

2022 -- S 2636

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

Introduced By: Senators Kallman, Mack, Acosta, Burke, Ruggerio, and Valverde

Date Introduced: March 10, 2022

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-24-31 and 45-24-37 of the General Laws in Chapter 45-24
2 entitled "Zoning Ordinances" are hereby amended to read as follows:

3 **45-24-31. Definitions.**

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

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

11 (2) Accessory dwelling unit. A dwelling unit: (i) Rented to and occupied either by one or
12 more members of the family of the occupant or occupants of the principal residence; or (ii)
13 Reserved for rental occupancy by a person or a family where the principal residence is owner
14 occupied and that meets the following provisions:

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

17 (B) An accessory dwelling unit shall include separate cooking and sanitary facilities, with
18 its own legal means of ingress and egress, and is a complete, separate dwelling unit. The accessory
19 dwelling unit shall be within, or attached to, the principal dwelling-unit structure or within an

1 existing structure, such as a garage or barn, and designed so that the appearance of the principal
2 structure remains that of a one-family residence.

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

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

8 (i) Any person, or persons, or entity, or entities, who or that can demonstrate that his, her,
9 or its property will be injured by a decision of any officer or agency responsible for administering
10 the zoning ordinance of a city or town; or

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

12 (5) Agricultural land. "Agricultural land," as defined in § 45-22.2-4.

13 (6) Airport hazard area. "Airport hazard area," as defined in § 1-3-2.

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

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

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

21 (10) Building. Any structure used or intended for supporting or sheltering any use or
22 occupancy.

23 (11) Building envelope. The three-dimensional space within which a structure is permitted
24 to be built on a lot and that is defined by regulations governing building setbacks, maximum height,
25 and bulk; by other regulations; or by any combination thereof.

26 (12) Building height. For a vacant parcel of land, building height shall be measured from
27 the average, existing-grade elevation where the foundation of the structure is proposed. For an
28 existing structure, building height shall be measured from average grade taken from the outermost
29 four (4) corners of the existing foundation. In all cases, building height shall be measured to the top
30 of the highest point of the existing or proposed roof or structure. This distance shall exclude spires,
31 chimneys, flag poles, and the like. For any property or structure located in a special flood hazard
32 area, as shown on the official FEMA Flood Insurance Rate Maps (FIRMs), or depicted on the
33 Rhode Island coastal resources management council (CRMC) suggested design elevation three foot
34 (3') sea level rise (CRMC SDE 3 SLR) map as being inundated during a one-hundred-year (100)

1 storm, the greater of the following amounts, expressed in feet, shall be excluded from the building
2 height calculation:

3 (i) The base flood elevation on the FEMA FIRM plus up to five feet (5') of any utilized or
4 proposed freeboard, less the average existing grade elevation; or

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

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

18 (14) Common ownership. Either:

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

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

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

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

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

33 (iii) A residence for children providing care or supervision, or both, to not more than eight
34 (8) children, including those of the caregiver, and licensed by the state pursuant to chapter 72.1 of

1 title 42;

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

9 (16) Comprehensive plan. The comprehensive plan adopted and approved pursuant to
10 chapter 22.2 of this title and to which any zoning adopted pursuant to this chapter shall be in
11 compliance.

12 (17) Day care -- Daycare center. Any other daycare center that is not a family daycare
13 home.

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

18 (19) Density, residential. The number of dwelling units per unit of land.

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

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

25 (22) District. See "zoning-use district."

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

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

33 (25) Extractive industry. The extraction of minerals, including: solids, such as coal and
34 ores; liquids, such as crude petroleum; and gases, such as natural gases. The term also includes

1 quarrying; well operation; milling, such as crushing, screening, washing, and flotation; and other
2 preparation customarily done at the extraction site or as a part of the extractive activity.

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

6 (27) Floating zone. An unmapped zoning district adopted within the ordinance that is
7 established on the zoning map only when an application for development, meeting the zone
8 requirements, is approved.

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

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

14 (30) Groundwater. "Groundwater" and associated terms, as defined in § 46-13.1-3.

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

18 (32) Hardship. See § 45-24-41.

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

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

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

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

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

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

34 (37) Infrastructure. Facilities and services needed to sustain residential, commercial,

1 industrial, institutional, and other activities.

2 (38) Land-development project. A project in which one or more lots, tracts, or parcels of
3 land are developed or redeveloped as a coordinated site for one or more uses, units, or structures,
4 including, but not limited to, planned development or cluster development for residential,
5 commercial, institutional, recreational, open space, or mixed uses as provided in the zoning
6 ordinance.

7 (39) Lot. Either:

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

10 (ii) A parcel of land whose boundaries have been established by some legal instrument,
11 such as a recorded deed or recorded map, and that is recognized as a separate legal entity for
12 purposes of transfer of title.

13 (40) Lot area. The total area within the boundaries of a lot, excluding any street right-of-
14 way, usually reported in acres or square feet.

15 (41) Lot area, minimum. The smallest land area established by the local zoning ordinance
16 upon which a use, building, or structure may be located in a particular zoning district.

17 (42) Lot building coverage. That portion of the lot that is, or may be, covered by buildings
18 and accessory buildings.

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

21 (44) Lot frontage. That portion of a lot abutting a street. A zoning ordinance shall specify
22 how noncontiguous frontage will be considered with regard to minimum frontage requirements.

23 (45) Lot line. A line of record, bounding a lot, that divides one lot from another lot or from
24 a public or private street or any other public or private space and shall include:

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

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

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

33 (46) Lot size, minimum. Shall have the same meaning as "minimum lot area" defined
34 herein.

1 (47) Lot, through. A lot that fronts upon two (2) parallel streets, or that fronts upon two (2)
2 streets that do not intersect at the boundaries of the lot.

3 (48) Lot width. The horizontal distance between the side lines of a lot measured at right
4 angles to its depth along a straight line parallel to the front lot line at the minimum front setback
5 line.

6 (49) Mere inconvenience. See § 45-24-41.

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

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

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

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

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

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

30 (54) Performance standards. A set of criteria or limits relating to elements that a particular
31 use or process must either meet or may not exceed.

32 (55) Permitted use. A use by right that is specifically authorized in a particular zoning
33 district.

34 (56) Planned development. A "land-development project," as defined in subsection (38),

1 and developed according to plan as a single entity and containing one or more structures or uses
2 with appurtenant common areas.

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

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

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

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

12 (61) Slope of land. The grade, pitch, rise, or incline of the topographic landform or surface
13 of the ground.

14 (62) Special use. A regulated use that is permitted pursuant to the special-use permit issued
15 by the authorized governmental entity, pursuant to § 45-24-42. Formerly referred to as a special
16 exception.

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

19 (64) Substandard lot of record. Any lot lawfully existing at the time of adoption or
20 amendment of a zoning ordinance and not in conformance with the dimensional or area provisions
21 of that ordinance.

22 (65) Tiny house. A residential structure typically consisting of one hundred (100) to three
23 hundred (300) square feet of floor space with a maximum of six hundred (600) square feet of floor
24 space, excluding any loft area, and which is intended for year-round occupancy, and complies with
25 all provisions of the state building code, chapter 27.3 of title 23. A tiny house may consist of one
26 or more rooms in a structure which is built on a permanent foundation, to include, but not limited
27 to, a monoslab.

28 ~~(65)~~(66) Use. The purpose or activity for which land or buildings are designed, arranged,
29 or intended, or for which land or buildings are occupied or maintained.

30 ~~(66)~~(67) Variance. Permission to depart from the literal requirements of a zoning
31 ordinance. An authorization for the construction or maintenance of a building or structure, or for
32 the establishment or maintenance of a use of land, that is prohibited by a zoning ordinance. There
33 are only two (2) categories of variance, a use variance or a dimensional variance.

34 (i) Use variance. Permission to depart from the use requirements of a zoning ordinance

1 where the applicant for the requested variance has shown by evidence upon the record that the
2 subject land or structure cannot yield any beneficial use if it is to conform to the provisions of the
3 zoning ordinance.

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

10 ~~(67)~~(68) Waters. As defined in § 46-12-1(23).

11 ~~(68)~~(69) Wetland, coastal. As defined in § 45-22.2-4.

12 ~~(69)~~(70) Wetland, freshwater. As defined in § 2-1-20.

13 ~~(70)~~(71) Zoning certificate. A document signed by the zoning-enforcement officer, as
14 required in the zoning ordinance, that acknowledges that a use, structure, building, or lot either
15 complies with, or is legally nonconforming to, the provisions of the municipal zoning ordinance or
16 is an authorized variance or modification therefrom.

17 ~~(71)~~(72) Zoning map. The map, or maps, that are a part of the zoning ordinance and that
18 delineate the boundaries of all mapped zoning districts within the physical boundary of the city or
19 town.

20 ~~(72)~~(73) Zoning ordinance. An ordinance enacted by the legislative body of the city or
21 town pursuant to this chapter and in the manner providing for the adoption of ordinances in the city
22 or town's legislative or home rule charter, if any, that establish regulations and standards relating
23 to the nature and extent of uses of land and structures; that is consistent with the comprehensive
24 plan of the city or town as defined in chapter 22.2 of this title; that includes a zoning map; and that
25 complies with the provisions of this chapter.

26 ~~(73)~~(74) Zoning-use district. The basic unit in zoning, either mapped or unmapped, to
27 which a uniform set of regulations applies, or a uniform set of regulations for a specified use.
28 Zoning-use districts include, but are not limited to: agricultural, commercial, industrial,
29 institutional, open space, and residential. Each district may include sub-districts. Districts may be
30 combined.

31 **45-24-37. General provisions -- Permitted uses.**

32 (a) The zoning ordinance shall provide a listing of all land uses and/or performance
33 standards for uses that are permitted within the zoning use districts of the municipality.

34 (b) Notwithstanding any other provision of this chapter, the following uses are permitted

1 uses within all residential zoning use districts of a municipality and all industrial and commercial
2 zoning use districts except where residential use is prohibited for public health or safety reasons:

- 3 (1) Households;
- 4 (2) Community residences; and
- 5 (3) Family daycare homes.

6 (c) Any time a building or other structure used for residential purposes, or a portion of a
7 building containing residential units, is rendered uninhabitable by virtue of a casualty such as fire
8 or flood, the owner of the property is allowed to park, temporarily, mobile and manufactured home,
9 or homes, as the need may be, elsewhere upon the land, for use and occupancy of the former
10 occupants for a period of up to twelve (12) months, or until the building or structure is rehabilitated
11 and otherwise made fit for occupancy. The property owner, or a properly designated agent of the
12 owner, is only allowed to cause the mobile and manufactured home, or homes, to remain
13 temporarily upon the land by making timely application to the local building official for the
14 purposes of obtaining the necessary permits to repair or rebuild the structure.

15 (d) Notwithstanding any other provision of this chapter, appropriate access for people with
16 disabilities to residential structures is allowed as a reasonable accommodation for any person(s)
17 residing, or intending to reside, in the residential structure.

18 (e) Notwithstanding any other provision of this chapter, the following shall be permitted:

19 (1) An ~~an~~ accessory family dwelling unit in an owner-occupied, single-family residence
20 ~~shall be permitted as a reasonable accommodation~~ for family members with disabilities or who are
21 sixty-two (62) years of age or older, or to accommodate other family members. The appearance of
22 the structure shall remain that of a single-family residence and there shall be an internal means of
23 egress between the principal unit and the accessory family dwelling unit. If possible, no additional
24 exterior entrances should be added. Where additional entrance is required, placement should
25 generally be in the rear or side of the structure. When the structure is serviced by an ~~individual~~
26 ~~sewage disposal~~ on-site wastewater treatment system, the applicant shall have the existing or any
27 new system approved by the department of environmental management. The zoning enforcement
28 officer shall require that a declaration of the accessory family dwelling unit for the family member,
29 or members, and its restrictions be recorded in the land evidence records and filed with the zoning
30 enforcement officer and the building official. Once the family members with disabilities or who
31 are sixty-two (62) years of age or older, or any other family member, no longer reside(s) in the
32 premises on a permanent basis, or the title is transferred, the property owner shall notify the zoning
33 official in writing, and the accessory family dwelling unit shall no longer be permitted, unless there
34 is a subsequent, valid application; or

1 (2) A tiny house that contains facilities for sleeping, eating, cooking and sanitation. Such
2 tiny house shall comply with municipal and state building codes for single-family dwelling units
3 including, but not limited to, zoning, fire, safety, emergency vehicle access, attachments to
4 electricity, plumbing and public or private sewer systems, if required. A tiny house used for
5 habitation shall be connected to either a public water system or a private well and to a public sewer
6 system or an on-site wastewater treatment system that has been approved by the department of
7 environmental management. The city or town may promulgate requirements that the appearance of
8 a tiny home structure shall be aesthetically similar to or compatible to that of any adjacent single-
9 family residence.

10 (f) When used in this section the terms "people with disabilities" or "member, or members,
11 with disabilities" means a person(s) who has a physical or mental impairment that substantially
12 limits one or more major life activities, as defined in § 42-87-1(7).

13 (g) Notwithstanding any other provisions of this chapter, plant agriculture is a permitted
14 use within all zoning districts of a municipality, including all industrial and commercial zoning
15 districts, except where prohibited for public health or safety reasons or the protection of wildlife
16 habitat.

17 SECTION 2. Section 45-53-3 of the General Laws in Chapter 45-53 entitled "Low and
18 Moderate Income Housing" is hereby amended to read as follows:

19 **45-53-3. Definitions.**

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

22 (1) "Affordable housing plan" means a component of a housing element, as defined in §
23 45-22.2-4(1), to meet housing needs in a city or town that is prepared in accordance with guidelines
24 adopted by the state planning council, and/or to meet the provisions of § 45-53-4(b)(1) and (c).

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

31 (3) "Comprehensive plan" means a comprehensive plan adopted and approved by a city or
32 town pursuant to chapters 22.2 and 22.3 of this title.

33 (4) "Consistent with local needs" means reasonable in view of the state need for low and
34 moderate income housing, considered with the number of low income persons in the city or town

1 affected and the need to protect the health and safety of the occupants of the proposed housing or
2 of the residence of the city or town, to promote better site and building design in relation to the
3 surroundings, or to preserve open spaces, and if the local zoning or land use ordinances,
4 requirements, and regulations are applied as equally as possible to both subsidized and
5 unsubsidized housing. Local zoning and land use ordinances, requirements, or regulations are
6 consistent with local needs when imposed by a city or town council after a comprehensive hearing
7 in a city or town where:

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

14 (ii) The city or town has promulgated zoning or land use ordinances, requirements, and
15 regulations to implement a comprehensive plan which has been adopted and approved pursuant to
16 chapters 22.2 and 22.3 of this title, and the housing element of the comprehensive plan provides
17 for low and moderate income housing in excess of either ten percent (10%) of the year-round
18 housing units or fifteen percent (15%) of the occupied year-round rental housing units as provided
19 in subdivision (4)(i).

20 (5) "Infeasible" means any condition brought about by any single factor or combination of
21 factors, as a result of limitations imposed on the development by conditions attached to the approval
22 of the comprehensive permit, to the extent that it makes it impossible for a public agency, nonprofit
23 organization, or limited equity housing cooperative to proceed in building or operating low or
24 moderate income housing without financial loss, within the limitations set by the subsidizing
25 agency of government, on the size or character of the development, on the amount or nature of the
26 subsidy, or on the tenants, rentals, and income permissible, and without substantially changing the
27 rent levels and unit sizes proposed by the public agency, nonprofit organization, or limited equity
28 housing cooperative.

29 (6) "Letter of eligibility" means a letter issued by the Rhode Island housing and mortgage
30 finance corporation in accordance with § 42-55-5.3(a).

31 (7) "Local board" means any town or city official, zoning board of review, planning board
32 or commission, board of appeal or zoning enforcement officer, local conservation commission,
33 historic district commission, or other municipal board having supervision of the construction of
34 buildings or the power of enforcing land use regulations, such as subdivision, or zoning laws.

1 (8) "Local review board" means the planning board as defined by § 45-22.2-4(20), or if
2 designated by ordinance as the board to act on comprehensive permits for the town, the zoning
3 board of review established pursuant to § 45-24-56.

4 (9) "Low or moderate income housing" means any housing whether built or operated by
5 any public agency or any nonprofit organization or by any limited equity housing cooperative or
6 any private developer, that is subsidized by a federal, state, or municipal government subsidy under
7 any program to assist the construction or rehabilitation of housing affordable to low or moderate
8 income households, as defined in the applicable federal or state statute, or local ordinance and that
9 will remain affordable through a land lease and/or deed restriction for ninety-nine (99) years or
10 such other period that is either agreed to by the applicant and town or prescribed by the federal,
11 state, or municipal government subsidy program but that is not less than thirty (30) years from
12 initial occupancy. [Low or moderate income housing shall not mean any tiny house as defined in §
13 45-24-31.](#)

14 (10) "Meeting housing needs" means adoption of the implementation program of an
15 approved affordable housing plan and the absence of unreasonable denial of applications that are
16 made pursuant to an approved affordable housing plan in order to accomplish the purposes and
17 expectations of the approved affordable housing plan.

18 (11) "Municipal government subsidy" means assistance that is made available through a
19 city or town program sufficient to make housing affordable, as affordable housing is defined in §
20 42-128-8.1(d)(1); such assistance may include, but is not limited to, direct financial support,
21 abatement of taxes, waiver of fees and charges, and approval of density bonuses and/or internal
22 subsidies, and any combination of forms of assistance.

23 SECTION 3. This act shall take effect upon passage.

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LC005226
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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 require towns and cities to allow tiny homes to be used as an accessory
2 dwelling and exclude tiny homes from affordable housing.

3 This act would take effect upon passage.

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LC005226
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