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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

Introduced By: Representatives Henries, Morales, and Alzate

Date Introduced: March 03, 2021

Referred To: House Municipal Government & Housing

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 45 of the General Laws entitled "TOWNS AND CITIES" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 24.1

4 OPENING THE MARKET FOR HOUSING IN URBAN AREAS

5 **45-24.1-1. Legislative purpose.**

6 The rezoning of areas formerly zoned as single-family would expand the supply of
7 affordable housing in urban areas, reduce homelessness, and allow Rhode Island residents to access
8 essential services more easily. It would also create the development of middle housing within areas
9 formerly zoned as single-family areas and reduce the use of automobiles.

10 **45-24.1-2. Title.**

11 This act shall be known as the "Opening the Market for Housing in Urban Areas Act of
12 2021."

13 **45-24.1-3. Definitions.**

14 As used in this chapter, the following words and phrases shall have the following meanings :

15 (1) "Cottage clusters" means groupings of no fewer than four (4) detached housing units
16 per acre with a footprint of less than nine hundred (900) square feet each and that include a common
17 courtyard.

18 (2) "Middle housing" means duplexes, triplexes, quadplexes, cottage clusters and
19 townhouses.

1 (3) "Townhouse" means a dwelling unit constructed in a row of two (2) or more attached
2 units, where each dwelling unit is located on an individual lot or parcel and shares at least one
3 common wall with an adjacent unit.

4 (4) "Urban growth boundary" means and refers to rules that designate what areas can and
5 cannot be developed around a city center.

6 **45-24.1-4. Middle housing allowed.**

7 (a) Except as provided in subsection (d) of this section, each municipality with a population
8 of twenty-thousand (20,000) or more, shall allow the development of:

9 (1) All middle housing types in areas zoned for residential use that allow for the
10 development of detached single-family dwelling; and

11 (2) A duplex on each lot or parcel zoned for residential use that allows for development of
12 detached single-family dwellings.

13 (b) A duplex on each lot parcel zoned for residential use that allows for the development
14 of detached single-family dwellings.

15 (c) Nothing in this subsection prohibits a local governing body from allowing other types
16 of middle housing in addition to duplexes.

17 (d) This section does not apply to municipalities with a population of less than twenty-
18 thousand (20,000); lands not within an urban services area, lands not zoned for residential use,
19 including lands primarily zoned as commercial, industrial, agricultural; those used for public uses
20 or, lands zoned under an interim zoning designation that maintains the land's potential for planned
21 urban development.

22 (e) Local governing bodies may regulate siting and design of middle housing required to
23 be permitted under this section, provided that regulations do not, individually or cumulatively,
24 discourage the development of all middle housing types permitted in the area through unreasonable
25 costs or delay. Local governing bodies may regulate middle housing to comply with protective
26 measures adopted pursuant to statewide land use planning goals and the municipalities'
27 comprehensive plan.

28 (f) This section does not prohibit local governing bodies from permitting:

29 (1) Single-family dwellings in areas zoned to allow for single-family dwellings; or

30 (2) Middle housing in areas not required under this section.

31 **45-24.1-5. Compliance.**

32 (a) Notwithstanding any other provisions contained in this chapter, a local governing body
33 shall adopt land use regulations or amend its comprehensive plan to implement § 45-24.1-6 no later
34 than June 30, 2022 for each of those municipalities with a population of more than twenty thousand

1 (20,000).

2 (b) The state building code standards committee shall develop a model middle housing
3 ordinance no later than December 31, 2021.

4 (c) Any local governing body that has not adopted land use regulations or amended its
5 comprehensive plan by the dates contained in this section shall directly apply the model ordinance
6 developed by the state building code standards committee until it adopts the regulations or amends
7 its comprehensive plan as required by this section.

8 (d) In adopting regulations or amending a comprehensive plan under this section, a local
9 governing body shall consider ways to increase the affordability of middle housing by considering
10 ordinances and policies that include, but are not limited to:

11 (1) Waiving or deferring system development charges;

12 (2) Adopting or amending criteria for property tax exemptions under § 44-5-12 and §§ 44-
13 5-13.1 through 44-5-13.39;

14 (3) Assessing a construction tax.

15 (e) When a local governing body makes a legislative decision to amend its comprehensive
16 plan or land use regulations to allow middle housing areas zoned for residential use that allow for
17 detached single-family dwellings, the local governing body is not required to consider whether the
18 amendments significantly affect an existing or planned transportation facility.

19 **45-24.1-6. Relief from compliance.**

20 (a) Notwithstanding the provisions of § 45-24.1-5, the state building code standards
21 committee may grant an extension of the time allowed to adopt land use regulations or amendments
22 to comprehensive plans.

23 (b) A municipality may apply for an extension only to specific areas where the local
24 governing body has identified water, sewer, storm drainage, or transportation services that are
25 either significantly deficient or are expected to be significantly deficient before December 31, 2023,
26 and for which the local governing body has established a plan of action that will remedy the
27 deficiency in those services that is approved by the state building code standards committee. Any
28 extension granted shall not extend beyond the date that the local governing body intends to correct
29 the deficiency under the plan.

30 (c) In areas where the extension under this section does not apply, the local governing body
31 shall apply its own land use regulations as adopted pursuant to this section or apply the model
32 ordinance adopted by the state building code standards committee.

33 (d) Any local governing body requesting an extension shall apply for the extension at least
34 six (6) months prior to the expiration of the dates of compliance set out in § 45-24.1-5.

1 (e) The state building code standards committee shall provide a decision on the request for
2 extension within ninety (90) days of receipt of the request.

3 (f) The state building code standards committee shall adopt rules regarding the form and
4 substance of any application for an extension. The rules shall include, but not be limited to:

5 (1) Defining affected areas;

6 (2) Calculating deficiencies of water, sewer, storm drainage or transportation facilities;

7 (3) Service deficiency levels required to qualify for the extension;

8 (4) The components and timing of a remediation plan necessary to qualify for an extension;

9 (5) Standards for evaluating applications; and

10 (6) Establishing deadlines and components for the approval of a plan of action.

11 SECTION 2. Sections 45-22.2-6 and 45-22.2-12 of the General Laws in Chapter 45-22.2
12 entitled "Rhode Island Comprehensive Planning and Land Use Act" are hereby amended to read as
13 follows:

14 **45-22.2-6. Required content of a comprehensive plan.**

15 (a) The comprehensive plan must utilize a minimum twenty (20) year planning timeframe
16 in considering forecasts, goals, and policies.

17 (b) The comprehensive plan must be internally consistent in its policies, forecasts, and
18 standards, and shall include the content described within this section. The content described in
19 subdivisions (1) through (10) may be organized and presented as deemed suitable and appropriate
20 by the municipality. The content described in subdivisions (11) and (12) must be included as
21 individual sections of the plan.

22 (1) Goals and policies. The plan must identify the goals and policies of the municipality
23 for its future growth and development and for the conservation of its natural and cultural resources.
24 The goals and policies of the plan shall be consistent with the goals and intent of this chapter and
25 embody the goals and policies of the state guide plan.

26 (2) Maps. The plan must contain maps illustrating the following as appropriate to the
27 municipality:

28 (i) Existing conditions:

29 (A) Land use, including the range of residential housing densities;

30 (B) Zoning;

31 (C) Key infrastructure such as, but not limited to, roads, public water, and sewer;

32 (D) Service areas for public water and sewer;

33 (E) Historical and cultural resource areas and sites;

34 (F) Open space and conservation areas (public and private); and

1 (G) Natural resources such as, but not limited to, surface water, wetlands, floodplains, soils,
2 and agricultural land;

3 (ii) Future land use illustrating the desired patterns of development, density, and
4 conservation as defined by the comprehensive plan; and

5 (iii) Identification of discrepancies between future land uses and existing zoning use
6 categories.

7 (3) Natural resource identification and conservation. The plan must be based on an
8 inventory of significant natural resource areas such as, but not limited to, water, soils, prime
9 agricultural lands, forests, wildlife, wetlands, aquifers, coastal features, and floodplains. The plan
10 must include goals, policies, and implementation techniques for the protection and management of
11 these areas.

12 (4) Open space and outdoor recreation identification and protection. The plan must be
13 based on an inventory of outdoor recreational resources, open space areas, and recorded access to
14 these resources and areas. The plan must contain an analysis of forecasted needs, policies for the
15 management and protection of these resources and areas, and identification of areas for potential
16 expansion. The plan must include goals, policies, and implementation techniques for the protection
17 and management of existing resources and acquisition of additional resources if appropriate.

18 (5) Historical and cultural resources identification and protection. The plan must be based
19 on an inventory of significant historical and cultural resources such as historical buildings, sites,
20 landmarks, and scenic views. The plan must include goals, policies, and implementation techniques
21 for the protection of these resources.

22 (6) Housing. The plan must include the identification of existing housing patterns, an
23 analysis of existing and forecasted housing needs [by type and density range](#), and identification of
24 areas suitable for future housing development or rehabilitation [in accordance with all factors](#)
25 [contained in this section](#). The plan shall include an affordable housing program that meets the
26 requirements of § 42-128-8.1, the "Comprehensive Housing Production and Rehabilitation Act of
27 2004" and chapter 45-53, the "Rhode Island Low and Moderate Income Housing Act." The plan
28 must include goals and policies that further the goal of subdivision 45-22.2-3(c)(3) and
29 implementation techniques that identify specific programs to promote the preservation, production,
30 and rehabilitation of housing.

31 (7) Economic development. The plan must include the identification of existing types and
32 patterns of economic activities including, but not limited to, business, commercial, industrial,
33 agricultural, and tourism. The plan must also identify areas suitable for future economic expansion
34 or revitalization. The plan must include goals, policies, and implementation techniques reflecting

1 local, regional, and statewide concerns for the expansion and stabilization of the economic base
2 and the promotion of quality employment opportunities and job growth. [The plan shall consider](#)
3 [market factors that may substantially impact future urban residential development.](#)

4 (8) Services and facilities. The plan must be based on an inventory of existing physical
5 infrastructure such as, but not limited to, educational facilities, public safety facilities, libraries,
6 indoor recreation facilities, and community centers. The plan must describe services provided to
7 the community such as, but not limited to, water supply and the management of wastewater, storm
8 water, and solid waste. The plan must consider energy production and consumption. The plan must
9 analyze the needs for future types and levels of services and facilities, including, in accordance
10 with § 46-15.3-5.1, water supply system management planning, which includes demand
11 management goals as well as plans for water conservation and efficient use of water concerning
12 any water supplier providing service in the municipality, and contain goals, policies, and
13 implementation techniques for meeting future demands.

14 (9) Circulation/Transportation. The plan must be based on an inventory and analysis of
15 existing and proposed major circulation systems, including transit and bikeways; street patterns;
16 and any other modes of transportation, including pedestrian, in coordination with the land use
17 element. Goals, policies, and implementation techniques for the provision of fast, safe, efficient,
18 and convenient transportation that promotes conservation and environmental stewardship must be
19 identified.

20 (10) Natural hazards. The plan must include an identification of areas that could be
21 vulnerable to the effects of sea-level rise, flooding, storm damage, drought, or other natural hazards.
22 Goals, policies, and implementation techniques must be identified that would help to avoid or
23 minimize the effects that natural hazards pose to lives, infrastructure, and property.

24 (11) Land use. In conjunction with the future land use map as required in subdivision 45-
25 22.2-6(b)(2)(ii), the plan must contain a land use component that designates the proposed general
26 distribution and general location and interrelationships of land uses including, but not limited to,
27 residential, commercial, industrial, open space, agriculture, recreation facilities, and other
28 categories of public and private uses of land. The land use component shall be based upon the
29 required plan content as stated in this section. It shall relate the proposed standards of population
30 density and building intensity to the capacity of the land and available or planned facilities and
31 services. The land use component must contain an analysis of the inconsistency of existing zoning
32 districts, if any, with planned future land use. The land use component shall specify the process and
33 schedule by which the zoning ordinance and zoning map shall be amended to conform to the
34 comprehensive plan and shall be included as part of the implementation program.

1 (12) Implementation program.

2 (i) A statement which defines and schedules the specific public actions to be undertaken in
3 order to achieve the goals and objectives of each component of the comprehensive plan. Scheduled
4 expansion or replacement of public facilities, and the anticipated costs and revenue sources
5 proposed to meet those costs reflected in a municipality's capital improvement program, must be
6 included in the implementation program.

7 (ii) The implementation program identifies the public actions necessary to implement the
8 objectives and standards of each component of the comprehensive plan that require the adoption or
9 amendment of codes and ordinances by the governing body of the municipality.

10 (iii) The implementation program identifies other public authorities or agencies owning
11 water supply facilities or providing water supply services to the municipality, and coordinates the
12 goals and objectives of the comprehensive plan with the actions of public authorities or agencies
13 with regard to the protection of watersheds as provided in § 46-15.3-1, et seq.

14 (iv) The implementation program must detail the timing and schedule of municipal actions
15 required to amend the zoning ordinance and map to conform to the comprehensive plan.

16 **45-22.2-12. Maintaining and re-adopting the plan.**

17 (a) A municipality must maintain a single version of the comprehensive plan including all
18 amendments, appendices, and supplements. One or more complete copies of the comprehensive
19 plan including, all amendments, shall be made available for review by the public. Availability shall
20 include print, digital formats, and placement on the internet.

21 (b) A municipality shall periodically review and amend its plan in a timely manner to
22 account for changing conditions. At a minimum, a municipality shall fully update and re-adopt its
23 entire comprehensive plan, including supplemental plans, such as, but not limited to, special area
24 plans, that may be incorporated by reference, at least once every ten (10) years from the date of
25 municipal adoption. A minimum twenty (20) year planning timeframe in considering forecasts,
26 goals, and policies must be utilized for an update. [In assessing changing conditions, a municipality](#)
27 [shall adopt findings regarding the density expectations assumed to result from measures adopted](#)
28 [under this section. The density expectations may not project an increase in residential capacity](#)
29 [above achieved density by more than three percent \(3%\) without quantifiable validation for such](#)
30 [departures. For municipalities outside the urban growth boundaries, a quantifiable validation must](#)
31 [demonstrate that the assumed housing capacity has been achieved in areas that are zoned to allow](#)
32 [no greater than the same authorized density level within that municipality. For urban services area,](#)
33 [a quantifiable validation must demonstrate that the assumed housing capacity has been achieved in](#)
34 [areas that are zoned to allow no greater than the same authorized density with the municipality.](#)

1 (c) A newly adopted plan shall supersede all previous versions.

2 (d) A municipality shall file an informational report on the status of the comprehensive
3 plan implementation program with the chief not more than five (5) years from the date of municipal
4 approval.

5 SECTION 3. Section 45-53-4 of the General Laws in Chapter 45-53 entitled "Low and
6 Moderate Income Housing" is hereby amended to read as follows:

7 **45-53-4. Procedure for approval of construction of low or moderate income housing.**

8 (a) Any applicant proposing to build low or moderate income housing may submit to the
9 local review board a single application for a comprehensive permit to build that housing in lieu of
10 separate applications to the applicable local boards. This procedure is only available for proposals
11 in which at least twenty-five percent (25%) of the housing is low or moderate income housing. The
12 application and review process for a comprehensive permit shall be as follows:

13 (1) Submission requirements. Applications for a comprehensive permit shall include:

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

18 (ii) A written request to the local review board to submit a single application to build or
19 rehabilitate low or moderate income housing in lieu of separate applications to the applicable local
20 boards. The written request shall identify the specific sections and provisions of applicable local
21 ordinances and regulations from which the applicant is seeking relief; and

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

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

28 (v) Identification of an approved entity that will monitor the long-term affordability of the
29 low and moderate income units; and

30 (vi) A financial pro-forma for the proposed development; and

31 (vii) For comprehensive permit applications: (A) not involving major land developments
32 or major subdivisions including, but not limited to, applications seeking relief from specific
33 provisions of a local zoning ordinance, or involving administrative subdivisions, minor land
34 developments or minor subdivisions, or other local ordinances and regulations: those items required

1 by local regulations promulgated pursuant to applicable state law, with the exception of evidence
2 of state or federal permits; and for comprehensive permit applications; and (B) involving major
3 land developments and major subdivisions, unless otherwise agreed to by the applicant and the
4 town; those items included in the checklist for the master plan in the local regulations promulgated
5 pursuant to § 45-23-40. Subsequent to master plan approval, the applicant must submit those items
6 included in the checklist for a preliminary plan for a major land development or major subdivision
7 project in the local regulations promulgated pursuant to § 45-23-41, with the exception of evidence
8 of state or federal permits. All required state and federal permits must be obtained prior to the final
9 plan approval or the issuance of a building permit; and

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

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

19 (2) Certification of completeness. The application must be certified complete or incomplete
20 by the administrative officer according to the provisions of § 45-23-36; provided, however, that for
21 a major land development or major subdivision, the certificate for a master plan shall be granted
22 within thirty (30) days and for a preliminary plan shall be granted within forty-five (45) days. The
23 running of the time period set forth herein will be deemed stopped upon the issuance of a certificate
24 of incompleteness of the application by the administrative officer and will recommence upon the
25 resubmission of a corrected application by the applicant. However, in no event will the
26 administrative officer be required to certify a corrected submission as complete or incomplete less
27 than fourteen (14) days after its resubmission. If the administrative officer certifies the application
28 as incomplete, the officer shall set forth in writing with specificity the missing or incomplete items.

29 (3) Pre-application conference. Where the comprehensive permit application proposal is a
30 major land development project or a major subdivision pursuant to chapter 23 of this title a
31 municipality may require an applicant proposing a project under this chapter to first schedule a pre-
32 application conference with the local review board, the technical review committee established
33 pursuant to § 45-23-56, or with the administrative officer for the local review board and other local
34 officials, as appropriate. To request a pre-application conference, the applicant shall submit a short

1 description of the project in writing including the number of units, type of housing, as well as a
2 location map. The purpose of the pre-application conference shall be to review a concept plan of
3 the proposed development. Upon receipt of a request by an applicant for a pre-application
4 conference, the municipality has thirty (30) days to schedule and hold the pre-application
5 conference. If thirty (30) days has elapsed from the filing of the pre-application submission and no
6 pre-application conference has taken place, nothing shall be deemed to preclude an applicant from
7 thereafter filing and proceeding with an application for a comprehensive permit.

8 (4) Review of applications. An application filed in accordance with this chapter shall be
9 reviewed by the local review board at a public hearing in accordance with the following provisions:

10 (i) Notification. Upon issuance of a certificate of completeness for a comprehensive permit,
11 the local review board shall immediately notify each local board, as applicable, of the filing of the
12 application, by sending a copy to the local boards and to other parties entitled to notice of hearings
13 on applications under the zoning ordinance and/or land development and subdivision regulations
14 as applicable.

15 (ii) Public Notice. Public notice for all public hearings will be the same notice required
16 under local regulations for a public hearing for a preliminary plan promulgated in accordance with
17 § 45-23-42. The cost of notice shall be paid by the applicant.

18 (iii) Review of minor projects. The review of a comprehensive permit application involving
19 only minor land developments or minor subdivisions or requesting zoning ordinance relief or relief
20 from other local regulations or ordinances not otherwise addressed in this subsection, shall be
21 conducted following the procedures in the applicable local regulations, with the exception that all
22 minor land developments or minor subdivisions under this section are required to hold a public
23 hearing on the application, and within ninety-five (95) days of issuance of the certificate of
24 completeness, or within such further time as is agreed to by the applicant and the local review
25 board, render a decision.

26 (iv) Review of major projects. In the review of a comprehensive permit application
27 involving a major land development and/or major subdivision, the local review board shall hold a
28 public hearing on the master plan and shall, within one hundred and twenty (120) days of issuance
29 of the certification of completeness, or within such further amount of time as may be agreed to by
30 the local review board and the applicant, render a decision. Preliminary and final plan review shall
31 be conducted according to local regulations promulgated pursuant to chapter 23 of this title except
32 as otherwise specified in this section.

33 (v) Required findings. In approving on an application, the local review board shall make
34 positive findings, supported by legally competent evidence on the record which discloses the nature

1 and character of the observations upon which the fact finders acted, on each of the following
2 standard provisions, where applicable:

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

6 (B) The proposed development is in compliance with the standards and provisions of the
7 municipality's zoning ordinance and subdivision regulations, and/or where expressly varied or
8 waived local concerns that have been affected by the relief granted do not outweigh the state and
9 local need for low and moderate income housing.

10 (C) All low and moderate income housing units proposed are integrated throughout the
11 development; are compatible in scale and architectural style to the market rate units within the
12 project; and will be built and occupied prior to, or simultaneous with the construction and
13 occupancy of any market rate units.

14 (D) There will be no significant negative environmental impacts from the proposed
15 development as shown on the final plan, with all required conditions for approval.

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

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

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

27 (H) For purposes of estimating housing needs, each municipality shall use population
28 projections generated by the United States Census Bureau and shall consider and adopt findings
29 related to changes in each of the following factors since their last comprehensive plan as
30 promulgated pursuant to chapter 22.2 of title 45:

31 (I) Household sizes;

32 (II) Household demographics including age, gender, race, or other established
33 demographic category;

34 (III) Household income;

1 (IV) Vacancy rates;

2 (V) Housing costs.

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

7 (vii) In reviewing the comprehensive permit request, the local review board may deny the
8 request for any of the following reasons: (A) if city or town has an approved affordable housing
9 plan and is meeting housing needs, and the proposal is inconsistent with the affordable housing
10 plan; (B) the proposal is not consistent with local needs, including, but not limited to, the needs
11 identified in an approved comprehensive plan, and/or local zoning ordinances and procedures
12 promulgated in conformance with the comprehensive plan; (C) the proposal is not in conformance
13 with the comprehensive plan; (D) the community has met or has plans to meet the goal of ten
14 percent (10%) of the year-round units or, in the case of an urban town or city, fifteen percent (15%)
15 of the occupied rental housing units as defined in § 45-53-3(2)(i) being low and moderate income
16 housing; or (E) concerns for the environment and the health and safety of current residents have
17 not been adequately addressed.

18 (viii) All local review board decisions on comprehensive permits shall be by majority vote
19 of the membership of the board and may be appealed by the applicant to the state housing appeals
20 board.

21 (ix) If the public hearing is not convened or a decision is not rendered within the time
22 allowed in subsection (a)(4)(iii) and (iv), the application is deemed to have been allowed and the
23 relevant approval shall issue immediately; provided, however, that this provision shall not apply to
24 any application remanded for hearing in any town where more than one application has been
25 remanded for hearing provided for in § 45-53-6(f)(2).

26 (x) Any person aggrieved by the issuance of an approval may appeal to the superior court
27 within twenty (20) days of the issuance of approval.

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

33 (xii) A town with an approved affordable housing plan and that is meeting local housing
34 needs may by council action limit the annual total number of dwelling units in comprehensive

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

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

14 (xiv) Notwithstanding the provisions of § 45-53-4 in effect on February 13, 2004, to
15 commence hearings within thirty (30) days of receiving an application remanded by the state
16 housing appeals board pursuant to § 45-53-6(f)(2) shall be heard as herein provided; in any town
17 with more than one remanded application, applications may be scheduled for hearing in the order
18 in which they were received, and may be taken up sequentially, with the thirty (30) day requirement
19 for the initiation of hearings, commencing upon the decision of the earlier filed application.

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

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

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

5 (c) Towns and cities that are not in conformity with the provisions of § 45-53-3(2)(i) shall
6 prepare by December 31, 2004, a comprehensive plan housing element for low and moderate
7 income housing as specified by § 45-53-3(2)(ii), consistent with applicable law and regulation.
8 That the secretary of the planning board or commission of each city or town subject to the
9 requirements of this paragraph shall report in writing the status of the preparation of the housing
10 element for low and moderate income housing on or before June 30, 2004, and on or before
11 December 31, 2004, to the secretary of the state planning council, to the chair of the house
12 committee on corporations and to the chair of the senate committee on commerce, housing and
13 municipal government. The state housing appeals board shall use said plan elements in making
14 determinations provided for in § 45-53-6(b)(2).

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

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

28 SECTION 4. Section 23-27.3-105.3 of the General Laws in Chapter 23-27.3 entitled "State
29 Building Code" is hereby amended to read as follows:

30 **23-27.3-105.3. Part change in use.**

31 (a) If a portion of a building is changed in occupancy or to a new use group, and that portion
32 is separated from the remainder of the building with the required vertical and horizontal fire
33 division complying with the fire grading as provided by this code, then the construction involved
34 in the change shall be made to conform to the requirements of this code, or the requirements of the

1 rehabilitation building and fire code for existing buildings and structures as applicable for the new
2 use and occupancy, and the existing portion shall be made to comply with the exitway requirements
3 of this code.

4 (b) The state building code standards committee shall establish uniform standards for a
5 municipality to allow alternate approval of construction related to conversions of single-family
6 dwelling into no more than four (4) residential dwelling units that are no more than two (2) stories
7 in height and that received certificates of occupancy prior to January 1, 2021.

8 (1) Any application submitted for alternate approval of construction related to conversions
9 shall be granted or denied by the local building official within fifteen (15) business days and if
10 denied, the local building official shall inform the applicant in writing of the reason or reasons for
11 the denial.

12 (2) Appeals from any denial shall be filed with the local zoning board of appeals within
13 twenty (20) calendar days.

14 SECTION 5. This act shall take effect upon passage.

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

1 This act would prohibit single-family residential zoning in municipalities with populations
2 of over twenty-thousand (20,000) and mandate that those municipalities adopt zoning regulations
3 for middle housing in single-family residential zones.

4 This act would take effect upon passage.

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LC001739
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