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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 -- SUBDIVISION OF LAND

Introduced By: Representatives Cruz, Shekarchi, Potter, Kislak, Stewart, Cotter,
Solomon, Slater, Casimiro, and Alzate
Date Introduced: February 27, 2025
Referred To: House Municipal Government & Housing

It is enacted by the General Assembly as follows:

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- SECTION 1. Section 45-23-32 of the General Laws in Chapter 45-23 entitled "Subdivision of Land" is hereby amended to read as follows:
- 45-23-32. Definitions.**
- Where words or phrases used in this chapter are defined in the definitions section of either the Rhode Island Comprehensive Planning and Land Use Regulation Act, § 45-22.2-4, or the Rhode Island Zoning Enabling Act of 1991, § 45-24-31, they have the meanings stated in those acts. Additional words and phrases may be defined in local ordinances, regulations, and rules under this act in a manner that does not conflict or alter the terms or mandates in this act, the Rhode Island Comprehensive Planning and Land Use Regulation Act § 45-22.2-4, and the Rhode Island Zoning Enabling Act of 1991. The words and phrases defined in this section, however, shall be controlling in all local ordinances, regulations, and rules created under this chapter. In addition, the following words and phrases have the following meanings:
- (1) **Administrative officer.** The municipal official(s) designated by the local regulations to administer the land development and subdivision regulations to review and approve qualified applications and/or coordinate with local boards and commissions, municipal staff, and state agencies as set forth herein. The administrative officer may be a member, or the chair, of the planning board, an employee of the municipal planning or zoning departments, or an appointed official of the municipality. See § 45-23-55.
- (2) **Board of appeal.** The local review authority for appeals of actions of the administrative

officer, which shall be the local zoning board of review constituted as the board of appeal. See § 45-23-57.

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

(4) **Buildable lot.** A lot where construction for the use(s) permitted on the site under the local zoning ordinance is considered practicable by the planning board, considering the physical constraints to development of the site as well as the requirements of the pertinent federal, state, and local regulations. See § 45-23-60(a)(4).

(5) **Certificate of completeness.** A notice issued by the administrative officer informing an applicant that the application is complete and meets the requirements of the municipality's regulations, and that the applicant may proceed with the review process.

(6) **Concept plan.** A drawing with accompanying information showing the basic elements of a proposed land development plan or subdivision as used for pre-application meetings and early discussions, and classification of the project within the approval process.

(7) **Consistency with the comprehensive plan.** A requirement of all local land use regulations which means that all these regulations and subsequent actions are in accordance with the public policies arrived at through detailed study and analysis and adopted by the municipality as the comprehensive community plan as specified in § 45-22.2-3.

(8) **Dedication, fee-in-lieu-of.** Payments of cash that are authorized in the local regulations when requirements for mandatory dedication of land are not met because of physical conditions of the site or other reasons. The conditions under which the payments will be allowed and all formulas for calculating the amount shall be specified in advance in the local regulations. See § 45-23-47.

(9) **Development plan review.** Design or site plan review of a development of a permitted use. A municipality may utilize development plan review under limited circumstances to encourage development to comply with design and/or performance standards of the community under specific and objective guidelines, for the following categories of developments:

(i) A change in use at the property where no extensive construction of improvements is sought;

(ii) An adaptive reuse project located in a commercial zone where no extensive exterior construction of improvements is sought;

(iii) An adaptive reuse project located in a residential zone that results in less than nine (9) residential units;

(iv) Development in a designated urban or growth center; or

(v) Institutional development for educational or hospital facilities.

(vi) [Deleted by P.L. 2024, ch. 292, § 1 and P.L. 2024, ch. 293, § 1.]

1 (10) **Development regulation.** Zoning, subdivision, land development plan, development
2 plan review, historic district, official map, flood plain regulation, soil erosion control, or any other
3 governmental regulation of the use and development of land.

4 (11) **Division of land.** A subdivision.

5 (12) **Environmental constraints.** Natural features, resources, or land characteristics that
6 are sensitive to change and may require conservation measures or the application of special
7 development techniques to prevent degradation of the site, or may require limited development, or
8 in certain instances, may preclude development. See also physical constraints to development.

9 (13) **Final plan.** The final stage of land development and subdivision review or a formal
10 development plan review application. See §§ 45-23-38, 45-23-39, and 45-23-50.

11 (14) **Final plat.** The final drawing(s) of all or a portion of a subdivision to be recorded after
12 approval by the planning board and any accompanying material as described in the community's
13 regulations and/or required by the planning board.

14 (15) **Floor area, gross.** See R.I. State Building Code.

15 (16) **Governing body.** The body of the local government, generally the city or town
16 council, having the power to adopt ordinances, accept public dedications, release public
17 improvement guarantees, and collect fees.

18 (17) **Improvement.** Any natural or built item that becomes part of, is placed upon, or is
19 affixed to, real estate.

20 (18) **Improvement guarantee.** A security instrument accepted by a municipality to ensure
21 that all improvements, facilities, or work required by the land development and subdivision
22 regulations, or required by the municipality as a condition of approval, will be completed in
23 compliance with the approved plans and specifications of a development. See § 45-23-46.

24 (19) **Land development project.** A project in which one or more lots, tracts, or parcels of
25 land or a portion thereof are developed or redeveloped as a coordinated site for one or more uses,
26 units, or structures, including but not limited to, planned development or cluster development for
27 residential, commercial, institutional, recreational, open space, or mixed uses. The local regulations
28 shall include all requirements, procedures, and standards necessary for proper review and approval
29 of land development projects to ensure consistency with this chapter and the Rhode Island zoning
30 enabling act.

31 (i) **Minor land development project.** A land development project involving any one of
32 the following categories which has not otherwise been specifically designated by local ordinance
33 as development plan review:

34 (A) Seven thousand five hundred (7,500) gross square feet of floor area of new commercial,

1 manufacturing, or industrial development, or less; or

2 (B) An expansion of up to fifty percent (50%) of existing floor area or up to ten thousand

3 (10,000) square feet for commercial, manufacturing, or industrial structures; or

4 (C) Mixed-use development consisting of up to six (6) dwelling units and two thousand

5 five hundred (2,500) gross square feet of commercial space or less; or

6 (D) Multi-family residential or residential condominium development of nine (9) units or

7 less; or

8 (E) Change in use at the property where no extensive construction of improvements is

9 sought; or

10 (F) An adaptive reuse project of up to twenty-five thousand (25,000) square feet of gross

11 floor area located in a commercial zone where no extensive exterior construction of improvements

12 is sought; or

13 (G) An adaptive reuse project located in a residential zone that results in less than nine (9)

14 residential units;

15 A community can increase but not decrease the thresholds for minor land development set

16 forth above if specifically set forth in the local ordinance and/or regulations. The process by which

17 minor land development projects are reviewed by the local planning board, commission, technical

18 review committee, and/or administrative officer is set forth in § 45-23-38.

19 (ii) **Major land development project.** A land development project that exceeds the

20 thresholds for a minor land development project as set forth in this section and local ordinance or

21 regulation. The process by which major land development projects are reviewed by the local

22 planning board, commission, technical review committee, or administrative officer is set forth in §

23 45-23-39.

24 (20) **Local regulations.** The land development and subdivision review regulations adopted

25 under the provisions of this act. For purposes of clarification, throughout this act, where reference

26 is made to local regulations, it is to be understood as the land development and subdivision review

27 regulations and all related ordinances and rules properly adopted pursuant to this chapter.

28 (21) **Maintenance guarantee.** Any security instrument that may be required and accepted

29 by a municipality to ensure that necessary improvements will function as required for a specific

30 period of time. See improvement guarantee.

31 (22) **Master plan.** An overall plan for a proposed project site outlining general, rather than

32 detailed, development intentions. It describes the basic parameters of a major development

33 proposal, rather than giving full engineering details. Required in major land development or major

34 subdivision review only. It is the first formal review step of the major land development or major

1 subdivision process and the step in the process in which the public hearing is held. See § 45-23-39.

2 (23) **Modification of requirements.** See § 45-23-62.

3 (24) **Parcel.** A lot, or contiguous group of lots in single ownership or under single control,
4 and usually considered a unit for purposes of development. Also referred to as a tract.

5 (25) **Parking area or lot.** All that portion of a development that is used by vehicles, the
6 total area used for vehicular access, circulation, parking, loading, and unloading.

7 (26) **Permitting authority.** The local agency of government, meaning any board,
8 commission, or administrative officer specifically empowered by state enabling law and local
9 regulation or ordinance to hear and decide on specific matters pertaining to local land use.

10 (27) **Phased development.** Development, usually for large-scale projects, where
11 construction of public and/or private improvements proceeds by sections subsequent to approval
12 of a master plan for the entire site. See § 45-23-48.

13 (28) **Physical constraints to development.** Characteristics of a site or area, either natural
14 or man-made, which present significant difficulties to construction of the uses permitted on that
15 site, or would require extraordinary construction methods. See also environmental constraints.

16 (29) **Planning board.** The official planning agency of a municipality, whether designated
17 as the plan commission, planning commission, plan board, or as otherwise known.

18 (30) **Plat.** A drawing or drawings of a land development or subdivision plan showing the
19 location, boundaries, and lot lines of individual properties, as well as other necessary information
20 as specified in the local regulations.

21 (31) **Pre-application conference.** An initial meeting between developers and municipal
22 representatives that affords developers the opportunity to present their proposals informally and to
23 receive comments and directions from the municipal officials and others. See § 45-23-35.

24 (32) **Preliminary plan.** A required stage of land development and subdivision review that
25 generally requires detailed engineered drawings. See § 45-23-39.

26 (33) **Public hearing.** A hearing before the planning board that is duly noticed in accordance
27 with § 45-23-42 and that allows public comment. A public hearing is not required for an application
28 or stage of approval unless otherwise stated in this chapter.

29 (34) **Public improvement.** Any street or other roadway, sidewalk, pedestrian way, tree,
30 lawn, off-street parking area, drainage feature, or other facility for which the local government or
31 other governmental entity either is presently responsible, or will ultimately assume the
32 responsibility for maintenance and operation upon municipal acceptance.

33 (35) **Slope of land.** The grade, pitch, rise, or incline of the topographic landform or surface
34 of the ground.

- 1 (36) **Storm water detention.** A provision for storage of storm water runoff and the
2 controlled release of the runoff during and after a flood or storm.
- 3 (37) **Storm water retention.** A provision for storage of storm water runoff.
- 4 (38) **Street.** A public or private thoroughfare used, or intended to be used, for passage or
5 travel by motor vehicles. Streets are further classified by the functions they perform. See street
6 classification.
- 7 (39) **Street, access to.** An adequate and permanent way of entering a lot. All lots of record
8 shall have access to a public street for all vehicles normally associated with the uses permitted for
9 that lot.
- 10 (40) **Street, alley.** A public or private thoroughfare primarily designed to serve as
11 secondary access to the side or rear of those properties whose principal frontage is on some other
12 street.
- 13 (41) **Street, cul-de-sac.** A local street with only one outlet and having an appropriate
14 vehicular turnaround, either temporary or permanent, at the closed end.
- 15 (42) **Street, limited access highway.** A freeway or expressway providing for through
16 traffic. Owners or occupants of abutting property on lands and other persons have no legal right to
17 access, except at the points and in the manner as may be determined by the public authority having
18 jurisdiction over the highway.
- 19 (43) **Street, private.** A thoroughfare established as a separate tract for the benefit of
20 multiple, adjacent properties and meeting specific, municipal improvement standards. This
21 definition does not apply to driveways.
- 22 (44) **Street, public.** All public property reserved or dedicated for street traffic.
- 23 (45) **Street, stub.** A portion of a street reserved to provide access to future development,
24 which may provide for utility connections.
- 25 (46) **Street classification.** A method of roadway organization that identifies a street
26 hierarchy according to function within a road system, that is, types of vehicles served and
27 anticipated volumes, for the purposes of promoting safety, efficient land use, and the design
28 character of neighborhoods and districts. Local classifications use the following as major
29 categories:
- 30 (i) **Arterial.** A major street that serves as an avenue for the circulation of traffic into, out
31 of, or around the municipality and carries high volumes of traffic.
- 32 (ii) **Collector.** A street whose principal function is to carry traffic between local streets and
33 arterial streets but that may also provide direct access to abutting properties.
- 34 (iii) **Local.** Streets whose primary function is to provide access to abutting properties.

1 (47) **Subdivider.** Any person who: (i) Having an interest in land, causes it, directly or
2 indirectly, to be divided into a subdivision; or who (ii) Directly or indirectly sells, leases, or
3 develops, or offers to sell, lease, or develop, or advertises to sell, lease, or develop, any interest,
4 lot, parcel, site, unit, or plat in a subdivision; or who (iii) Engages directly or through an agent in
5 the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision
6 or any interest, lot, parcel, site, unit, or plat in a subdivision.

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

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

14 (ii) **Minor subdivision.** A subdivision creating nine (9) or fewer buildable lots. The process
15 by which a municipal planning board, commission, technical review committee, and/or
16 administrative officer reviews a minor subdivision is set forth in § 45-23-38. [Minor subdivisions](#)
17 [shall include oversized lot subdivisions.](#)

18 [Oversized lot subdivision. Subdivision of an existing lot, which was legally merged or](#)
19 [replatted, which:](#)

20 [\(A\) Does not require the creation of a new road; and](#)

21 [\(B\) Which results in the creation of a vacant lot or lots for residential use; and](#)

22 [\(C\) Which resulting vacant residential lots are equal to or greater in lot area than the lot](#)
23 [area of at least fifty percent \(50%\) of the developed residential lots within two hundred feet \(200'\)](#)
24 [of the lot proposed for subdivision, as confirmed by a professional land surveyor based on a](#)
25 [compilation plan, as such term is defined by the rules and regulations for professional land](#)
26 [surveying; and](#)

27 [\(D\) Which resulting residential lots have access to available sewer and water, or have](#)
28 [demonstrated the ability to drill a private well meeting state standards if no public water is available](#)
29 [and/or the suitability and setbacks required for an on-site wastewater treatment system, where no](#)
30 [public sewer is available; and](#)

31 [\(E\) The resulting lots are not less than three thousand square feet \(3,000 ft²\) in lot size for](#)
32 [each.](#)

33 [A lot, qualifying for this type of subdivision shall be reviewed under the requirements and](#)
34 [procedures set forth in § 45-23-38, but shall not require zoning relief solely based on the resulting](#)

reduced lot area of the newly created lots. The resulting subdivided lots shall have the benefit of reduced requirements as set forth in § 45-24-38, and/or are eligible for the processes set forth in § 45-24-46, as applicable.

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

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

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

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

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

SECTION 2. Sections 45-24-31, 45-24-38 and 45-24-46 of the General Laws in Chapter 45-24 entitled "Zoning Ordinances" are hereby amended to read as follows:

45-24-31. Definitions.

Where words or terms used in this chapter are defined in § 45-22.2-4 or § 45-23-32, they have the meanings stated in that section. In addition, the following words have the following meanings. Additional words and phrases may be used in developing local ordinances under this chapter; however, the words and phrases defined in this section are controlling in all local ordinances created under this chapter:

(1) **Abutter.** One whose property abuts, that is, adjoins at a border, boundary, or point with no intervening land.

(2) **Accessory dwelling unit (ADU).** A residential living unit on the same lot where the principal use is a legally established single-family dwelling unit or multi-family dwelling unit. An ADU provides complete independent living facilities for one or more persons. It may take various forms including, but not limited to: a detached unit; a unit that is part of an accessory structure, such as a detached garage; or a unit that is part of an expanded or remodeled primary dwelling.

(3) **Accessory use.** A use of land or of a building, or portion thereof, customarily incidental and subordinate to the principal use of the land or building. An accessory use may be restricted to the same lot as the principal use. An accessory use shall not be permitted without the principal use

1 to which it is related.

2 (4) Adaptive reuse. “Adaptive reuse,” as defined in § 42-64.22-2.

3 (5) Aggrieved party. An aggrieved party, for purposes of this chapter, shall be:

4 (i) Any person, or persons, or entity, or entities, who or that can demonstrate that his, her,

5 or its property will be injured by a decision of any officer or agency responsible for administering

6 the zoning ordinance of a city or town; or

7 (ii) Anyone requiring notice pursuant to this chapter.

8 (6) Agricultural land. “Agricultural land,” as defined in § 45-22.2-4.

9 (7) Airport hazard area. “Airport hazard area,” as defined in § 1-3-2.

10 (8) Applicant. An owner, or authorized agent of the owner, submitting an application or

11 appealing an action of any official, board, or agency.

12 (9) Application. The completed form, or forms, and all accompanying documents, exhibits,

13 and fees required of an applicant by an approving authority for development review, approval, or

14 permitting purposes.

15 (10) Buffer. Land that is maintained in either a natural or landscaped state, and is used to

16 screen or mitigate the impacts of development on surrounding areas, properties, or rights-of-way.

17 (11) Building. Any structure used or intended for supporting or sheltering any use or

18 occupancy.

19 (12) Building envelope. The three-dimensional space within which a structure is permitted

20 to be built on a lot and that is defined by regulations governing building setbacks, maximum height,

21 and bulk; by other regulations; or by any combination thereof.

22 (13) Building height. For a vacant parcel of land, building height shall be measured from

23 the average, existing-grade elevation where the foundation of the structure is proposed. For an

24 existing structure, building height shall be measured from average grade taken from the outermost

25 four (4) corners of the existing foundation. In all cases, building height shall be measured to the top

26 of the highest point of the existing or proposed roof or structure. This distance shall exclude spires,

27 chimneys, flag poles, and the like. For any property or structure located in a special flood hazard

28 area, as shown on the official FEMA Flood Insurance Rate Maps (FIRMs), or depicted on the

29 Rhode Island coastal resources management council (CRMC) suggested design elevation three foot

30 (3’) sea level rise (CRMC SDE 3 SLR) map as being inundated during a one-hundred-year (100)

31 storm, the greater of the following amounts, expressed in feet, shall be excluded from the building

32 height calculation:

33 (i) The base flood elevation on the FEMA FIRM plus up to five feet (5’) of any utilized or

34 proposed freeboard, less the average existing grade elevation; or

1 (ii) The suggested design elevation as depicted on the CRMC SDE 3 SLR map during a
2 one-hundred-year (100) storm, less the average existing grade elevation. CRMC shall reevaluate
3 the appropriate suggested design elevation map for the exclusion every ten (10) years, or as
4 otherwise necessary.

5 (14) Cluster. A site-planning technique that concentrates buildings in specific areas on the
6 site to allow the remaining land to be used for recreation, common open space, and/or preservation
7 of environmentally, historically, culturally, or other sensitive features and/or structures. The
8 techniques used to concentrate buildings shall be specified in the ordinance and may include, but
9 are not limited to, reduction in lot areas, setback requirements, and/or bulk requirements, with the
10 resultant open land being devoted by deed restrictions for one or more uses. Under cluster
11 development, there is no increase in the number of lots that would be permitted under conventional
12 development except where ordinance provisions include incentive bonuses for certain types or
13 conditions of development.

14 (15) Common ownership. Either:

15 (i) Ownership by one or more individuals or entities in any form of ownership of two (2)
16 or more contiguous lots; or

17 (ii) Ownership by any association (ownership may also include a municipality) of one or
18 more lots under specific development techniques.

19 (16) Community residence. A home or residential facility where children and/or adults
20 reside in a family setting and may or may not receive supervised care. This does not include halfway
21 houses or substance-use-disorder-treatment facilities. This does include, but is not limited to, the
22 following:

23 (i) Whenever six (6) or fewer children or adults with intellectual and/or developmental
24 disability reside in any type of residence in the community, as licensed by the state pursuant to
25 chapter 24 of title 40.1. All requirements pertaining to local zoning are waived for these community
26 residences;

27 (ii) A group home providing care or supervision, or both, to not more than eight (8) persons
28 with disabilities, and licensed by the state pursuant to chapter 24 of title 40.1;

29 (iii) A residence for children providing care or supervision, or both, to not more than eight
30 (8) children, including those of the caregiver, and licensed by the state pursuant to chapter 72.1 of
31 title 42;

32 (iv) A community transitional residence providing care or assistance, or both, to no more
33 than six (6) unrelated persons or no more than three (3) families, not to exceed a total of eight (8)
34 persons, requiring temporary financial assistance, and/or to persons who are victims of crimes,

1 abuse, or neglect, and who are expected to reside in that residence not less than sixty (60) days nor
2 more than two (2) years. Residents will have access to, and use of, all common areas, including
3 eating areas and living rooms, and will receive appropriate social services for the purpose of
4 fostering independence, self-sufficiency, and eventual transition to a permanent living situation.

5 (17) Comprehensive plan. The comprehensive plan adopted and approved pursuant to
6 chapter 22.2 of this title and to which any zoning adopted pursuant to this chapter shall be in
7 compliance.

8 (18) Day care — Daycare center. Any other daycare center that is not a family daycare
9 home.

10 (19) Day care — Family daycare home. Any home, other than the individual's home, in
11 which day care in lieu of parental care or supervision is offered at the same time to six (6) or less
12 individuals who are not relatives of the caregiver, but may not contain more than a total of eight
13 (8) individuals receiving day care.

14 (20) Density, residential. The number of dwelling units per unit of land.

15 (21) Development. The construction, reconstruction, conversion, structural alteration,
16 relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance;
17 or any change in use, or alteration or extension of the use, of land.

18 (22) Development plan review. See §§ 45-23-32 and 45-23-50.

19 (23) District. See “zoning use district.”

20 (24) Drainage system. A system for the removal of water from land by drains, grading, or
21 other appropriate means. These techniques may include runoff controls to minimize erosion and
22 sedimentation during and after construction or development; the means for preserving surface and
23 groundwaters; and the prevention and/or alleviation of flooding.

24 (25) Dwelling unit. A structure, or portion of a structure, providing complete, independent
25 living facilities for one or more persons, including permanent provisions for living, sleeping, eating,
26 cooking, and sanitation, and containing a separate means of ingress and egress.

27 (26) Extractive industry. The extraction of minerals, including: solids, such as coal and
28 ores; liquids, such as crude petroleum; and gases, such as natural gases. The term also includes
29 quarrying; well operation; milling, such as crushing, screening, washing, and flotation; and other
30 preparation customarily done at the extraction site or as a part of the extractive activity.

31 (27) Family member. A person, or persons, related by blood, marriage, or other legal
32 means, including, but not limited to, a child, parent, spouse, mother-in-law, father-in-law,
33 grandparents, grandchildren, domestic partner, sibling, care recipient, or member of the household.

34 (28) Floating zone. An unmapped zoning district adopted within the ordinance that is

established on the zoning map [is effective](#) only when an application for development, meeting the zone requirements, is approved [and the approved plan is recorded](#).

(29) Floodplains, or Flood hazard area. As defined in § 45-22.2-4.

(30) Freeboard. A factor of safety expressed in feet above the base flood elevation of a flood hazard area for purposes of floodplain management. Freeboard compensates for the many unknown factors that could contribute to flood heights, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

(31) Groundwater. “Groundwater” and associated terms, as defined in § 46-13.1-3.

(32) Halfway house. A residential facility for adults or children who have been institutionalized for criminal conduct and who require a group setting to facilitate the transition to a functional member of society.

(33) Hardship. See § 45-24-41.

(34) Historic district or historic site. As defined in § 45-22.2-4.

(35) Home occupation. Any activity customarily carried out for gain by a resident, conducted as an accessory use in the resident's dwelling unit.

(36) Household. One or more persons living together in a single-dwelling unit, with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit. The term “household unit” is synonymous with the term “dwelling unit” for determining the number of units allowed within any structure on any lot in a zoning district. An individual household shall consist of any one of the following:

(i) A family, which may also include servants and employees living with the family; or

(ii) A person or group of unrelated persons living together. The maximum number may be set by local ordinance, but this maximum shall not be less than one person per bedroom and shall not exceed five (5) unrelated persons per dwelling. The maximum number shall not apply to NARR-certified recovery residences.

(37) Incentive zoning. The process whereby the local authority may grant additional development capacity in exchange for the developer's provision of a public benefit or amenity as specified in local ordinances.

(38) Infrastructure. Facilities and services needed to sustain residential, commercial, industrial, institutional, and other activities.

(39) Land development project. As defined in § 45-23-32.

(40) Lot. Either:

(i) The basic development unit for determination of lot area, depth, and other dimensional

1 regulations; or

2 (ii) A parcel of land whose boundaries have been established by some legal instrument,

3 such as a recorded deed or recorded map, and that is recognized as a separate legal entity for

4 purposes of transfer of title.

5 (41) Lot area. The total area within the boundaries of a lot, excluding any street right-of-

6 way, usually reported in acres or square feet.

7 (42) Lot area, minimum. The smallest land area established by the local zoning ordinance

8 upon which a use, building, or structure may be located in a particular zoning district.

9 (43) Lot building coverage. That portion of the lot that is, or may be, covered by buildings

10 and accessory buildings.

11 (44) Lot depth. The distance measured from the front lot line to the rear lot line. For lots

12 where the front and rear lot lines are not parallel, the lot depth is an average of the depth.

13 (45) Lot frontage. That portion of a lot abutting a street. A zoning ordinance shall specify

14 how noncontiguous frontage will be considered with regard to minimum frontage requirements.

15 (46) Lot line. A line of record, bounding a lot, that divides one lot from another lot or from

16 a public or private street or any other public or private space and shall include:

17 (i) Front: the lot line separating a lot from a street right-of-way. A zoning ordinance shall

18 specify the method to be used to determine the front lot line on lots fronting on more than one

19 street, for example, corner and through lots;

20 (ii) Rear: the lot line opposite and most distant from the front lot line, or in the case of

21 triangular or otherwise irregularly shaped lots, an assumed line at least ten feet (10') in length

22 entirely within the lot, parallel to and at a maximum distance from, the front lot line; and

23 (iii) Side: any lot line other than a front or rear lot line. On a corner lot, a side lot line may

24 be a street lot line, depending on requirements of the local zoning ordinance.

25 (47) Lot size, minimum. Shall have the same meaning as "minimum lot area" defined

26 herein.

27 (48) Lot, through. A lot that fronts upon two (2) parallel streets, or that fronts upon two (2)

28 streets that do not intersect at the boundaries of the lot.

29 (49) Lot width. The horizontal distance between the side lines of a lot measured at right

30 angles to its depth along a straight line parallel to the front lot line at the minimum front setback

31 line.

32 (50) Manufactured home. As used in this section, a manufactured home shall have the same

33 definition as in 42 U.S.C. § 5402, meaning a structure, transportable in one or more sections, which,

34 in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in

length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with a permanent foundation connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure that meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under chapter 70 of Title 42 of the United States Code; and except that such term shall not include any self-propelled recreational vehicle.

(51) Mere inconvenience. See § 45-24-41.

(52) Mixed use. A mixture of land uses within a single development, building, or tract.

(53) Modification. Permission granted and administered by the zoning enforcement officer of the city or town, and pursuant to the provisions of this chapter to grant a dimensional ~~variance~~ ~~other than lot area requirements~~ [relief](#) from the zoning ordinance to a limited degree as determined by the zoning ordinance of the city or town, but not to exceed twenty-five percent (25%) of each of the applicable dimensional requirements.

(54) Nonconformance. A building, structure, or parcel of land, or use thereof, lawfully existing at the time of the adoption or amendment of a zoning ordinance and not in conformity with the provisions of that ordinance or amendment. Nonconformance is of only two (2) types:

(i) Nonconforming by use: a lawfully established use of land, building, or structure that is not a permitted use in that zoning district. A building or structure containing more dwelling units than are permitted by the use regulations of a zoning ordinance is nonconformity by use; or

(ii) Nonconforming by dimension: a building, structure, or parcel of land not in compliance with the dimensional regulations of the zoning ordinance. Dimensional regulations include all regulations of the zoning ordinance, other than those pertaining to the permitted uses. A building or structure containing more dwelling units than are permitted by the use regulations of a zoning ordinance is nonconforming by use; a building or structure containing a permitted number of dwelling units by the use regulations of the zoning ordinance, but not meeting the lot area per dwelling unit regulations, is nonconforming by dimension.

(55) Overlay district. A district established in a zoning ordinance that is superimposed on one or more districts or parts of districts. The standards and requirements associated with an overlay district may be more or less restrictive than those in the underlying districts consistent with other applicable state and federal laws.

(56) Performance standards. A set of criteria or limits relating to elements that a particular

1 use or process must either meet or may not exceed.

2 (57) Permitted use. A use by right that is specifically authorized in a particular zoning
3 district.

4 (58) Planned development. A “land development project,” as defined in subsection (39),
5 and developed according to plan as a single entity and containing one or more structures or uses
6 with appurtenant common areas.

7 (59) Plant agriculture. The growing of plants for food or fiber, to sell or consume.

8 (60) Preapplication conference. A review meeting of a proposed development held between
9 applicants and reviewing agencies as permitted by law and municipal ordinance, before formal
10 submission of an application for a permit or for development approval.

11 (61) Setback line or lines. A line, or lines, parallel to a lot line at the minimum distance of
12 the required setback for the zoning district in which the lot is located that establishes the area within
13 which the principal structure must be erected or placed.

14 (62) Site plan. The development plan for one or more lots on which is shown the existing
15 and/or the proposed conditions of the lot.

16 (63) Slope of land. The grade, pitch, rise, or incline of the topographic landform or surface
17 of the ground.

18 (64) Special use. A regulated use that is permitted pursuant to the special-use permit issued
19 by the authorized governmental entity, pursuant to § 45-24-42. Formerly referred to as a special
20 exception.

21 (65) Structure. A combination of materials to form a construction for use, occupancy, or
22 ornamentation, whether installed on, above, or below the surface of land or water.

23 (66) Substandard lot of record. Any lot lawfully existing at the time of adoption or
24 amendment of a zoning ordinance and not in conformance with the dimensional or area provisions
25 of that ordinance.

26 (67) Use. The purpose or activity for which land or buildings are designed, arranged, or
27 intended, or for which land or buildings are occupied or maintained.

28 (68) Variance. Permission to depart from the literal requirements of a zoning ordinance.
29 An authorization for the construction or maintenance of a building or structure, or for the
30 establishment or maintenance of a use of land, that is prohibited by a zoning ordinance. There are
31 only two (2) categories of variance, a use variance or a dimensional variance.

32 (i) Use variance. Permission to depart from the use requirements of a zoning ordinance
33 where the applicant for the requested variance has shown by evidence upon the record that the
34 subject land or structure cannot yield any beneficial use if it is to conform to the provisions of the

1 zoning ordinance.

2 (ii) Dimensional variance. Permission to depart from the dimensional requirements of a
3 zoning ordinance under the applicable standards set forth in § 45-24-41.

4 (69) Waters. As defined in § 46-12-1(23).

5 (70) Wetland, coastal. As defined in § 45-22.2-4.

6 (71) Wetland, freshwater. As defined in § 2-1-20.

7 (72) Zoning certificate. A document signed by the zoning enforcement officer, as required
8 in the zoning ordinance, that acknowledges that a use, structure, building, or lot either complies
9 with, or is legally nonconforming to, the provisions of the municipal zoning ordinance or is an
10 authorized variance or modification therefrom.

11 (73) Zoning map. The map, or maps, that are a part of the zoning ordinance and that
12 delineate the boundaries of all mapped zoning districts within the physical boundary of the city or
13 town.

14 (74) Zoning ordinance. An ordinance enacted by the legislative body of the city or town
15 pursuant to this chapter and in the manner providing for the adoption of ordinances in the city or
16 town's legislative or home rule charter, if any, that establish regulations and standards relating to
17 the nature and extent of uses of land and structures; that is consistent with the comprehensive plan
18 of the city or town as defined in chapter 22.2 of this title; that includes a zoning map; and that
19 complies with the provisions of this chapter.

20 (75) Zoning use district. The basic unit in zoning, either mapped or unmapped, to which a
21 uniform set of regulations applies, or a uniform set of regulations for a specified use. Zoning use
22 districts include, but are not limited to: agricultural, commercial, industrial, institutional, open
23 space, and residential. Each district may include sub-districts. Districts may be combined.

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

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

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

34 (1) Minimum building setbacks, lot frontage, and lot width requirements for a lot that is

1 nonconforming in area shall be reduced by applying the building setback, lot frontage, and lot width
2 requirements from another zoning district in the municipality in which the subject lot would be
3 conforming as to lot area. If the subject lot is not conforming as to lot area in any zoning district in
4 the municipality, the setbacks, lot frontage, and lot width shall be reduced by the same proportion
5 that the area of such substandard lot meets the minimum lot area of the district in which the lot is
6 located. By way of example, if the lot area of a substandard lot only meets forty percent (40%) of
7 the minimum lot area required in the district in which it is located, the setbacks, lot frontage, and
8 lot width shall each be reduced to forty percent (40%) of the requirements for those dimensional
9 standards in the same district.

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

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

19 (c) ~~Provisions~~ [Except as set forth otherwise in this chapter and in chapter 23 of title 45,](#)
20 [provisions](#) may be made for the merger of contiguous unimproved, or improved and unimproved,
21 substandard lots of record in the same ownership to create dimensionally conforming lots or to
22 reduce the extent of dimensional nonconformance. The ordinance shall specify the standards, on a
23 district by district basis, which determine the mergers. The standards shall include, but are not to
24 be limited to, the availability of infrastructure, the character of the neighborhood, and the
25 consistency with the comprehensive plan. The merger of lots shall not be required when the
26 substandard lot of record has an area equal to or greater than the area of fifty percent (50%) of the
27 lots within two hundred feet (200') of the subject lot, as confirmed by ~~the zoning enforcement~~
28 ~~officer~~ [a compilation plan signed by a professional land surveyor as such term is defined by the](#)
29 [rules and regulations for professional land surveying.](#)

30 **45-24-46. Special provisions — Modification.**

31 (a) A zoning ordinance shall provide for the issuance of modifications from the literal
32 dimensional requirements of the zoning ordinance in the instance of the construction, alteration, or
33 structural modification of a structure or lot of record. The zoning enforcement officer is authorized
34 to grant modification permits. The zoning ordinance shall permit modifications that are fifteen

1 percent (15%) or less of the dimensional requirements specified in the zoning ordinance but may
2 permit modification up to twenty-five percent (25%). ~~A modification does not permit moving of~~
3 ~~lot lines.~~ Within ten (10) days of the receipt of a request for a modification, the zoning enforcement
4 officer shall make a decision as to the suitability of the requested modification based on the
5 following determinations:

6 (1) The modification requested is reasonably necessary for the full enjoyment of the
7 permitted use;

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

10 (3) The modification requested does not require a variance of a flood hazard requirement,
11 unless the building is built in accordance with applicable regulations; and

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

14 (b) Upon an affirmative determination, in the case of a modification of five percent (5%)
15 or less, the zoning enforcement officer shall have the authority to issue a permit approving the
16 modification, without any public notice requirements. In the case of a modification of greater than
17 five percent (5%), the zoning enforcement officer shall notify, by first class mail, all property
18 owners abutting the property which is the subject of the modification request, and shall indicate the
19 street address of the subject property in the notice, and shall publish in a newspaper of local
20 circulation within the city or town that the modification will be granted unless written objection is
21 received within fourteen (14) days of the public notice. If written objection is received within
22 fourteen (14) days, the request for a modification shall be scheduled for the next available hearing
23 before the zoning board of review on application for a dimensional variance following the standard
24 procedures for such variances, including notice requirements provided for under this chapter. If no
25 written objections are received within fourteen (14) days, the zoning enforcement officer shall grant
26 the modification. The zoning enforcement officer may apply any special conditions to the permit
27 as may, in the opinion of the officer, be required to conform to the intent and purposes of the zoning
28 ordinance. The zoning enforcement officer shall keep public records of all requests for
29 modifications, and of findings, determinations, special conditions, and any objections received.
30 Costs of any notice required under this subsection shall be borne by the applicant requesting the
31 modification.

32 (c) Neighborhood character-based modifications ("NCBM"). The zoning enforcement
33 officer is authorized to grant NCBM on any parcel with a public water and sewer connection, and
34 for purposes of residential use, from the literal dimensional requirements of the zoning ordinance

1 in the instance of the construction, alteration, creation or structural modification of a dwelling unit,
2 provided that:

3 (1) Such modifications shall only be granted for dimensional relief from frontage, lot width,
4 and lot depth, up to the average dimensions of the comparable existing built environment;

5 (2) The average dimensions of the comparable existing built environment shall be
6 calculated as follows:

7 (i) Comparable existing parcels shall mean all parcels that are:

8 (A) Within two hundred feet (200') of the subject property; and
9 (B) In the same base zone; and
10 (C) Used for residential purposes.

11 (ii) The average dimensions shall be confirmed by a professional land surveyor.

12 (iii) The average dimensions are to be determined without any additional review of zoning
13 or building code analysis of the legality of the existing dimensions of the comparable existing
14 parcels.

15 (3) Within ten (10) days of the receipt of a request for NCBM, the zoning enforcement
16 officer shall make a decision as to the suitability of the requested modification based on the
17 following determinations:

18 (i) The modification requested does not require a variance of a flood hazard requirement,
19 unless the building is built in accordance with applicable regulations; and

20 (ii) The modification requested does not violate any rules or regulations with respect to
21 freshwater or coastal wetlands; and

22 (iii) The NCBM does not violate any provisions regarding separation included in the state
23 building or fire code;

24 (4) Upon an affirmative determination, in the case of an NCBM modification of equal to
25 or less than thirty percent (30%) of the requirements of the zoning district, the zoning enforcement
26 officer shall have the authority to issue a permit approving the modification, without any public
27 notice requirements. In the case of an NCBM modification of greater than thirty percent (30%), the
28 zoning enforcement officer shall notify, by first class mail, all property owners abutting the
29 property which is the subject of the NCBM modification request, and shall indicate the street
30 address of the subject property in the notice, and shall publish in a newspaper of local circulation
31 within the city or town that the modification will be granted unless written objection is received
32 within fourteen (14) days of the public notice. If written objection is received from any party
33 entitled to notice under this section within fourteen (14) days, the request for a modification shall
34 be scheduled for the next available hearing before the zoning board of review on application for a

1 dimensional variance following the standard procedures for such variances, including notice
2 requirements provided for under this chapter. If no written objections are received within fourteen
3 (14) days, the zoning enforcement officer shall grant the modification. The zoning enforcement
4 officer may apply any special conditions to the permit as may, in the opinion of the officer, be
5 required to conform to the intent and purposes of the zoning ordinance. The zoning enforcement
6 officer shall keep public records of all requests for modifications, and of findings, determinations,
7 special conditions, and any objections received. Costs of any notice required under this subsection
8 shall be borne by the applicant requesting the modification.

9 SECTION 3. This act shall take effect on January 1, 2026.

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LC002159/SUB A/2

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES -- SUBDIVISION OF LAND

1 This act would provide that, relative to subdivision of land, minor subdivisions would
2 include oversized lot subdivisions under certain circumstances and would also, relative to zoning
3 ordinances, permit a modification to allow "neighborhood character-based modifications" under
4 certain circumstances.

5 This act would take effect on January 1, 2026.

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LC002159/SUB A/2

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