9 market rate units, unless otherwise allowed by the local board; (2) The affordable units are of
10 similar architectural style to the market rate units within the project so that the exterior of the units
11 look like an integrated neighborhood with similar rooflines, window patterns, materials and colors;
12 and (3) The affordable units will be built and occupied ~~prior to, or simultaneous with the~~
13 ~~construction and occupancy of any~~ in a proportional manner with the construction and occupancy
14 of the market rate units. Except that for housing units that are intended to be occupied by persons
15 fifty-five (55) years of age or older, or sixty-two (62) years of age or older, as permitted by the
16 federal Fair Housing Act pursuant to 42 U.S.C.A. § 3607(b) and 24 CFR § 100.300-308 and the
17 Rhode Island fair housing practices act pursuant to § 34-37-4.1, such units need not be integrated
18 in any building or phase within the development that contains housing units that are not age-
19 restricted, and neither age-restricted housing units nor any building or phase containing age-
20 restricted housing units must be compatible in scale and architectural style to other housing unit
21 types to the extent the age-restricted housing units are designed to meet the physical or social needs
22 of older persons or necessary to provide housing opportunities for older persons.

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

28 (V) ~~All~~ Whether the proposed land developments ~~and all~~ or subdivisions lots will have
29 adequate and permanent physical access to a public street in accordance with the requirements of
30 § 45-23-60(a)(5), or the local review board has approved other access, such as a private road.

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

1 ~~(F) **Required findings for denial.** In reviewing the comprehensive permit request, the~~
2 ~~local review board may deny the request for any of the following reasons: (I) If the city or town~~
3 ~~has an approved affordable housing plan and is meeting housing needs, and the proposal is~~
4 ~~inconsistent with the affordable housing plan; provided that, the local review board also finds that~~
5 ~~the municipality has made significant progress in implementing that housing plan; (II) The proposal~~
6 ~~is not consistent with local needs, including, but not limited to, the needs identified in an approved~~
7 ~~comprehensive plan, and/or local zoning ordinances and procedures promulgated in conformance~~
8 ~~with the comprehensive plan; (III) The proposal is not in conformance with the comprehensive~~
9 ~~plan; (IV) The community has met or has plans to meet the goal of ten percent (10%) of the year-~~
10 ~~round units or, in the case of an urban town or city, fifteen percent (15%) of the occupied rental~~
11 ~~housing units as defined in § 45-53-3(5)(i) being low and moderate income housing; provided~~
12 ~~that, the local review board also finds that the community has achieved or has made significant~~
13 ~~progress towards meeting the goals required by this section; or (V) Concerns for the environment~~
14 ~~and the health and safety of current residents have not been adequately addressed.~~

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

23 ~~(3)~~(4) **Final plan review.** The second and final stage of review for the comprehensive
24 permit project shall be done administratively, unless an applicant has requested and been granted
25 any waivers from the submission of checklist items for preliminary plan review, and then, at the
26 local review board's discretion, it may vote to require the applicant to return for final plan review
27 and approval.

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

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

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

34 (C) A sample land lease or deed restriction with affordability liens that will restrict use as

1 low- and moderate-income housing in conformance with the guidelines of the agency providing
2 the subsidy for the low- and moderate-income housing, but for a period of not less than thirty (30)
3 years; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 ~~(4)~~(5) **Infeasibility of conditions of approval.** The burden is on the applicant to show, by
23 competent evidence before the local review board, that proposed conditions of approval are
24 infeasible, as defined in § 45-53-3. Upon request, the applicant shall be provided a reasonable
25 opportunity to respond to such proposed conditions prior to a final vote on the application.

26 ~~(5)~~(6) **Fees.** Municipalities may impose fees on comprehensive permit applications that are
27 consistent with but do not exceed fees that would otherwise be assessed for a project of the same
28 scope and type, but not proceeding under this chapter; provided, however, the imposition of such
29 fees shall not preclude a showing by an applicant that the fees make the project financially
30 infeasible.

31 ~~(6)~~(7) **Recording of written decisions.** All written decisions on applications under this
32 chapter shall be recorded in the land evidence records within twenty (20) days after the local review
33 board's vote or the administrative officer's decision, as applicable. A copy of the recorded decision
34 shall be mailed within one business day of recording, by any method that provides confirmation of

1 receipt, to the applicant and to any objector who has filed a written request for notice with the
2 administrative officer.

3 ~~(7)~~(8) **Local review board powers.** The local review board has the same power to issue
4 permits or approvals that any local board or official who would otherwise act with respect to the
5 application, including, but not limited to, the power to attach to the permit or approval, conditions,
6 and requirements with respect to height, site plan, size or shape, or building materials, as are
7 consistent with the terms of this section.

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

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

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

23 ~~(11)~~(12) **Report.** The local review board of a town with an approved affordable housing
24 plan shall report the status of implementation to the housing resources commission, including the
25 disposition of any applications made under the plan, as of June 30, 2006, by September 1, 2006,
26 and for each June 30 thereafter by September 1 through 2010. The housing resources commission
27 shall prepare by October 15 and adopt by December 31, a report on the status of implementation,
28 which shall be submitted to the governor, the speaker and the president of the senate, and shall find
29 which towns are not in compliance with implementation requirements.

30 ~~(12)~~(13) **Remanded applications.** Notwithstanding the provisions of § 45-53-4 in effect
31 on February 13, 2004, a local review board shall commence hearings within thirty (30) days of
32 receiving an application remanded pursuant to § 45-53-5 or, effective January 1, 2024, § 45-53-
33 5.1. In any town with more than one remanded application, applications may be scheduled for
34 hearing in the order in which they were received, and may be taken up sequentially, with the thirty-

1 day (30) requirement for the initiation of hearings, commencing upon the decision of the earlier
2 filed application.

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

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

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

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

31 (g) If any provision of this section or the application thereof shall for any reason be judged
32 invalid, the judgment shall not affect, impair, or invalidate the remainder of this section or of any
33 other provision of this chapter, but shall be confined in its effect to the provision or application
34 directly involved in the controversy giving rise to the judgment, and a moratorium on the

1 applications of for-profit developers pursuant to this chapter shall remain and continue to be in
2 effect for the period commencing on the day this section becomes law [February 13, 2004] and
3 continue until it shall expire on January 31, 2005, or until amended further.

4 (h) In planning for, awarding, and otherwise administering programs and funds for housing
5 and for community development, state departments, agencies, boards and commissions, and public
6 corporations, as defined in chapter 18 of title 35, shall among the towns subject to the provision of
7 § 45-53-3(5)(ii), give priority to the maximum extent allowable by law to towns with an approved
8 affordable housing plan. The director of administration shall adopt not later than January 31, 2005,
9 regulations to implement the provisions of this section.

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

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

15 **45-53-3. Definitions. [Effective January 1, 2026, inclusive of existing language in § 45-**
16 **53-3.]**

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

19 (1) "Adjustment(s)" means a request or requests by the applicant to seek relief from the
20 literal use and dimensional requirements of the municipal zoning ordinance and/or the design
21 standards or requirements of the municipal land development and subdivision regulations. The
22 standard for the local review board's consideration of adjustments is set forth in § 45-53-
23 4(d)(2)(iii)(E)(II).

24 (2) "Affordable housing plan" means a component of a housing element, as defined in §
25 45-22.2-4(1), that addresses [low- and moderate-income](#) housing needs in a city or town that is
26 prepared in accordance with guidelines adopted by the state planning council, and/or to meet the
27 provisions of § 45-53-4(e)(1) and (f).

28 (3) "Approved affordable housing plan" means an affordable housing plan that has been
29 approved by the director of administration as meeting the guidelines for the local comprehensive
30 plan as promulgated by the state planning council; provided, however, that state review and
31 approval, for plans submitted by December 31, 2004, shall not be contingent on the city or town
32 having completed, adopted, or amended its comprehensive plan as provided for in § 45-22.2-8, §
33 45-22.2-9, or § 45-22.2-12.

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

town pursuant to chapters 22.2 and 22.3 of this title.

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

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

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

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

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

(7) “Letter of eligibility” means a letter issued by the Rhode Island housing and mortgage

1 finance corporation in accordance with § 42-55-5.3(a).

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

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

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

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

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

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

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

7 ~~(11)~~(10) “Monitoring agents” means those monitoring agents appointed by the Rhode
8 Island housing resources commission pursuant to § 45-53-3.2 and to provide the monitoring and
9 oversight set forth in this chapter, including, but not limited to, §§ 45-53-3.2 and 45-53-4.

10 ~~(12)~~(11) “Municipal government subsidy” means assistance that is made available through
11 a city or town program sufficient to make housing affordable, as affordable housing is defined in §
12 42-128-8.1(d)(1); such assistance shall include a combination of, but is not limited to, direct
13 financial support, abatement of taxes, waiver of fees and charges, and approval of density bonuses
14 and/or internal subsidies, zoning incentives, and adjustments as defined in this section and any
15 combination of forms of assistance.

16 **45-53-4. Procedure for approval of construction of low- or moderate-income housing.**
17 **[Effective January 1, 2026, inclusive of existing language in § 45-53-4.]**

18 (a) Any applicant proposing to build low- or moderate-income housing may submit to the
19 local review board a single application for a comprehensive permit to build that housing in lieu of
20 separate applications to the applicable local boards. This procedure is only available for proposals
21 in which at least twenty-five percent (25%) of the housing is low- or moderate-income housing.
22 This procedure is not available in cities and towns that have low- or moderate-income housing in
23 excess of ten percent (10%) of its year-round housing units which also have an inclusionary zoning
24 ordinance which complies with § 45-24-46.1.

25 (b) Cities and towns that have low- or moderate-income housing in excess of ten percent
26 (10%) of its year-round housing units:

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

31 (2) May, by council action, limit the annual total number of dwelling units in
32 comprehensive permit applications from for-profit developers to an aggregate of one percent (1%)
33 of the total number of year-round housing units in the town, and notwithstanding the timetables set
34 forth elsewhere in this section, the local review board shall have the authority to consider

1 comprehensive permit applications from for-profit developers, which are made pursuant to this
2 subsection, sequentially in the order in which they are submitted.

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

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

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

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

17 (A) Density bonuses. These cities and towns shall provide an applicant with more dwelling
18 units than allowed by right under its zoning ordinances in the form of a density bonus to allow an
19 increase in the allowed dwelling units per acre (DU/A). ~~Furthermore, a municipality shall provide,~~
20 ~~at~~ At a minimum, the following density bonuses for projects submitted under this chapter, provided
21 that the total land utilized in the density calculation shall exclude wetlands; wetland buffers; area
22 devoted to infrastructure necessary for development; and easements or rights of way of record:

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

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

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

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

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

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

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

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

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

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

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

28 (1) **Pre-application conference.** A municipality may require an applicant proposing a
29 project under this chapter to complete, or the applicant proposing a project under this chapter may
30 request a pre-application conference with the local review board, the technical review committee
31 established pursuant to § 45-23-56, or with the administrative officer for the local review board as
32 appropriate. In advance of a pre-application conference, the applicant shall be required to submit
33 only a short description of the project in writing including the number of units, type of housing,
34 density analysis, preliminary list of adjustments needed, as well as a location map, and conceptual

1 site plan. The purpose of the pre-application conference shall be to review a concept plan of the
2 proposed development and to elicit feedback from the reviewing person or board. Upon receipt of
3 a request by an applicant for a pre-application conference, the municipality shall have thirty (30)
4 days to schedule and hold the pre-application conference, unless a different timeframe is agreed to
5 by the applicant in writing. If thirty (30) days has elapsed from the filing of the pre-application
6 submission and no pre-application conference has taken place, nothing shall be deemed to preclude
7 an applicant from thereafter filing and proceeding with an application for preliminary plan review
8 for a comprehensive permit.

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

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

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

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

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

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

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

29 **(ii) Certification of completeness.** The preliminary plan application must be certified
30 complete or incomplete by the administrative officer according to the provisions of § 45-23-36;
31 provided, however, that the certificate shall be granted within twenty-five (25) days of submission
32 of the application. The running of the time period set forth herein will be deemed stopped upon the
33 issuance of a written certificate of incompleteness of the application by the administrative officer
34 and will recommence upon the resubmission of a corrected application by the applicant. However,

1 in no event will the administrative officer be required to certify a corrected submission as complete
2 or incomplete less than ten (10) days after its resubmission. If the administrative officer certifies
3 the application as incomplete, the officer shall set forth in writing with specificity the missing or
4 incomplete items.

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

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

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

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

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

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

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

30 (II) The proposed development is in compliance with the standards and provisions of the
31 municipality's zoning ordinance and subdivision regulations, and/or where adjustments are
32 requested by the applicant, that local concerns that have been affected by the relief granted do not
33 outweigh the state and local need for low- and moderate-income housing. [For cities and towns that](#)
34 [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) All low- and moderate-income housing units proposed are integrated throughout the development; are compatible in scale and architectural style to the market rate units within the project; and will be built and occupied prior to, or simultaneous with the construction and occupancy of any market rate units.

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

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

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

(F) **Required findings for denial.** In reviewing the comprehensive permit request, the local review board may deny the request for any of the following reasons: (I) If the city or town has an approved affordable housing plan and is meeting housing needs, and the proposal is inconsistent with the affordable housing plan; provided that, the local review board also finds that the municipality has made significant progress in implementing that housing plan; (II) The proposal is not consistent with local needs, including, but not limited to, the needs identified in an approved comprehensive plan, and/or local zoning ordinances and procedures promulgated in conformance with the comprehensive plan; (III) The proposal is not in conformance with the comprehensive plan; (IV) The community has met or has plans to meet the goal of ten percent (10%) of the year-round units or, in the case of an urban town or city, fifteen percent (15%) of the occupied rental housing units as defined in § 45-53-3(5)(i) being low- and moderate-income housing; provided that, the local review board also finds that the community has achieved or has made significant progress towards meeting the goals required by this section; or (V) Concerns for the environment and the health and safety of current residents have not been adequately addressed.

(iv) **Vesting.** The approved preliminary plan is vested for a period of two (2) years with

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

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

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

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

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

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

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

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

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

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

32 (ii) **Certification of completeness.** The final plan application must be certified complete
33 or incomplete by the administrative officer according to the provisions of § 45-23-36; provided
34 however, that the certificate shall be granted within twenty-five (25) days of submission of the

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

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

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

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

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

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

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

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

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

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

1 to extend for one one-year extension upon written request by the applicant, who must appear before
2 the planning board for the extension request. Thereafter, vesting may be extended for a longer
3 period, for good cause shown, if requested, in writing by the applicant, and approved by the local
4 review board.

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

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

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

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

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

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

32 ~~(10) **For-profit developers — Limits.** A town with an approved affordable housing plan~~
33 ~~and that is meeting local housing needs, as defined in this chapter, may by council action limit the~~
34 ~~annual total number of dwelling units in comprehensive permit applications from for-profit~~

~~developers to an aggregate of one percent (1%) of the total number of year-round housing units in the town, as recognized in the affordable housing plan and notwithstanding the timetables set forth elsewhere in this section, the local review board shall have the authority to consider comprehensive permit applications from for-profit developers, which are made pursuant to this paragraph, sequentially in the order in which they are submitted.~~

~~(11)~~**(10) Report.** The local review board of a town with an approved affordable housing plan shall report the status of implementation to the housing resources commission, including the disposition of any applications made under the plan, as of June 30, 2006, by September 1, 2006, and for each June 30 thereafter by September 1 through 2010. The housing resources commission shall prepare by October 15 and adopt by December 31, a report on the status of implementation, which shall be submitted to the governor, the speaker and the president of the senate, and shall find which towns are not in compliance with implementation requirements.

~~(12)~~**(11) Remanded applications.** Notwithstanding the provisions of § 45-53-4 in effect on February 13, 2004, a local review board shall commence hearings within thirty (30) days of receiving an application remanded pursuant to § 45-53-5 or, effective January 1, 2024, § 45-53-5.1. In any town with more than one remanded application, applications may be scheduled for hearing in the order in which they were received, and may be taken up sequentially, with the thirty-day (30) requirement for the initiation of hearings, commencing upon the decision of the earlier filed application.

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

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

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

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

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

21 (h) In planning for, awarding, and otherwise administering programs and funds for housing
22 and for community development, state departments, agencies, boards and commissions, and public
23 corporations, as defined in chapter 18 of title 35, shall among the towns subject to the provision of
24 § 45-53-3(5)(ii), give priority to the maximum extent allowable by law to towns with an approved
25 affordable housing plan. The director of administration shall adopt not later than January 31, 2005,
26 regulations to implement the provisions of this section.

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

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

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

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

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

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LC002161/SUB A
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