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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO TOWNS AND CITIES

Introduced By: Representatives Gallison, San Bento, Malik, Brien, and Dickinson

Date Introduced: February 28, 2012

Referred To: House Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-23-32 and 45-23-44 in Title 45, Chapter 23 of the General
2 Laws, entitled "Subdivision of Land, " are hereby amended as follows:

3 **45-23-32. Definitions.** - Where words or phrases used in this chapter are defined in the
4 definitions section of either the Rhode Island Comprehensive Planning and Land Use Regulation
5 Act, section 45-22.2-4, or the Rhode Island Zoning Enabling Act of 1991, section 45-24-31, they
6 have the meanings stated in those acts. Additional words and phrases may be defined in local
7 ordinances, regulations and rules under this act. The words and phrases defined in this section,
8 however, shall be controlling in all local ordinances, regulations, and rules created under this
9 chapter. See also section 45-23-34. In addition, the following words and phrases have the
10 following meanings:

11 (1) Administrative officer. The municipal official designated by the local regulations to
12 administer the land development and subdivision regulations and to coordinate with local boards
13 and commissions, municipal staff and state agencies. The administrative officer may be a member
14 of, or the chair, of the planning board, or an appointed official of the municipality. See section
15 45-23-55.

16 (2) Administrative subdivision. Re-subdivision of existing lots which yields no additional
17 lots for development, and involves no creation or extension of streets. The re-subdivision only
18 involves divisions, mergers, mergers and division, or adjustments of boundaries of existing lots.

19 (3) Board of appeal. The local review authority for appeals of actions of the

1 administrative officer and the planning board on matters of land development or subdivision,
2 which shall be the local zoning board of review constituted as the board of appeal. See section 45-
3 23-57.

4 (4) Bond. See improvement guarantee.

5 (5) Buildable lot. A lot where construction for the use(s) permitted on the site under the
6 local zoning ordinance is considered practicable by the planning board, considering the physical
7 constraints to development of the site as well as the requirements of the pertinent federal, state
8 and local regulations. See sections [45-23-32\(31\)](#) and [45-23-60\(4\)](#). [No land development or](#)
9 [subdivision regulation, or zoning ordinance, shall require any lot to have more than forty](#)
10 [thousand \(40,000\) square feet of contiguous area that is free of environmental and physical](#)
11 [constraints to development as defined in sections 45-23-32 \(12\) and \(31\). However, in any zoning](#)
12 [districts where a minimum lot area is equal to or greater than eighty thousand \(80,000\) square](#)
13 [feet, no more than half of that minimum required lot area must be contiguous and free of](#)
14 [environmental and physical constraints as defined in sections 45-23-32\(12\) and \(31\).](#)
15 [Notwithstanding the above, no city or town shall be required to exclude an area or areas with](#)
16 [physical and/or environmental constraints in determining buildable lot area.](#)

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

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

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

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

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

1 (11) Division of land. A subdivision.

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

6 (13) Final plan. The final stage of land development and subdivision review. See section
7 45-23-43.

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

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

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

15 (17) Improvement. Any natural or built item which becomes part of, is placed upon, or is
16 affixed to, real estate.

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

21 (19) Local regulations. The land development and subdivision review regulations adopted
22 under the provisions of this act. For purposes of clarification, throughout this act, where reference
23 is made to local regulations, it is be understood as the land development and subdivision review
24 regulations and all related ordinances and rules properly adopted pursuant to this chapter.

25 (20) Maintenance guarantee. Any security instrument which may be required and
26 accepted by a municipality to ensure that necessary improvements will function as required for a
27 specific period of time. See improvement guarantee.

28 (21) Major land development plan. Any land development plan not classified as a minor
29 land development plan.

30 (22) Major subdivision. Any subdivision not classified as either an administrative
31 subdivision or a minor subdivision.

32 (23) Master plan. An overall plan for a proposed project site outlining general, rather than
33 detailed, development intentions. It describes the basic parameters of a major development
34 proposal, rather than giving full engineering details. Required in major land development or

1 major subdivision review. See section 45-23-40.

2 (24) Minor land development plan. A development plan for a residential project as
3 defined in local regulations, provided that the development does not require waivers or
4 modifications as specified in this act. All nonresidential land development projects are considered
5 major land development plans.

6 (25) Minor subdivision. A plan for a subdivision of land consisting of five (5) or fewer
7 units or lots, provided that the subdivision does not require waivers or modifications as specified
8 in this chapter.

9 (26) Modification of requirements. See section 45-23-62.

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

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

14 (29) Permitting authority. The local agency of government specifically empowered by
15 state enabling law and local ordinance to hear and decide on specific matters pertaining to local
16 land use.

17 (30) Phased development. Development, usually for large-scale projects, where
18 construction of public and/or private improvements proceeds by sections subsequent to approval
19 of a master plan for the entire site. See section 45-23-48.

20 (31) Physical constraints to development. Characteristics of a site or area, either natural
21 or man-made, which present significant difficulties to construction of the uses permitted on that
22 site, or would require extraordinary construction methods. [Slope of land shall not be deemed a](#)
23 [physical constraint to development when determining development potential and shall not be](#)
24 [excluded from the calculation of buildable lot area or the calculation of the number of buildable](#)
25 [lots or units.](#) See also environmental constraints.

26 (32) Planning board. The official planning agency of a municipality, whether designated
27 as the plan commission, planning commission, plan board, or as otherwise known.

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

31 (34) Pre-application conference. An initial meeting between developers and municipal
32 representatives which affords developers the opportunity to present their proposals informally and
33 to receive comments and directions from the municipal officials and others. See section 45-23-35.

34 (35) Preliminary plan. The required stage of land development and subdivision review

1 which requires detailed engineered drawings and all required state and federal permits. See
2 section 45-23-41.

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

7 (37) Public informational meeting. A meeting of the planning board or governing body
8 preceded by a notice, open to the public and at which the public is heard.

9 (38) Re-subdivision. Any change of an approved or recorded subdivision plat or in a lot
10 recorded in the municipal land evidence records, or that affects the lot lines of any areas reserved
11 for public use, or that affects any map or plan legally recorded prior to the adoption of the local
12 land development and subdivision regulations. For the purposes of this act any action constitutes
13 a subdivision.

14 (39) Storm water detention. A provision for storage of storm water runoff and the
15 controlled release of the runoff during and after a flood or storm.

16 (40) Storm water retention. A provision for storage of storm water runoff.

17 (41) Street. A public or private thoroughfare used, or intended to be used, for passage or
18 travel by motor vehicles. Streets are further classified by the functions they perform. See street
19 classification.

20 (42) Street, access to. An adequate and permanent way of entering a lot. All lots of record
21 shall have access to a public street for all vehicles normally associated with the uses permitted for
22 that lot.

23 (43) Street, alley. A public or private thoroughfare primarily designed to serve as
24 secondary access to the side or rear of those properties whose principal frontage is on some other
25 street.

26 (44) Street, cul-de-sac. A local street with only one outlet and having an appropriate
27 vehicular turnaround, either temporary or permanent, at the closed end.

28 (45) Street, limited access highway. A freeway or expressway providing for through
29 traffic. Owners or occupants of abutting property on lands and other persons have no legal right
30 to access, except at the points and in the manner as may be determined by the public authority
31 having jurisdiction over the highway.

32 (46) Street, private. A thoroughfare established as a separate tract for the benefit of
33 multiple, adjacent properties and meeting specific, municipal improvement standards. This
34 definition does not apply to driveways.

1 (47) Street, public. All public property reserved or dedicated for street traffic.

2 (48) Street, stub. A portion of a street reserved to provide access to future development,
3 which may provide for utility connections.

4 (49) Street classification. A method of roadway organization which identifies a street
5 hierarchy according to function within a road system, that is, types of vehicles served and
6 anticipated volumes, for the purposes of promoting safety, efficient land use and the design
7 character of neighborhoods and districts. Local classifications use the following as major
8 categories:

9 (a) Arterial. A major street that serves as an avenue for the circulation of traffic into, out
10 of, or around the municipality and carries high volumes of traffic.

11 (b) Collector. A street whose principal function is to carry traffic between local streets
12 and arterial streets but that may also provide direct access to abutting properties.

13 (c) Local. Streets whose primary function is to provide access to abutting properties.

14 (50) Subdivider. Any person who (1) having an interest in land, causes it, directly or
15 indirectly, to be divided into a subdivision or who (2) directly or indirectly sells, leases, or
16 develops, or offers to sell, lease, or develop, or advertises to sell, lease, or develop, any interest,
17 lot, parcel, site, unit, or plat in a subdivision, or who (3) engages directly or through an agent in
18 the business of selling, leasing, developing, or offering for sale, lease, or development a
19 subdivision or any interest, lot, parcel, site, unit, or plat in a subdivision.

20 (51) Subdivision. The division or re-division, of a lot, tract or parcel of land into two or
21 more lots, tracts, or parcels. Any adjustment to existing lot lines of a recorded lot by any means is
22 considered a subdivision. All re-subdivision activity is considered a subdivision. The division of
23 property for purposes of financing constitutes a subdivision.

24 (52) Technical review committee. A committee appointed by the planning board for the
25 purpose of reviewing, commenting, and making recommendations to the planning board with
26 respect to approval of land development and subdivision applications.

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

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

33 (55) Waiver of requirements. See section 45-23-62.

34 [\(56\) Yield Plan. A site plan of a proposed subdivision that is intended to depict the](#)

1 [highest number of lots possible while complying with the requirements of the zoning ordinance,](#)
2 [the land development and subdivision regulations, and all applicable state regulations.](#)

3 **45-23-44. General provisions – Physical design requirements.** - (a) All local
4 regulations shall specify, through reasonable, objective standards and criteria, all physical design
5 requirements for the development projects which are to be reviewed and approved pursuant to the
6 regulations. Regulations shall specify all requirements and policies for subdivisions and land
7 development projects which are not contained in the municipality's zoning ordinance; [provided,](#)
8 [however, that the regulations shall be consistent with the substantive requirements of the zoning](#)
9 [ordinance, including, but not limited to, lot size and development density. Slope of land shall not](#)
10 [be deemed a physical constraint to development when determining development potential and](#)
11 [shall not be excluded from the calculation of buildable lot area or the calculation of the number of](#)
12 [buildable lots or units.](#)

13 (b) The requirements and policies may include, but are not limited to, requirements and
14 policies for rights-of-way, open space, landscaping, connections of proposed streets and drainage
15 systems with those of the surrounding neighborhood, public access through property to adjacent
16 public property, and the relationship of proposed developments to natural and man-made features
17 of the surrounding neighborhood.

18 (c) The regulations shall specify all necessary findings, formulas for calculations and
19 procedures for meeting the requirements and policies. These requirements and policies apply to
20 all subdivisions and land development projects reviewed and/or administered under the local
21 regulations.

22 [\(d\) Nothing in this section shall be construed as abrogating the coastal resources](#)
23 [management council rules and regulations concerning development density.](#)

24 SECTION 2. Sections 45-24-30, 45-24-31, and 45-24-33 of Title 45, Chapter 24 of the
25 General Laws, entitled “Zoning Ordinances,” are hereby amended as follows:

26 **45-24-30. General purposes of zoning ordinances.** - Zoning regulations shall be
27 developed and maintained in accordance with a comprehensive plan prepared, adopted, and as
28 may be amended, in accordance with chapter 22.2 of this title and shall be designed to address the
29 following purposes. The general assembly recognizes these purposes, each with equal priority and
30 numbered for reference purposes only.

31 (1) Promoting the public health, safety, and general welfare.

32 (2) Providing for a range of uses and intensities of use appropriate to the character of the
33 city or town and reflecting current and expected future needs.

34 (3) Providing for orderly growth and development which recognizes:

- 1 (i) The goals and patterns of land use contained in the comprehensive plan of the city or
2 town adopted pursuant to chapter 22.2 of this title;
- 3 (ii) The natural characteristics of the land, including its suitability for use based on soil
4 characteristics, topography, and susceptibility to surface or groundwater pollution;
- 5 (iii) The values and dynamic nature of coastal and freshwater ponds, the shoreline, and
6 freshwater and coastal wetlands;
- 7 (iv) The values of unique or valuable natural resources and features;
- 8 (v) The availability and capacity of existing and planned public and/or private services
9 and facilities;
- 10 (vi) The need to shape and balance urban and rural development; and
- 11 (vii) The use of innovative development regulations and techniques.
- 12 (viii) The desirability of developing land efficiently and economically to preserve
13 contiguous open space and discourage rural, suburban and urban sprawl.
- 14 (4) Providing for the control, protection, and/or abatement of air, water, groundwater, and
15 noise pollution, and soil erosion and sedimentation.
- 16 (5) Providing for the protection of the natural, historic, cultural, and scenic character of
17 the city or town or areas in the municipality.
- 18 (6) Providing for the preservation and promotion of agricultural production, forest,
19 silviculture, aquaculture, timber resources, and open space.
- 20 (7) Providing for the protection of public investment in transportation, water, stormwater
21 management systems, sewage treatment and disposal, solid waste treatment and disposal, schools,
22 recreation, public facilities, open space, and other public requirements.
- 23 (8) Promoting a balance of housing choices, for all income levels and groups, to assure
24 the health, safety and welfare of all citizens and their rights to affordable, accessible, safe, and
25 sanitary housing.
- 26 (9) Providing opportunities for the establishment of low and moderate income housing.
- 27 (10) Promoting safety from fire, flood, and other natural or unnatural disasters.
- 28 (11) Promoting a high level of quality in design in the development of private and public
29 facilities.
- 30 (12) Promoting implementation of the comprehensive plan of the city or town adopted
31 pursuant to chapter 22.2 of this title.
- 32 (13) Providing for coordination of land uses with contiguous municipalities, other
33 municipalities, the state, and other agencies, as appropriate, especially with regard to resources
34 and facilities that extend beyond municipal boundaries or have a direct impact on that

1 municipality.

2 (14) Providing for efficient review of development proposals, to clarify and expedite the
3 zoning approval process.

4 (15) Providing for procedures for the administration of the zoning ordinance, including,
5 but not limited to, variances, special-use permits, and, where adopted, procedures for
6 modifications.

7 (16) Providing opportunities for reasonable accommodations in order to comply with the
8 Rhode Island Fair Housing Practices Act, chapter 37 of title 34, the United States Fair Housing
9 Amendments Act of 1988 (FHAA), the Rhode Island Civil Rights of Persons with Disabilities
10 Act, chapter 87 of title 42, and the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C.
11 section 12101 et seq.

12 **45-24-31. Definitions.** - Where words or terms used in this chapter are defined in section
13 45-22.2-4 [or section 45-23-32](#), they have the meanings stated in that section. In addition, the
14 following words have the following meanings. Additional words and phrases may be used in
15 developing local ordinances under this chapter; however, the words and phrases defined in this
16 section are controlling in all local ordinances created under this chapter:

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

19 (2) Accessory Dwelling Unit. A dwelling unit: (i) rented to and occupied either by one or
20 more members of the family of the occupant or occupants of the principal residence; or (ii)
21 reserved for rental occupancy by a person or a family where the principal residence is owner
22 occupied, and which meets the following provisions:

23 (A) In zoning districts that allow residential uses, no more than one accessory dwelling
24 unit may be an accessory to a single-family dwelling.

25 (B) An accessory dwelling unit shall include separate cooking and sanitary facilities, with
26 its own legal means of ingress and egress and is a complete, separate dwelling unit. The accessory
27 dwelling unit shall be within or attached to the principal dwelling unit structure or within an
28 existing structure, such as a garage or barn, and designed so that the appearance of the principal
29 structure remains that of a one-family residence.

30 (3) Accessory Use. A use of land or of a building, or portion thereof, customarily
31 incidental and subordinate to the principal use of the land or building. An accessory use may be
32 restricted to the same lot as the principal use. An accessory use shall not be permitted without the
33 principal use to which it is related.

34 (4) Aggrieved Party. An aggrieved party, for purposes of this chapter, shall be:

1 (i) Any person or persons or entity or entities who can demonstrate that their property
2 will be injured by a decision of any officer or agency responsible for administering the zoning
3 ordinance of a city or town; or

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

5 (5) Agricultural Land. “Agricultural land”, as defined in section 45-22.2-4.

6 (6) Airport Hazard Area. “Airport hazard area”, as defined in section 1-3-2.

7 (7) Applicant. An owner or authorized agent of the owner submitting an application or
8 appealing an action of any official, board, or agency.

9 (8) Application. The completed form or forms and all accompanying documents, exhibits,
10 and fees required of an applicant by an approving authority for development review, approval, or
11 permitting purposes.

12 (9) Buffer. Land which is maintained in either a natural or landscaped state, and is used to
13 screen and/or mitigate the impacts of development on surrounding areas, properties, or rights-of-
14 way.

15 (10) Buildable Lot. A lot where construction for the use(s) permitted on the site under
16 the local zoning ordinance is considered practicable, considering the physical constraints to
17 development of the site as well as the requirements of the pertinent federal, state and local
18 regulations. See section 45-23-32(31). No land development or subdivision regulation, or zoning
19 ordinance, shall require any lot to have more than forty thousand (40,000) square feet of
20 contiguous area that is free of environmental and physical constraints to development as defined
21 in sections 45-23-32 (12) and (31). However, in any zoning districts where a minimum lot area is
22 equal to or greater than eighty thousand (80,000) square feet, no more than half of that minimum
23 required lot area must be contiguous and free of environmental and physical constraints as
24 defined in sections 45-23-32(12) and (31). Notwithstanding the above, no city or town shall be
25 required to exclude an area or areas with physical and/or environmental constraints in
26 determining buildable lot area.

27 ~~(11)(10)~~ Building. Any structure used or intended for supporting or sheltering any use or
28 occupancy.

29 ~~(12)(11)~~ Building Envelope. The three-dimensional space within which a structure is
30 permitted to be built on a lot and which is defined by regulations governing building setbacks,
31 maximum height, and bulk; by other regulations; and/or by any combination thereof.

32 ~~(13)(12)~~ Building Height. The vertical distance from grade, as determined by the
33 municipality, to the top of the highest point of the roof or structure. The distance may exclude
34 spires, chimneys, flag poles, and the like.

1 (14)(13) Cluster. A site planning technique that concentrates buildings in specific areas
2 on the site to allow the remaining land to be used for recreation, common open space, and/or
3 preservation of environmentally, historically, culturally, or other sensitive features and/or
4 structures. The techniques used to concentrate buildings shall be specified in the ordinance and
5 may include, but are not limited to, reduction in lot areas, setback requirements, and/or bulk
6 requirements, with the resultant open land being devoted by deed restrictions for one or more
7 uses. Under cluster development there is no increase in the number of lots that would be
8 permitted under conventional development except where ordinance provisions include incentive
9 bonuses for certain types or conditions of development.

10 (15)(14) Common Ownership. Either:

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

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

15 (16)(15) Community Residence. A home or residential facility where children and/or
16 adults reside in a family setting and may or may not receive supervised care. This does not
17 include halfway houses or substance abuse treatment facilities. This does include, but is not
18 limited, to the following:

19 (i) Whenever six (6) or fewer children or adults with retardation reside in any type of
20 residence in the community, as licensed by the state pursuant to chapter 24 of title 40.1. All
21 requirements pertaining to local zoning are waived for these community residences;

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

24 (iii) A residence for children providing care or supervision, or both, to not more than
25 eight (8) children including those of the care giver and licensed by the state pursuant to chapter
26 72.1 of title 42;

27 (iv) A community transitional residence providing care or assistance, or both, to no more
28 than six (6) unrelated persons or no more than three (3) families, not to exceed a total of eight (8)
29 persons, requiring temporary financial assistance, and/or to persons who are victims of crimes,
30 abuse, or neglect, and who are expected to reside in that residence not less than sixty (60) days
31 nor more than two (2) years. Residents will have access to and use of all common areas, including
32 eating areas and living rooms, and will receive appropriate social services for the purpose of
33 fostering independence, self-sufficiency, and eventual transition to a permanent living situation.

34 (17)(16) Comprehensive Plan. The comprehensive plan adopted and approved pursuant

1 to chapter 22.2 of this title and to which any zoning adopted pursuant to this chapter shall be in
2 compliance.

3 (18) Conservation Development. A type of land development in which the natural
4 resources and character-defining features of the site are identified first, and lot lines, building
5 envelopes, and open space are located in a way that preserves and protects those features through
6 flexibility in the size and dimensions of lots.

7 (19)(17) Day Care – Day Care Center. Any other day care center which is not a family
8 day care home.

9 (20)(18) Day Care – Family Day Care Home. Any home other than the individual's home
10 in which day care in lieu of parental care or supervision is offered at the same time to six (6) or
11 less individuals who are not relatives of the care giver, but may not contain more than a total of
12 eight (8) individuals receiving day care.

13 (21)(19) Density, Residential. The number of dwelling units per unit of land.

14 (22)(20) Development. The construction, reconstruction, conversion, structural alteration,
15 relocation, or enlargement of any structure; any mining, excavation, landfill or land disturbance;
16 or any change in use, or alteration or extension of the use, of land.

17 (23)(21) Development Plan Review. The process whereby authorized local officials
18 review the site plans, maps, and other documentation of a development to determine the
19 compliance with the stated purposes and standards of the ordinance.

20 (24)(22) District. See “zoning use district”.

21 (25)(23) Drainage System. A system for the removal of water from land by drains,
22 grading, or other appropriate means. These techniques may include runoff controls to minimize
23 erosion and sedimentation during and after construction or development, the means for preserving
24 surface and groundwaters, and the prevention and/or alleviation of flooding.

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

28 (27)(25) Extractive Industry. The extraction of minerals, including: solids, such as coal
29 and ores; liquids, such as crude petroleum; and gases, such as natural gases. The term also
30 includes quarrying; well operation; milling, such as crushing, screening, washing, and flotation;
31 and other preparation customarily done at the extraction site or as a part of the extractive activity.

32 (28)(26) Family. A person or persons related by blood, marriage, or other legal means.
33 See also “Household”.

34 (29)(27) Floating Zone. An unmapped zoning district adopted within the ordinance which

1 is established on the zoning map only when an application for development, meeting the zone
2 requirements, is approved.

3 ~~(30)(28)~~ Floodplains, or Flood Hazard Area. As defined in section 45-22.2-4.

4 ~~(31)(29)~~ Groundwater. “Groundwater” and associated terms, as defined in section 46-
5 13.1-3.

6 ~~(32)(30)~~ Halfway House. A residential facility for adults or children who have been
7 institutionalized for criminal conduct and who require a group setting to facilitate the transition to
8 a functional member of society.

9 ~~(33)(31)~~ Hardship. See section 45-24-41.

10 ~~(34)(32)~~ Historic District, or Historic Site. As defined in section 45-22.2-4.

11 ~~(35)(33)~~ Home Occupation. Any activity customarily carried out for gain by a resident,
12 conducted as an accessory use in the resident's dwelling unit.

13 ~~(36)(34)~~ Household. One or more persons living together in a single dwelling unit, with
14 common access to, and common use of, all living and eating areas and all areas and facilities for
15 the preparation and storage of food within the dwelling unit. The term “household unit” is
16 synonymous with the term “dwelling unit” for determining the number of units allowed within
17 any structure on any lot in a zoning district. An individual household shall consist of any one of
18 the following:

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

20 (ii) A person or group of unrelated persons living together. The maximum number may
21 be set by local ordinance, but this maximum shall not be less than three (3).

22 ~~(37)(35)~~ Incentive Zoning. The process whereby the local authority may grant additional
23 development capacity in exchange for the developer's provision of a public benefit or amenity as
24 specified in local ordinances.

25 ~~(38)(36)~~ Infrastructure. Facilities and services needed to sustain residential, commercial,
26 industrial, institutional, and other activities.

27 ~~(39)(37)~~ Land Development Project. A project in which one or more lots, tracts, or
28 parcels of land are ~~to be~~ developed or redeveloped as a coordinated site for ~~a complex of one or~~
29 more uses, units, or structures, including, but not limited to, planned development ~~and/or~~ .
30 conservation development, or cluster development for residential, commercial, institutional,
31 recreational, open space, and/or mixed uses, as ~~may be provided for~~ in the zoning ordinance.

32 ~~(40)(38)~~ Lot. Either:

33 (i) The basic development unit for determination of lot area, depth, and other dimensional
34 regulations; or

1 (ii) A parcel of land whose boundaries have been established by some legal instrument
2 such as a recorded deed or recorded map and which is recognized as a separate legal entity for
3 purposes of transfer of title.

4 ~~(41)(39)~~ Lot Area. The total area within the boundaries of a lot, excluding any street
5 right-of-way, usually reported in acres or square feet.

6 ~~(42)(40)~~ Lot Building Coverage. That portion of the lot that is or may be covered by
7 buildings and accessory buildings.

8 ~~(43)(41)~~ Lot Depth. The distance measured from the front lot line to the rear lot line. For
9 lots where the front and rear lot lines are not parallel, the lot depth is an average of the depth.

10 ~~(44)(42)~~ Lot Frontage. That portion of a lot abutting a street. A zoning ordinance shall
11 specify how noncontiguous frontage will be considered with regard to minimum frontage
12 requirements.

13 ~~(45)(43)~~ Lot Line. A line of record, bounding a lot, which divides one lot from another
14 lot or from a public or private street or any other public or private space and shall include:

15 (i) Front: the lot line separating a lot from a street right-of-way. A zoning ordinance shall
16 specify the method to be used to determine the front lot line on lots fronting on more than one
17 street, for example, corner and through lots;

18 (ii) Rear: the lot line opposite and most distant from the front lot line, or in the case of
19 triangular or otherwise irregularly shaped lots, an assumed line at least ten feet (10') in length
20 entirely within the lot, parallel to and at a maximum distance from the front lot line; and

21 (iii) Side: any lot line other than a front or rear lot line. On a corner lot, a side lot line
22 may be a street lot line, depending on requirements of the local zoning ordinance.

23 ~~(46)(44)~~ Lot, Through. A lot which fronts upon two (2) parallel streets, or which fronts
24 upon two (2) streets which do not intersect at the boundaries of the lot.

25 ~~(47)(45)~~ Lot Width. The horizontal distance between the side lines of a lot measured at
26 right angles to its depth along a straight line parallel to the front lot line at the minimum front
27 setback line.

28 ~~(48)(46)~~ Mere Inconvenience. See section 45-24-41.

29 ~~(49)(47)~~ Mixed Use. A mixture of land uses within a single development, building, or
30 tract.

31 ~~(50)(48)~~ Modification. Permission granted and administered by the zoning enforcement
32 officer of the city or town, and pursuant to the provisions of this chapter to grant a dimensional
33 variance other than lot area requirements from the zoning ordinance to a limited degree as
34 determined by the zoning ordinance of the city or town, but not to exceed twenty-five percent

1 (25%) of each of the applicable dimensional requirements.

2 ~~(51)(49)~~ Nonconformance. A building, structure, or parcel of land, or use thereof,
3 lawfully existing at the time of the adoption or amendment of a zoning ordinance and not in
4 conformity with the provisions of that ordinance or amendment. Nonconformance is of only two
5 (2) types:

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

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

16 ~~(52)(50)~~ Overlay District. A district established in a zoning ordinance that is
17 superimposed on one or more districts or parts of districts and that imposes specified
18 requirements in addition to, but not less, than those otherwise applicable for the underlying zone.

19 ~~(53)(51)~~ Performance Standards. A set of criteria or limits relating to elements which a
20 particular use or process must either meet or may not exceed.

21 ~~(54)(52)~~ Permitted Use. A use by right which is specifically authorized in a particular
22 zoning district.

23 ~~(55)(53)~~ Planned Development. A “land development project”, as defined in section 45-
24 24-31(37), and developed according to plan as a single entity and containing one or more
25 structures and/or uses with appurtenant common areas.

26 ~~(56)(54)~~ Preapplication Conference. A review meeting of a proposed development held
27 between applicants and reviewing agencies as permitted by law and municipal ordinance, before
28 formal submission of an application for a permit or for development approval.

29 ~~(57)(55)~~ Setback Line or Lines. A line or lines parallel to a lot line at the minimum
30 distance of the required setback for the zoning district in which the lot is located that establishes
31 the area within which the principal structure must be erected or placed.

32 ~~(58)(56)~~ Site Plan. The development plan for one or more lots on which is shown the
33 existing and/or the proposed conditions of the lot.

34 ~~(59)(57)~~ Special Use. A regulated use which is permitted pursuant to the special-use

1 permit issued by the authorized governmental entity, pursuant to section 45-24-42. Formerly
2 referred to as a special exception.

3 ~~(60)(58)~~ Structure. A combination of materials to form a construction for use, occupancy,
4 or ornamentation, whether installed on, above, or below, the surface of land or water.

5 ~~(61)(59)~~ Substandard Lot of Record. Any lot lawfully existing at the time of adoption or
6 amendment of a zoning ordinance and not in conformance with the dimensional and/or area
7 provisions of that ordinance.

8 ~~(62)(60)~~ Use. The purpose or activity for which land or buildings are designed, arranged,
9 or intended, or for which land or buildings are occupied or maintained.

10 ~~(63)(61)~~ Variance. Permission to depart from the literal requirements of a zoning
11 ordinance. An authorization for the construction or maintenance of a building or structure, or for
12 the establishment or maintenance of a use of land, which is prohibited by a zoning ordinance.
13 There are only two (2) categories of variance, a use variance or a dimensional variance.

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

18 (ii) Dimensional Variance. Permission to depart from the dimensional requirements of a
19 zoning ordinance, where the applicant for the requested relief has shown, by evidence upon the
20 record, that there is no other reasonable alternative way to enjoy a legally permitted beneficial use
21 of the subject property unless granted the requested relief from the dimensional regulations.
22 However, the fact that a use may be more profitable or that a structure may be more valuable after
23 the relief is granted are not grounds for relief.

24 ~~(64)(62)~~ Waters. As defined in section 46-12-1(23).

25 ~~(65)(63)~~ Wetland, Coastal. As defined in section 45-22.2-4.

26 ~~(66)(64)~~ Wetland, Freshwater. As defined in section 2-1-20.

27 ~~(67)(65)~~ Zoning Certificate. A document signed by the zoning enforcement officer, as
28 required in the zoning ordinance, which acknowledges that a use, structure, building, or lot either
29 complies with or is legally nonconforming to the provisions of the municipal zoning ordinance or
30 is an authorized variance or modification therefrom.

31 ~~(68)(66)~~ Zoning Map. The map or maps which are a part of the zoning ordinance and
32 which delineate the boundaries of all mapped zoning districts within the physical boundary of the
33 city or town.

34 ~~(69)(67)~~ Zoning Ordinance. An ordinance enacted by the legislative body of the city or

1 town pursuant to this chapter and in the manner providing for the adoption of ordinances in the
2 city or town's legislative or home rule charter, if any, which establish regulations and standards
3 relating to the nature and extent of uses of land and structures, which is consistent with the
4 comprehensive plan of the city or town as defined in chapter 22.2 of this title, which includes a
5 zoning map, and which complies with the provisions of this chapter.

6 ~~(70)(68.)~~ Zoning Use District. The basic unit in zoning, either mapped or unmapped, to
7 which a uniform set of regulations applies, or a uniform set of regulations for a specified use.
8 Zoning use districts include, but are not limited to: agricultural, commercial, industrial,
9 institutional, open space, and residential. Each district may include sub-districts. Districts may be
10 combined.

11 **45-24-33. Standard provisions.** - (a) A zoning ordinance addresses each of the purposes
12 stated in section 45-24-30 and addresses, through reasonable objective standards and criteria, the
13 following general provisions which are numbered for reference purposes only:

14 (1) Permitting, prohibiting, limiting, and restricting the development of land and
15 structures in zoning districts, and regulating those land and structures according to their type, and
16 the nature and extent of their use;

17 (2) Regulating the nature and extent of the use of land for residential, commercial,
18 industrial, institutional, recreational, agricultural, open space, or other use or combination of uses,
19 as the need for land for those purposes is determined by the city or town's comprehensive plan;

20 (3) Permitting, prohibiting, limiting, and restricting buildings, structures, land uses, and
21 other development by performance standards, or other requirements, related to air and water and
22 groundwater quality, noise and glare, energy consumption, soil erosion and sedimentation, and/or
23 the availability and capacity of existing and planned public or private services;

24 (4) Regulating within each district and designating requirements for:

25 (i) The height, number of stories, and size of buildings;

26 (ii) The dimensions, size, lot coverage, floor area ratios, and layout of lots or
27 development areas;

28 (iii) The density and intensity of use;

29 (iv) Access to air and light, views, and solar access;

30 (v) Open space, yards, courts, and buffers;

31 (vi) Parking areas, road design, and, where appropriate, pedestrian, bicycle, and other
32 circulator systems;

33 (vii) Landscaping, fencing, and lighting;

34 (viii) Appropriate drainage requirements and methods to manage stormwater runoff;

- 1 (ix) Public access to waterbodies, rivers, and streams; and
- 2 (x) Other requirements in connection with any use of land or structure;
- 3 (5) Permitting, prohibiting, limiting, and restricting development in flood plains or flood
- 4 hazard areas and designated significant natural areas;
- 5 (6) Promoting the conservation of energy and promoting energy-efficient patterns of
- 6 development;
- 7 (7) Providing for the protection of existing and planned public drinking water supplies,
- 8 their tributaries and watersheds, and the protection of Narragansett Bay, its tributaries and
- 9 watershed;
- 10 (8) Providing for adequate, safe, and efficient transportation systems; and avoiding
- 11 congestion by relating types and levels of development to the capacity of the circulation system,
- 12 and maintaining a safe level of service of the system;
- 13 (9) Providing for the preservation and enhancement of the recreational resources of the
- 14 city or town;
- 15 (10) Promoting an economic climate which increases quality job opportunities and the
- 16 overall economic well-being of the city or town and the state;
- 17 (11) Providing for pedestrian access to and between public and private facilities,
- 18 including, but not limited to schools, employment centers, shopping areas, recreation areas, and
- 19 residences;
- 20 (12) Providing standards for and requiring the provision of adequate and properly
- 21 designed physical improvements, including plantings, and the proper maintenance of property;
- 22 (13) Permitting, prohibiting, limiting, and restricting land use in areas where development
- 23 is deemed to create a hazard to the public health or safety;
- 24 (14) Permitting, prohibiting, limiting, and restricting extractive industries and earth
- 25 removal and requiring restoration of land after these activities;
- 26 (15) Regulating sanitary landfill, except as otherwise provided by state statute;
- 27 (16) Permitting, prohibiting, limiting, and restricting signs and billboards, and other
- 28 outdoor advertising devices;
- 29 (17) Designating airport hazard areas under the provisions of chapter 3 of title 1, and
- 30 enforcement of airport hazard area zoning regulations under the provisions established in that
- 31 chapter;
- 32 (18) Designating areas of historic, cultural, and/or archaeological value and regulating
- 33 development in those areas under the provisions of chapter 24.1 of this title;
- 34 (19) Providing standards and requirements for the regulation, review, and approval of any

1 proposed development in connection with those uses of land, buildings, or structures specifically
2 designated as subject to development plan review in a zoning ordinance;

3 (20) Designating special protection areas for water supply and limiting or prohibiting
4 development in these areas, except as otherwise provided by state statute;

5 (21) Specifying requirements for safe road access to developments from existing streets,
6 including limiting the number, design, and location of curb cuts, and provisions for internal
7 circulation systems for new developments, and provisions for pedestrian and bicycle ways; and

8 (22) Reducing unnecessary delay in approving or disapproving development applications,
9 through provisions for preapplication conferences and other means.

10 (23) Providing for the application of the Rhode Island Fair Housing Practices Act,
11 chapter 37 of title 34, the United States Fair Housing Amendments Act of 1988 (FHAA), the
12 Rhode Island Civil Rights People with Disabilities Act, chapter 37 of title 42, and the Americans
13 with Disabilities Act of 1990 (ADA), 42 U.S.C. section 12101 et seq.

14 (24) Regulating drive-through windows of varied intensity of use when associated with
15 land use activities and providing standards and requirements for the regulation, review and
16 approval of the drive-through windows, including, but not limited to:

17 (i) Identifying within which zoning districts drive-through windows may be permitted,
18 prohibited, or permitted by special use permit;

19 (ii) Specifying requirements for adequate traffic circulation; and

20 (iii) Providing for adequate pedestrian safety and access, including issues concerning
21 safety and access for those with disabilities.

22 (25) Protecting natural resources and promoting efficient use of land through innovative
23 development design that discourages rural, suburban and urban sprawl and preserves contiguous
24 open space.

25 (b) A zoning ordinance may include special provisions for any or all of the following:

26 (1) Authorizing development incentives, ~~known as incentive zoning, for purposes of~~
27 ~~providing increases in the permitted use or dimension as a condition for, but not limited to:~~
28 including, but not limited to, additional permitted uses, increased development density, or
29 additional design or dimensional flexibility, in exchange for:

30 (i) Increased open space;

31 (ii) Increased housing choices;

32 (iii) Traffic and pedestrian improvements;

33 (iv) Public and/or private facilities; ~~and/or~~

34 (v) Use of innovative land development design methods; and/or

1 ~~(v)~~(vi) Other amenities ~~as~~ desired by the city or town and consistent with its
2 comprehensive plan. The provisions in the ordinance shall include maximum allowable densities
3 of population and/or intensities of use and shall indicate the type of improvements, amenities,
4 and/or conditions. Conditions may be made for donation in lieu of direct provisions for
5 improvements or amenities;

6 (2) Establishing a system for transfer of development rights within or between zoning
7 districts designated in the zoning ordinance; and

8 (3) Regulating the development adjacent to designated scenic highways, scenic
9 waterways, major thoroughfares, public greenspaces, or other areas of special public investment
10 or valuable natural resources.

11 (c) A zoning ordinance shall permit one or more types of non-conventional residential
12 subdivision of land or land development project options, which may include conservation
13 development.

14 (d) Within a minimum lot size as established by the particular municipality, a zoning
15 ordinance shall not require any lot to have more than forty thousand (40,000) square feet of
16 contiguous area that is free of environmental and physical constraints to development as defined
17 in sections 45-23-32 (12) and (31). However, in any zoning districts where a minimum lot area is
18 equal to or greater than eighty thousand (80,000) square feet, no more than half of that minimum
19 required lot area must be contiguous and free of environmental and physical constraints as
20 defined in sections 45-23-32(12) and (31). Notwithstanding the above, no city or town shall be
21 required to exclude an area or areas with physical and/or environmental constraints in
22 determining buildable lot area.

23 (e) Slope of land shall not be deemed a physical constraint to development when
24 determining development potential and shall not be excluded from the calculation of buildable lot
25 area or the calculation of the number of buildable lots or units.

26 SECTION 1. This act shall take effect upon passage.

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LC01858
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES

1 This act would establish the zoning parameters with respect to required lot area that must
2 be contiguous and free of environmental and physical constraints to development. This act would
3 further provide that a municipality shall be required to exclude an area with physical and/or
4 environmental constraints in determining buildable lot area.

5 This act would take effect upon passage.

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