

2024 -- S 3001 SUBSTITUTE A

=====
LC005867/SUB A
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO TOWNS AND CITIES --SUBDIVISION OF LAND

Introduced By: Senator Matthew L. LaMountain

Date Introduced: April 16, 2024

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-23-32, 45-23-38, 45-23-39, 45-23-50, 45-23-50.1, 45-23-61, 45-
2 23-65 and 45-23-67 of the General Laws in Chapter 45-23 entitled "Subdivision of Land" are
3 hereby amended to read as follows:

4 **45-23-32. Definitions. [Effective January 1, 2024.]**

5 Where words or phrases used in this chapter are defined in the definitions section of either
6 the Rhode Island Comprehensive Planning and Land Use Regulation Act, § 45-22.2-4, or the Rhode
7 Island Zoning Enabling Act of 1991, § 45-24-31, they have the meanings stated in those acts.
8 Additional words and phrases may be defined in local ordinances, regulations, and rules under this
9 act in a manner that does not conflict or alter the terms or mandates in this act, the Rhode Island
10 Comprehensive Planning and Land Use Regulation Act § 45-22.2-4, and the Rhode Island Zoning
11 Enabling Act of 1991. The words and phrases defined in this section, however, shall be controlling
12 in all local ordinances, regulations, and rules created under this chapter. In addition, the following
13 words and phrases have the following meanings:

14 (1) **Administrative officer.** The municipal official(s) designated by the local regulations
15 to administer the land development and subdivision regulations to review and approve qualified
16 applications and/or coordinate with local boards and commissions, municipal staff, and state
17 agencies as set forth herein. The administrative officer may be a member, or the chair, of the
18 planning board, an employee of the municipal planning or zoning departments, or an appointed
19 official of the municipality. See § 45-23-55.

1 (2) **Board of appeal.** The local review authority for appeals of actions of the administrative
2 officer, which shall be the local zoning board of review constituted as the board of appeal. See §
3 45-23-57.

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

5 (4) **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, and
8 local regulations. See § 45-23-60(a)(4).

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

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

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

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

23 (9) **Development plan review.** Design or site plan review of a development of a permitted
24 use. A municipality may utilize development plan review under limited circumstances to encourage
25 development to comply with design and/or performance standards of the community under specific
26 and objective guidelines, for [the following categories of](#) developments ~~including, but not limited~~
27 ~~to:~~

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

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

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

34 (iv) Development in a designated urban or growth center; [or](#)

1 (v) Institutional development ~~design review~~ for educational or hospital facilities; ~~or~~
2 ~~(vi) Development in a historic district.~~

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

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

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

11 (13) **Final plan.** The final stage of land development and subdivision review or a formal
12 development plan review application. See ~~§ 45-23-43~~ §§ 45-23-38, 45-23-39 and 45-23-50.

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

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

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

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

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

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

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

1 [as development plan review](#):

2 (A) Seven thousand five hundred (7,500) gross square feet of floor area of new commercial,
3 manufacturing, or industrial development, or less; or

4 (B) An expansion of up to fifty percent (50%) of existing floor area or up to ten thousand
5 (10,000) square feet for commercial, manufacturing, or industrial structures; or

6 (C) Mixed-use development consisting of up to six (6) dwelling units and two thousand
7 five hundred (2,500) gross square feet of commercial space or less; or

8 (D) Multi-family residential or residential condominium development of nine (9) units or
9 less; or

10 (E) Change in use at the property where no extensive construction of improvements is
11 sought; or

12 (F) An adaptive reuse project of up to twenty-five thousand (25,000) square feet of gross
13 floor area located in a commercial zone where no extensive exterior construction of improvements
14 is sought; or

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

17 A community can increase but not decrease the thresholds for minor land development set
18 forth above if specifically set forth in the local ordinance and/or regulations. The process by which
19 minor land development projects are reviewed by the local planning board, commission, technical
20 review committee, and/or administrative officer is set forth in § 45-23-38.

21 (ii) **Major land development project.** A land development project that exceeds the
22 thresholds for a minor land development project as set forth in this section and local ordinance or
23 regulation. The process by which major land development projects are reviewed by the local
24 planning board, commission, technical review committee, or administrative officer is set forth in §
25 45-23-39.

26 (20) **Local regulations.** The land development and subdivision review regulations adopted
27 under the provisions of this act. For purposes of clarification, throughout this act, where reference
28 is made to local regulations, it is to be understood as the land development and subdivision review
29 regulations and all related ordinances and rules properly adopted pursuant to this chapter.

30 (21) **Maintenance guarantee.** Any security instrument that may be required and accepted
31 by a municipality to ensure that necessary improvements will function as required for a specific
32 period of time. See improvement guarantee.

33 (22) **Master plan.** An overall plan for a proposed project site outlining general, rather than
34 detailed, development intentions. It describes the basic parameters of a major development

1 proposal, rather than giving full engineering details. Required in major land development or major
2 subdivision review only. It is the first formal review step of the major land development or major
3 subdivision process and the step in the process in which the public hearing is held. See § 45-23-39.

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (36) **Storm water detention.** A provision for storage of storm water runoff and the
4 controlled release of the runoff during and after a flood or storm.

5 (37) **Storm water retention.** A provision for storage of storm water runoff.

6 (38) **Street.** A public or private thoroughfare used, or intended to be used, for passage or
7 travel by motor vehicles. Streets are further classified by the functions they perform. See street
8 classification.

9 (39) **Street, access to.** An adequate and permanent way of entering a lot. All lots of record
10 shall have access to a public street for all vehicles normally associated with the uses permitted for
11 that lot.

12 (40) **Street, alley.** A public or private thoroughfare primarily designed to serve as
13 secondary access to the side or rear of those properties whose principal frontage is on some other
14 street.

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

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

21 (43) **Street, private.** A thoroughfare established as a separate tract for the benefit of
22 multiple, adjacent properties and meeting specific, municipal improvement standards. This
23 definition does not apply to driveways.

24 (44) **Street, public.** All public property reserved or dedicated for street traffic.

25 (45) **Street, stub.** A portion of a street reserved to provide access to future development,
26 which may provide for utility connections.

27 (46) **Street classification.** A method of roadway organization that identifies a street
28 hierarchy according to function within a road system, that is, types of vehicles served and
29 anticipated volumes, for the purposes of promoting safety, efficient land use, and the design
30 character of neighborhoods and districts. Local classifications use the following as major
31 categories:

32 (i) **Arterial.** A major street that serves as an avenue for the circulation of traffic into, out
33 of, or around the municipality and carries high volumes of traffic.

34 (ii) **Collector.** A street whose principal function is to carry traffic between local streets and

1 arterial streets but that may also provide direct access to abutting properties.

2 (iii) Local. Streets whose primary function is to provide access to abutting properties.

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

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

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

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

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

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

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

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

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

32 **45-23-38. General provisions — Minor land development and minor subdivision**
33 **review. [Effective January 1, 2024.]**

34 (a) Application types and review stages.

1 **(1) Applications requesting relief from the zoning ordinance.**

2 (i) Applications under this section that require relief that qualifies only as a modification
3 under § 45-24-46 and local ordinances ~~shall~~ may proceed by filing an application under this chapter
4 and a request for a modification to the zoning enforcement officer. If such modification is granted,
5 the application shall then proceed to be reviewed by the administrative officer pursuant to the
6 applicable requirements of this section. If the modification is denied or an objection is received as
7 set forth in § 45-24-46, such application shall proceed under unified development ~~plan~~ review
8 pursuant to § 45-23-50.1.

9 (ii) Applications under this section that require relief from the literal provisions of the
10 zoning ordinance in the form of a variance or special-use permit, shall be reviewed by the planning
11 board under unified development ~~plan~~ review pursuant to § 45-23-50.1, and a request for review
12 shall accompany the preliminary plan application.

13 (iii) Any application involving a street creation or extension shall be reviewed by the
14 planning board and require a public hearing.

15 **(2) Other applications.** The administrative officer shall review and grant, grant with
16 conditions, or deny all other applications under this section and may grant waivers of design
17 standards as set forth in the local regulations and zoning ordinance. The administrative officer may
18 utilize the technical review committee for initial review and recommendation. The local regulations
19 shall specifically list what limited waivers an administrative officer is authorized to grant as part of
20 their review.

21 **(3) Review stages.** Minor plan review consists of two (2) stages, preliminary and final;
22 provided, that unless otherwise set forth in this section, if a street creation or extension is involved,
23 or a request for variances and/or special-use permits is submitted, pursuant to the regulation's
24 unified development review provisions, a public hearing is required before the planning board. The
25 administrative officer may combine the approval stages, providing requirements for both stages are
26 met by the applicant to the satisfaction of the administrative officer.

27 **(b) Submission requirements.** Any applicant requesting approval of a proposed, minor
28 subdivision or minor land development, as defined in this chapter, shall submit to the administrative
29 officer the items required by the local regulations.

30 **(c) Certification.** For each applicable stage of review, the application shall be certified, in
31 writing, complete or incomplete by the administrative officer within twenty-five (25) days of the
32 submission so long as a completed checklist of the requirements for submission is provided as part
33 of the submission. If an applicant also submits for a modification to the zoning enforcement officer,
34 the running of the time period set forth herein will not begin until the decision on the modification

1 [is made as set forth in § 45-24-46](#). Such certification shall be made in accordance with the
2 provisions of § 45-23-36(c). If no street creation or extension is required, and/or unified
3 development review is not requested, and a completed checklist of the requirements for submission
4 is provided as part of the submission, such application shall be certified, in writing, complete or
5 incomplete by the administrative officer within fifteen (15) days according to the provisions of §
6 45-23-36(c). The running of the time period set forth in this section will be deemed stopped upon
7 the issuance of a certificate of incompleteness of the application by the administrative officer and
8 will recommence upon the resubmission of a corrected application by the applicant. However, in
9 no event will the administrative officer be required to certify a corrected submission as complete
10 or incomplete less than ten (10) days after its resubmission.

11 (d) **Decision on preliminary plan.** If no street creation or extension ~~is~~, [variance or special](#)
12 [use permits are](#) required, the ~~planning board or~~ administrative officer will approve, deny, or approve
13 with conditions, the preliminary plan within sixty-five (65) days of certification of completeness,
14 or within any further time that is agreed to by the applicant and the ~~board~~ [administrative officer](#),
15 according to the requirements of §§ 45-23-60 and 45-23-63. If a street extension or creation is
16 required, or the application is reviewed under the unified development ~~plan~~ review [or the](#)
17 [application seeks waivers from design standards and/or requirements of the land development and](#)
18 [subdivision regulations that are beyond the authority of the administrative officer to grant](#), the
19 planning board will hold a public hearing prior to approval according to the requirements in § 45-
20 23-42 and will approve, deny, or approve with conditions, the preliminary plan within ninety-five
21 (95) days of certification of completeness, or within any specified time that is agreed to by the
22 applicant and the board, according to the requirements of §§ 45-23-60 and 45-23-63.

23 (e) **Failure to act.** Failure of the planning board [or administrative officer](#) to act within the
24 period prescribed constitutes approval of the ~~preliminary plan~~ [pending stage of review](#), and a
25 certificate of the administrative officer as to the failure ~~of the planning board~~ to act within the
26 required time and the resulting approval will be issued on request of the ~~application~~ [applicant](#).

27 (f) **Re-assignment to major review.** The planning board may re-assign a proposed minor
28 project to major review only when the planning board is unable to make the positive findings
29 required in § 45-23-60.

30 (g) **Final plan.** Final plans shall be reviewed and approved by either the administrative
31 officer or technical review committee. The officer or committee will report its actions, in writing
32 to the planning board at its next regular meeting, to be made part of the record. The administrative
33 officer or technical review committee shall approve, deny, approve with conditions, or refer the
34 application to the planning board based upon a finding that there is a major change within twenty-

1 five (25) days of the certificate of completeness.

2 (h) **Modifications and changes to plans.**

3 (1) Minor changes, as defined in the local regulations, to the plans approved at any stage
4 may be approved administratively, by the administrative officer. The changes may be authorized
5 without an additional public ~~hearings, at the discretion of the administrative officer~~ hearing. All
6 changes shall be made part of the permanent record of the project application. This provision does
7 not prohibit the administrative officer from requesting recommendation from either the technical
8 review committee or the permitting authority if the permitting authority is not the administrative
9 officer. Denial of the proposed change(s) shall be referred to the applicable permitting authority for
10 review as a major change.

11 (2) Major changes, as defined in the local regulations, to the plans approved at any stage
12 may be approved only by the applicable permitting authority and must follow the same review and
13 hearing process required for approval of preliminary plans, which shall include a public hearing if
14 originally required as part of the application.

15 (3) The administrative officer shall notify the applicant in writing within fourteen (14) days
16 of submission of the ~~final plan application~~ written request for a change if the administrative officer
17 determines the change to be a major change.

18 (i) **Appeal.** Decisions under this section shall be considered an appealable decision
19 pursuant to § 45-23-71.

20 (j) **Expiration of approvals.** Approvals of a minor land development or subdivision plan
21 expire one year from the date of approval unless, within that period, a plat or plan, in conformity
22 with approval, and as defined in this act, is submitted for signature and recording as specified in §
23 45-23-64. Validity may be extended for a longer period, for cause shown, if requested by the
24 ~~application~~ applicant in writing, and approved by the planning board.

25 **45-23-39. General provisions — Major land development and major subdivision**
26 **review stages. [Effective January 1, 2024.]**

27 (a) **Stages of review.** Major land development and major subdivision review consists of
28 three stages of review, master plan, preliminary plan, and final plan, following the pre-application
29 meeting(s) specified in § 45-23-35. Also required is a public hearing at the master plan stage of
30 review or, if combined at the first stage of review.

31 (b) The administrative officer may combine review stages ~~and to modify~~ but only the
32 planning board may waive requirements as specified in § 45-23-62. Review stages may be
33 combined only after the administrative officer determines that all necessary requirements have been
34 met by the applicant or that the planning board has waived any submission requirements not

1 included by the applicant.

2 (c) **Master plan review.**

3 (1) **Submission requirements.**

4 (i) The applicant shall first submit to the administrative officer the items required by the
5 local regulations for master plans.

6 (ii) Requirements for the master plan and supporting material for this phase of review
7 include, but are not limited to: information on the natural and built features of the surrounding
8 neighborhood, existing natural and man-made conditions of the development site, including
9 topographic features, the freshwater wetland and coastal zone boundaries, the floodplains, as well
10 as the proposed design concept, proposed public improvements and dedications, tentative
11 construction phasing; and potential neighborhood impacts.

12 (iii) Initial comments will be solicited from:

13 (A) Local agencies including, but not limited to, the planning department, the department
14 of public works, fire and police departments, the conservation and recreation commissions;

15 (B) Adjacent communities;

16 (C) State agencies, as appropriate, including the departments of environmental
17 management and transportation and the coastal resources management council; and

18 (D) Federal agencies, as appropriate. The administrative officer shall coordinate review
19 and comments by local officials, adjacent communities, and state and federal agencies.

20 (iv) Applications requesting relief from the zoning ordinance.

21 (A) Applications under this chapter that require relief that qualifies only as a modification
22 under § 45-24-46 and local ordinances ~~shall~~ may proceed by filing a master plan application under
23 this section to the administrative officer and, separately, a request for a modification to the zoning
24 enforcement officer. If such modification is granted, the application shall then proceed to be
25 reviewed by the planning board pursuant to the applicable requirements of this section. If the
26 modification is denied or an objection is received as set forth in § 45-24-46, such application shall
27 proceed under unified development ~~plan~~ review pursuant to § 45-23-50.1.

28 (B) Applications under this section that require relief from the literal provisions of the
29 zoning ordinance in the form of a variance or special use permit, shall be reviewed by the planning
30 board under unified development ~~plan~~ review pursuant to § 45-23-50.1.

31 (2) **Certification.** The application must be certified, in writing, complete or incomplete by
32 the administrative officer within twenty-five (25) days of the submission, according to the
33 provisions of § 45-23-36(c), so long as a completed checklist of requirements is provided with the
34 submission. If an applicant also submits for a modification to the zoning enforcement officer, the

1 [running of the time period set forth herein will not begin until the decision on the modification is](#)
2 [made as set forth in § 45-24-46.](#) The running of the time period set forth herein will be deemed
3 stopped upon the issuance of a certificate of incompleteness of the application by the administrative
4 officer and will recommence upon the resubmission of a corrected application by the applicant.
5 However, in no event will the administrative officer be required to certify a corrected submission
6 as complete or incomplete less than ten (10) days after its resubmission.

7 (3) **Technical review committee.** To the extent the community utilizes a technical review
8 committee, it shall review the application prior to the first planning board meeting and shall
9 comment and make recommendations to the planning board.

10 (4) **Public hearing.**

11 (i) A public hearing will be held prior to the planning board decision on the master plan. If
12 the master plan and preliminary plan review stages are being combined, a public hearing shall be
13 held during the combined stage of review.

14 (ii) Notice for the public hearing is required and must be given at least fourteen (14) days
15 prior to the date of the meeting in a newspaper of local circulation within the municipality. Notice
16 must be mailed to the applicant and to all property owners within the notice area, as specified by
17 local regulations.

18 (iii) At the public hearing, the applicant will present the proposed development project.
19 The planning board must allow oral and written comments from the general public. All public
20 comments are to be made part of the public record of the project application.

21 (5) **Decision.** The planning board shall, within ninety (90) days of certification of
22 completeness, or within a further amount of time that may be consented to by the applicant through
23 the submission of a written waiver, approve of the master plan as submitted, approve with changes
24 and/or conditions, or deny the application, according to the requirements of §§ 45-23-60 and 45-
25 23-63.

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

30 (7) **Vesting.**

31 (i) The approved master plan is vested for a period of two (2) years, with the right to extend
32 for two (2), one-year extensions upon written request by the applicant, who must appear before the
33 planning board for the annual review. Thereafter, vesting may be extended for a longer period, for
34 good cause shown, if requested by the applicant, in writing, and approved by the planning board.

1 Master plan vesting includes the zoning requirements, conceptual layout, and all conditions shown
2 on the approved master plan drawings and supporting materials.

3 (ii) The initial four-year (4) vesting for the approved master plan constitutes the vested
4 rights for the development as required in § 45-24-44.

5 (d) Preliminary plan review.

6 (1) Submission requirements.

7 (i) The applicant shall first submit to the administrative officer the items required by the
8 local regulations for preliminary plans.

9 (ii) Requirements for the preliminary plan and supporting materials for this phase of the
10 review include, but are not limited to: engineering plans depicting the existing site conditions,
11 engineering plans depicting the proposed development project, and a perimeter survey.

12 (iii) At the preliminary plan review phase, the administrative officer shall solicit final,
13 written comments and/or approvals of the department of public works, the city or town engineer,
14 the city or town solicitor, other local government departments, commissions, or authorities as
15 appropriate.

16 (iv) Prior to approval of the preliminary plan, copies of all legal documents describing the
17 property, proposed easements, and rights-of-way.

18 (v) Prior to approval of the preliminary plan, an applicant must submit all permits required
19 by state or federal agencies, including permits related to freshwater wetlands, the coastal zone,
20 floodplains, preliminary suitability for individual septic disposal systems, public water systems,
21 and connections to state roads. For a state permit from the Rhode Island department of
22 transportation, a letter evidencing the issuance of such a permit upon the submission of a bond and
23 insurance is sufficient, but such actual permit shall be required prior to the issuance of a building
24 permit.

25 (vi) If the applicant is requesting alteration of any variances and/or special-use permits
26 granted by the planning board or commission at the master plan stage of review pursuant to adopted
27 unified development review provisions, and/or any new variances and/or special-use permits, such
28 requests and all supporting documentation shall be included as part of the preliminary plan
29 application materials, pursuant to § 45-23-50.1(b).

30 (2) **Certification.** The application will be certified as complete or incomplete by the
31 administrative officer within twenty-five (25) days, according to the provisions of § 45-23-36(c) so
32 long as a completed checklist of requirements is provided with the submission. The running of the
33 time period set forth herein will be deemed stopped upon the issuance of a certificate of
34 incompleteness of the application by the administrative officer and will recommence upon the

1 resubmission of a corrected application by the applicant. However, in no event shall the
2 administrative officer be required to certify a corrected submission as complete or incomplete less
3 than ten (10) days after its resubmission.

4 (3) **Technical review committee.** To the extent the community utilizes a technical review
5 committee, it shall review the application prior to the first planning board meeting and shall
6 comment and make recommendations to the planning board.

7 (4) **Public notice.** Prior to the first planning board meeting on the preliminary plan, public
8 notice shall be sent to abutters only at least fourteen (14) days before the hearing.

9 (5) **Public improvement guarantees.** Proposed arrangements for completion of the
10 required public improvements, including construction schedule and/or financial guarantees, shall
11 be reviewed and approved by the planning board at preliminary plan approval.

12 (6) **Decision.** A complete application for a major subdivision or development plan shall be
13 approved, approved with conditions, or denied, in accordance with the requirements of §§ 45-23-
14 60 and 45-23-63, within ninety (90) days of the date when it is certified complete, or within a
15 further amount of time that may be consented to by the developer through the submission of a
16 written waiver. Provided that, the timeframe for decision is automatically extended if evidence of
17 state permits has not been provided, or otherwise waived in accordance with this section.

18 (7) **Failure to act.** Failure of the planning board to act within the prescribed period
19 constitutes approval of the preliminary plan, and a certificate of the administrative officer as to the
20 failure of the planning board to act within the required time and the resulting approval shall be
21 issued on request of the applicant.

22 (8) **Vesting.** The approved preliminary plan is vested for a period of two (2) years with the
23 right to extend for two (2), one-year extensions upon written request by the applicant, who must
24 appear before the planning board for each annual review and provide proof of valid state or federal
25 permits as applicable. Thereafter, vesting may be extended for a longer period, for good cause
26 shown, if requested, in writing by the applicant, and approved by the planning board. The vesting
27 for the preliminary plan approval includes all general and specific conditions shown on the
28 approved preliminary plan drawings and supporting material.

29 (e) **Final plan.**

30 (1) **Submission requirements.**

31 (i) The applicant shall submit to the administrative officer the items required by the local
32 regulations for the final plan, as well as all material required by the planning board when the
33 application was given preliminary approval.

34 (ii) Arrangements for completion of the required public improvements, including

1 construction schedule and/or financial guarantees.

2 (iii) Certification by the tax collector that all property taxes are current.

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

6 (2) **Certification.** The application for final plan approval shall be certified complete or
7 incomplete by the administrative officer in writing, within fifteen (15) days, according to the
8 provisions of § 45-23-36(c) so long as a completed checklist of requirements is provided with the
9 submission. This time period may be extended to twenty-five (25) days by written notice from the
10 administrative officer to the applicant where the final plans contain changes to or elements not
11 included in the preliminary plan approval. The running of the time period set forth herein shall be
12 deemed stopped upon the issuance of a certificate of incompleteness of the application by the
13 administrative officer and shall recommence upon the resubmission of a corrected application by
14 the applicant. However, in no event shall the administrative officer be required to certify a corrected
15 submission as complete or incomplete less than ten (10) days after its resubmission. If the
16 administrative officer certifies the application as complete and does not require submission to the
17 planning board as per subsection (c) of this section, the final plan shall be considered approved.

18 (3) **Decision.** The administrative officer, or, if referred to it, the planning board, shall
19 review, grant, grant with conditions, or deny final plan approval. A decision shall be issued within
20 forty-five (45) days after the certification of completeness, or within a further amount of time that
21 may be consented to by the applicant, approve or deny the final plan as submitted.

22 (4) **Failure to act.** Failure of the [administrative officer, or, if referred to it, the](#) planning
23 board to act within the prescribed period constitutes approval of the final plan, and a certificate of
24 the administrative officer as to the failure of the planning board to act within the required time and
25 the resulting approval shall be issued on request of the applicant.

26 (5) **Expiration of approval.** The final approval of a major subdivision or land development
27 project expires one year from the date of approval with the right to extend for one year upon written
28 request by the applicant, who must appear before the planning board for the annual review, unless,
29 within that period, the plat or plan has been submitted for signature and recording as specified in §
30 45-23-64. Thereafter, the planning board may, for good cause shown, extend the period for
31 recording.

32 (6) **Acceptance of public improvements.** Signature and recording as specified in § 45-23-
33 64 constitute the acceptance by the municipality of any street or other public improvement or other
34 land intended for dedication. Final plan approval shall not impose any duty upon the municipality

1 to maintain or improve those dedicated areas until the governing body of the municipality accepts
2 the completed public improvements as constructed in compliance with the final plans.

3 (7) **Validity of recorded plans.** The approved final plan, once recorded, remains valid as
4 the approved plan for the site unless and until an amendment to the plan is approved under the
5 procedure stated in § 45-23-65, or a new plan is approved by the planning board.

6 (f) **Modifications and changes to plans.**

7 (1) Minor changes, as defined in the local regulations, to the plans approved at any stage
8 may be approved administratively, by the administrative officer. The changes may be authorized
9 without an additional planning board meeting, ~~to the extent applicable, at the discretion of the~~
10 ~~administrative officer.~~ All changes shall be made part of the permanent record of the project
11 application. This provision does not prohibit the administrative officer from requesting
12 recommendation from either the technical review committee or the permitting authority. Denial of
13 the proposed change(s) shall be referred to the ~~applicable permitting authority~~ planning board for
14 review as a major change.

15 (2) Major changes, as defined in the local regulations, to the plans approved at any stage
16 may be approved only by the ~~applicable permitting authority~~ planning board and must include a
17 public hearing.

18 (3) The administrative officer shall notify the applicant in writing within fourteen (14) days
19 of submission of the ~~final plan application~~ written request for a change if the administrative officer
20 determines the change to be a major change of the approved plans.

21 (g) **Appeal.** Decisions under this section shall be considered an appealable decision
22 pursuant to § 45-23-71.

23 **45-23-50. Special provisions — Development plan review. [Effective January 1, 2024.]**

24 (a) Municipalities may provide for development plan review, as defined in §§ 45-23-32
25 and 45-24-49 of the Rhode Island Zoning Enabling Act of 1991, as part of the local regulations. In
26 these instances, local regulations must include all requirements, procedures, and standards
27 necessary for proper review and recommendations of projects subject to development plan review
28 to ensure consistency with the intent and purposes of this chapter and with § 45-24-49 of the Rhode
29 Island Zoning Enabling Act of 1991. The local regulations and/or ordinances shall identify the
30 permitting authority with the responsibility to review and approve applications for development
31 plan review, which shall be designated as the planning board, technical review committee, or
32 administrative officer. The local regulations and/or ordinances shall provide for specific categories
33 of projects that may review and approve an application administratively as well as categories that
34 are required to be heard by the designated planning board, or authorized permitting authority.

1 (b) The authorized permitting authority may waive requirements for development plan
2 approval where there is a change in use or occupancy and no extensive construction of
3 improvements is sought. The waiver may be granted only by a decision by the permitting authority
4 finding that the use will not affect existing drainage, circulation, relationship of buildings to each
5 other, landscaping, buffering, lighting, and other considerations of development plan approval, and
6 that the existing facilities do not require upgraded or additional site improvements. The application
7 for a waiver of development plan approval review shall include documentation, as required by the
8 permitting authority, on prior use of the site, the proposed use, and its impact.

9 (c) The authorized permitting authority may grant waivers of design standards as set forth
10 in the local regulations and zoning ordinance. The local regulations shall specifically list what
11 limited waivers an administrative officer is authorized to grant as part of their review.

12 (d) **Review stages.** Administrative development plan review consists of one stage of
13 review, while formal development plan review consists of two (2) stages of review, preliminary
14 and final. The administrative officer may combine the approval stages, providing requirements for
15 both stages are met by the applicant to the satisfaction of the administrative officer.

16 (1) Application requesting relief from the zoning ordinance.

17 (i) Applications under this chapter that require relief that qualifies only as a modification
18 under § 45-24-46 and local ordinances ~~shall~~ may proceed by filing an application under this chapter
19 and a request for a modification to the zoning enforcement officer. If such modification is granted
20 the application shall then proceed to be reviewed by the administrative officer as to completeness
21 pursuant to the applicable requirements of this section. If the modification is denied or an objection
22 is received as set forth in § 45-24-46, such application shall proceed under unified development
23 ~~plan~~ review pursuant to § 45-23-50.1.

24 (ii) Applications under this section that require relief from the literal provisions of the
25 zoning ordinance in the form of a variance or special use permit, shall be reviewed by the planning
26 board under unified development ~~plan~~ review pursuant to § 45-23-50.1, and a request for review
27 shall accompany the preliminary plan application.

28 (e) **Submission requirements.** Any applicant requesting approval of a proposed
29 development under this chapter, shall submit to the administrative officer the items required by the
30 local regulations. Requests for relief from the literal requirements of the zoning ordinance and/or
31 for the issuance of special-use permits or use variances related to projects qualifying for
32 development plan review shall be submitted and reviewed under unified development review
33 pursuant to § 45-23-50.1.

34 (f) **Certification.** The application shall be certified, in writing, complete or incomplete by

1 the administrative officer within twenty-five (25) days or within fifteen (15) days if no street
2 creation or extension is required, and/or unified development review is not required, according to
3 the provisions of § 45-23-36(c). If an applicant also submits for a modification to the zoning
4 enforcement officer, the running of the time period set forth herein will not begin until the decision
5 on the modification is made as set forth in § 45-24-46. The running of the time period set forth in
6 this section will be deemed stopped upon the issuance of a written certificate of incompleteness of
7 the application by the administrative officer and will recommence upon the resubmission of a
8 corrected application by the applicant. However, in no event will the administrative officer be
9 required to certify a corrected submission as complete or incomplete less than ten (10) days after
10 its resubmission. If the administrative officer certifies the application as incomplete, the officer
11 shall set forth in writing with specificity the missing or incomplete items.

12 (g) **Timeframes for decision.**

13 (1) Administrative development plan approval. An application shall be approved, denied,
14 or approved with conditions within twenty-five (25) days of the certificate of completeness or
15 within any further time that is agreed to in writing by the applicant and administrative officer.

16 (2) **Formal development plan approval.**

17 (i) **Preliminary plan.** Unless the application is reviewed under unified development
18 review, the permitting authority will approve, deny, or approve with conditions, the preliminary
19 plan within sixty-five (65) days of certification of completeness, or within any further time that is
20 agreed to by the applicant and the permitting authority.

21 (ii) **Final plan.** For formal development plan approval, the permitting authority shall
22 delegate final plan review and approval to the administrative officer. The officer will report its
23 actions in writing to the permitting authority at its next regular meeting, to be made part of the
24 record. The final plan shall be approved or denied within forty-five (45) days after the certification
25 of completeness, or within a further amount of time that may be consented to by the applicant, in
26 writing.

27 (h) **Failure to act.** Failure of the administrative officer or the permitting authority to act
28 within the period prescribed constitutes approval of the preliminary plan, and a certificate of the
29 administrative officer as to the failure to act within the required time and the resulting approval
30 shall be issued on request of the application.

31 (i) **Vested rights.** Approval of development plan review shall expire two (2) years from
32 the date of approval unless, within that period, a plat or plan, in conformity with approval, and as
33 defined in this act, is submitted for signature and recording as specified in § 45-23-64. Validity
34 may be extended for an additional period upon application to the administrative officer or

1 permitting authority, whichever entity approved the application, upon a showing of good cause.

2 (j) **Modifications and changes to plans.**

3 (1) Minor changes, as defined in the local regulations, to the plans approved at any stage
4 may be approved administratively, by the administrative officer, ~~whereupon final plan approval~~
5 ~~may be issued~~. The changes may be authorized without an additional planning board meeting ~~at~~
6 ~~the discretion of the administrative officer~~. All changes shall be made part of the permanent record
7 of the project application. This provision does not prohibit the administrative officer from
8 requesting recommendation from either the technical review committee or the permitting authority
9 if the permitting authority is not the administrative officer. Denial of the proposed change(s) shall
10 be referred to the permitting authority for review as a major change.

11 (2) Major changes, as defined in the local regulations, to the plans approved at any stage
12 may be approved only by the permitting authority and must follow the same review and hearing
13 process required for approval of preliminary plans, which shall include a public hearing, if
14 originally required as part of the project's approvals.

15 (3) The administrative officer shall notify the applicant in writing within fourteen (14) days
16 of submission of the ~~final plan application~~ written request for a change if the administrative officer
17 determines that there has been a major change to the approved plans.

18 (k) **Appeal.** A decision under this section shall be considered an appealable decision
19 pursuant to § 45-23-71.

20 **45-23-50.1. Special provisions — Unified development review. [Effective January 1,**
21 **2024.]**

22 (a) A municipal zoning ordinance shall provide for unified development review pursuant
23 to § 45-24-46.4, and the local regulations must include procedures for the filing, review, and
24 approval of applications, pursuant to § 45-24-46.4 and this section.

25 (b) Review of projects submitted under the unified development review provisions of the
26 regulations shall adhere to the procedures, timeframes, and standards of the underlying category of
27 the project as listed in § 45-23-36, but shall also include the following procedures:

28 (1) **Minor subdivisions and land development projects.** Except for dimensional relief
29 granted by modification as set forth in § 45-23-38 and § 45-24-46, requests for variances and/or for
30 the issuance of special-use permits related to minor subdivisions and land development projects
31 shall be submitted as part of the application materials for the preliminary plan stage of review or if
32 combined, for the first stage of reviews. A public hearing on the application, including any variance
33 and special-use permit requests that meets the requirements of subsection (d) of this section shall
34 be held prior to consideration of the preliminary plan by the planning board or commission. The

1 planning board or commission shall conditionally approve or deny the request(s) for the variance(s)
2 and/or special-use permit(s) before considering the preliminary plan application for the minor
3 subdivision or land development project. Approval of the variance(s) and/or special-use permit(s)
4 shall be conditioned on approval of the final plan of the minor subdivision or land development
5 project.

6 (2) **Development plan review.** Except for dimensional relief granted by modification as
7 set forth in § ~~45-23-38~~ 45-23-50 and § 45-24-46, requests for relief from the literal requirements of
8 the zoning ordinance and/or for the issuance of special-use permits ~~related to minor subdivisions~~
9 ~~and land development projects~~ shall be submitted as part of the application materials for the
10 preliminary plan stage of review. A public hearing on the application, including any variance and
11 special-use permit requests that meets the requirements of subsection (d) of this section shall be
12 held prior to consideration of the preliminary plan by the ~~planning board or commission~~ relevant
13 permitting authority. The ~~planning board or commission~~ authorized permitting authority shall
14 conditionally approve or deny the request(s) for the variance(s) and/or special-use permit(s) before
15 considering the preliminary plan application ~~for the minor subdivision or land development project~~.
16 Approval of the variance(s) and/or special-use permit(s) shall be conditioned on approval of the
17 final plan of the minor subdivision or land development project.

18 (3) **Major subdivisions and land development projects — Master plan.** Except for
19 dimensional relief granted by modification as set forth in § 45-23-39, requests for variances for
20 relief from the literal requirements of the zoning ordinance and/or for the issuance of a special-use
21 permit related to major subdivisions and land development projects shall be submitted as part of
22 the application materials for the master plan stage of review, or if combined, the first stage of
23 review. A public hearing on the application, including any variance and special-use permit requests,
24 that meets the requirements of subsection (d) of this section, shall be held prior to consideration of
25 the master plan by the planning board or commission. The planning board or commission shall
26 conditionally approve or deny the requests for the variance(s) and/or special-use permit(s) before
27 considering the master plan application for the major subdivision or land development project.
28 Approval of the variance(s) and/or special-use permit(s) shall be conditioned on approval of the
29 final plan of the major subdivision or land development project.

30 (4) **Major subdivisions and land development projects — Preliminary plan.** During
31 the preliminary plan stage of review, applicants shall have the ability to request alteration of any
32 variance(s) and/or special-use permit(s) granted by the planning board or commission during the
33 master plan stage of review, and/or to request new variance(s) and/or special-use permit(s), based
34 on the outcomes of the more detailed planning and design necessary for the preliminary plan. If

1 necessary, the applicant shall submit such requests and all supporting documentation along with
2 the preliminary plan application materials. If the applicant requests new or additional zoning relief
3 at this stage, a public hearing on the application, that meets the requirements of subsection (d) of
4 this section, shall be held prior to consideration of the preliminary plan by the planning board or
5 commission. The planning board or commission shall conditionally approve, amend, or deny the
6 requests for alteration(s), new variance(s), and/or new special-use permit(s), before considering the
7 preliminary plan application for the major subdivision or land development project. Approval of
8 the alteration(s), new variance(s), and/or new special-use permit(s) shall be conditioned on
9 approval of the final plan of the major subdivision or land development project. If the planning
10 board or commission denies the request for alteration(s), new variance(s), and/or new special-use
11 permit(s), the planning board shall have the option of remanding the application back to the master
12 plan stage of review. Alternatively, if the planning board or commission denies the request for
13 alteration(s), new variance(s), and/or new special-use permit(s), the applicant may consent to an
14 extension of the decision period mandated by § ~~45-23-41(f) [repealed]~~ [45-23-39](#) so that additional
15 information can be provided and reviewed by the board or commission.

16 (c) Decision. The time periods by which the planning board or commission must approve
17 or deny applications for variances and special-use permits under the unified development review
18 provisions of the local regulations shall be the same as the time periods by which the board must
19 make a decision on the applicable review stage of the category of project under review.

20 (d) Unless otherwise provided in this chapter all applications under this section shall
21 require a single public hearing, held pursuant to subsection (b) of this section. The public hearing
22 must meet the following requirements:

23 (1) Public hearing notice shall adhere to the requirements found in § 45-23-42(1);

24 (2) The notice area for notice of the public hearing shall be specified in the local
25 regulations, and shall, at a minimum, include all property located in or within not less than two
26 hundred feet (200') of the perimeter of the area included in the subdivision and/or land development
27 project. Notice of the public hearing shall be sent by the administrative officer to the administrative
28 officer of an adjacent municipality if: (i) The notice area extends into the adjacent municipality; or
29 (ii) The development site extends into the adjacent municipality; or (iii) There is a potential for
30 significant negative impact on the adjacent municipality. Additional notice within watersheds shall
31 also be sent as required in § 45-23-53(b) and (c);

32 (3) Public notice shall indicate that dimensional variance(s), use variance(s), and/or
33 special-use permit(s) are to be considered for the subdivision and/or land development project; and

34 (4) The cost of all public notice is to be borne by the applicant.

1 (e) The time periods by which the permitting authority must approve, approve with
2 conditions, or deny requests for variances and special-use permits under the unified development
3 review provisions of a zoning ordinance shall be the same as the time periods by which the board
4 must make a decision on the applicable review stage of the underlying type of project under review.

5 (f) The expiration periods of an approval of a variance or special use permit granted under
6 this section shall be the same as those set forth in the statute for the underlying type of project under
7 review.

8 (g) Decisions under this section, including requests for the variance(s) and/or special-use
9 permits that are denied by the permitting authority, may be appealed pursuant to § 45-23-71.

10 **45-23-61. Procedure — Precedence of approvals between planning board and other**
11 **local permitting authorities.**

12 (a) Zoning board.

13 (1) Where an applicant requires both a variance from the local zoning ordinance and
14 planning board approval, ~~and the application is not undergoing~~ shall be reviewed under unified
15 development review pursuant to §§ 45-23-50.1 and 45-24-46.4 ~~the local zoning ordinance, the~~
16 ~~applicant shall first obtain an advisory recommendation from the planning board, as well as~~
17 ~~conditional planning board approval for the first approval stage for the proposed project, which~~
18 ~~may be simultaneous, then obtain conditional zoning board relief, and then return to the planning~~
19 ~~board for subsequent required approval(s).~~

20 (2) Where an applicant requires both a special-use permit under the local zoning ordinance
21 and planning board approval, ~~and the application is not undergoing~~ shall be reviewed under unified
22 development review pursuant to §§ 45-23-50.1 and 45-24-46.4 ~~the local zoning ordinance, the~~
23 ~~applicant shall first obtain an advisory recommendation from the planning board, as well as~~
24 ~~conditional planning board approval for the first approval stage for the proposed project, which~~
25 ~~may be simultaneous, then obtain a conditional special use permit from the zoning board, and then~~
26 ~~return to the planning board for subsequent required approval(s).~~

27 (b) City or town council. Where an applicant requires both planning board approval and
28 council approval for a zoning ordinance or zoning map change, the applicant shall first obtain an
29 advisory recommendation on the zoning change from the planning board, as well as conditional
30 planning board approval for the first approval stage for the proposed project, which may be
31 simultaneous, then obtain a conditional zoning change from the council, and then return to the
32 planning board for subsequent required approval(s).

33 **45-23-65. Procedure — Changes to recorded plats and plans.**

34 (a) For all changes to the approved recorded plans of land development projects or

1 subdivisions subject to this act, an amendment of the final development plans is required prior to
2 the issuance of any building permits. The procedure for approval and the categorization of whether
3 such change is minor or major shall be in accordance with §§ 45-23-38(h), 45-23-39(f) or 45-23-
4 50(j), whichever is applicable based on the underlying type of application. Any such changes
5 approved in the final plan shall be recorded as amendments to the final plan in accordance with the
6 procedure established for recording of plats in § 45-23-64.

7 (b) ~~Minor changes, as defined in the local regulations, to a land development or subdivision~~
8 ~~plan may be approved administratively, by the administrative officer, whereupon a permit may be~~
9 ~~issued. The changes may be authorized without additional public hearings, at the discretion of the~~
10 ~~administrative officer. All changes shall be made part of the permanent record of the project~~
11 ~~application. This provision does not prohibit the administrative officer from requesting a~~
12 ~~recommendation from either the technical review committee or the planning board. Denial of the~~
13 ~~proposed change(s) shall be referred to the planning board for review as a major change.~~

14 (c) ~~Major changes, as defined in the local regulations, to a land development or subdivision~~
15 ~~plan may be approved, only by the planning board and must follow the same review and public~~
16 ~~hearing process required for approval of preliminary plans as described in § 45-23-41.~~

17 (d) Rescission procedure. The planning board, only upon application by all landowners of
18 the plat to be affected, may determine that the application for plat rescission is not consistent with
19 the comprehensive community plan and is not in compliance with the standards and provisions of
20 the municipality's zoning ordinance and/or land development and subdivision review regulations
21 and shall hold a public hearing, which adheres to the requirements for notice described in § 45-23-
22 42. The planning board shall approve, approve with conditions or modifications, or deny the
23 application for rescission of the plat according to the requirements of § 45-23-63. If it is necessary
24 to abandon any street covered under chapter 6 of title 24, the planning board shall submit to the
25 city or town council the documents necessary for the abandonment process. Once the required
26 process for rescission or for rescission and abandonment has been completed, the revised plat shall
27 be signed and recorded as specified in § 45-23-64.

28 **45-23-67. Appeals from decision of administrative officer. [Effective January 1, 2024.]**

29 (a) **Process and timing.** Local regulations adopted pursuant to this chapter shall provide
30 that an appeal from any decision of the administrative officer charged in the regulations with
31 enforcement of any provisions, except as provided in this section, may be taken to the board of
32 appeal by an aggrieved party as set forth in this section. Decisions by the administrative officer
33 approving or denying projects ~~under § 45-23-38 or § 45-23-50~~ shall not be subject to this section
34 and shall proceed directly to superior court as set forth in § 45-23-71.

1 (1) An appeal to the board of appeal from a decision or action of the administrative officer
2 may be taken by an aggrieved party to the extent provided in § ~~45-23-66 [repealed]~~ 45-23-67. The
3 appeal must be taken within twenty (20) days after the decision has been recorded in the city's or
4 town's land evidence records and posted in the office of the city or town clerk.

5 (2) The appeal shall be in writing and state clearly and unambiguously the issue or decision
6 that is being appealed, the reason for the appeal, and the relief sought. The appeal shall either be
7 sent by certified mail, with a return receipt requested, or be hand-delivered to the board of appeal.
8 The city or town clerk shall accept delivery of an appeal on behalf of the board of appeal, if the
9 local regulations governing land development and subdivision review so provide.

10 (3) Upon receipt of an appeal, the board of appeal shall require the administrative officer
11 to immediately transmit to the board of appeal, all papers, documents, and plans, or a certified copy
12 thereof, constituting the record of the action that is being appealed.

13 (b) **Stay.** An appeal stays all proceedings in furtherance of the action being appealed.

14 (c) **Hearing.**

15 (1) The board of appeal shall hold a hearing on the appeal within forty-five (45) days of
16 the receipt of the appeal, and give public notice of the hearing, as well as due notice to the parties
17 of interest. At the hearing the parties may appear in person, or be represented by an agent or
18 attorney. The board shall render a decision within ten (10) days of the close of the public hearing.
19 The cost of any notice required for the hearing shall be borne by the applicant.

20 (2) The board of appeal shall only hear appeals of the actions of an administrative officer
21 at a meeting called especially for the purpose of hearing the appeals and that has been so advertised.

22 (3) The hearing, which may be held on the same date and at the same place as a meeting
23 of the zoning board of review, must be held as a separate meeting from any zoning board of review
24 meeting. Separate minutes and records of votes ~~as required by § 45-23-70(d) [repealed]~~ shall be
25 maintained by the board of appeal.

26 (d) **Standards of Review.**

27 (1) As established by this chapter, in instances of a board of appeal's review of an
28 administrative officer's decision on matters subject to this chapter, the board of appeal shall not
29 substitute its own judgment for that of the administrative officer but must consider the issue upon
30 the findings and record of the administrative officer. The board of appeal shall not reverse a
31 decision of the administrative officer except on a finding of prejudicial procedural error, clear error,
32 or lack of support by the weight of the evidence in the record.

33 (2) The concurring vote of three (3) of the five (5) members of the board of appeal sitting
34 at a hearing, is necessary to reverse any decision of the administrative officer.

1 (3) In the instance where the board of appeal overturns a decision of the administrative
2 officer, the proposed project application is remanded to the administrative officer, at the stage of
3 processing from which the appeal was taken, for further proceedings before the administrative
4 officer and/or for the final disposition, which shall be consistent with the board of appeal's decision.

5 (4) The board of appeal shall keep complete records of all proceedings including a record
6 of all votes taken, and shall put all decisions on appeals in writing. The board of appeal shall include
7 in the written record the reasons for each decision.

8 SECTION 2. Sections 45-24-38, 45-24-42, 45-24-46.4 and 45-24-49 of the General Laws
9 in Chapter 45-24 entitled "Zoning Ordinances" are hereby amended to read as follows:

10 **45-24-38. General provisions — Substandard lots of record. [Effective January 1,**
11 **2024.]**

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

15 (b) Notwithstanding the failure of that lot or those lots to meet the dimensional and/or
16 quantitative requirements, and/or road frontage or other access requirements, applicable in the
17 district as stated in the ordinance, a substandard lot of record shall not be required to seek any
18 zoning relief based solely on the failure to meet minimum lot size requirements of the district in
19 which such lot is located. ~~The setback, frontage, and/or lot width requirements for a structure under~~
20 ~~this section shall be reduced and the maximum building coverage requirements shall be increased~~
21 ~~by the same proportion as the lot area of the substandard lot is to the minimum lot area requirement~~
22 ~~of the zoning district in which the lot is located.~~ For any structure proposed under this section on a
23 substandard lot of record, the following dimensional regulations shall apply:

24 (1) Minimum building setbacks, lot frontage and lot width requirements for a lot which is
25 nonconforming in area shall be reduced by applying the building setback, lot frontage and lot width
26 requirements from another zoning district in the municipality in which the subject lot would be
27 conforming as to lot area. If the subject lot is not conforming as to lot area in any zoning district in
28 the municipality, the setbacks, lot frontage and lot width shall be reduced by the same proportion
29 that the area of such substandard lot meets the minimum lot area of the district in which the lot is
30 located. By way of example, if the lot area of a substandard lot only meets forty percent (40%) of
31 the minimum lot area required in the district in which it is located, the setbacks, frontage and width
32 shall each be reduced to forty percent (40%) of the requirements for those dimensional standards
33 in the same district.

34 (2) Maximum lot building coverage for lots that are nonconforming in area shall be

1 [increased by the inverse proportion that the area of such substandard lot meets the minimum area](#)
2 [requirements in the district in which the lot is located. By way of example, if the lot area of a](#)
3 [substandard lot only meets forty percent \(40%\) of the required minimum lot area, the maximum lot](#)
4 [building coverage is allowed to increase by sixty percent \(60%\) over the maximum permitted lot](#)
5 [building coverage in that district.](#)

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

9 (c) Provisions may be made for the merger of contiguous unimproved, or improved and
10 unimproved, substandard lots of record in the same ownership to create dimensionally conforming
11 lots or to reduce the extent of dimensional nonconformance. The ordinance shall specify the
12 standards, on a district by district basis, which determine the mergers. The standards shall include,
13 but are not to be limited to, the availability of infrastructure, the character of the neighborhood, and
14 the consistency with the comprehensive plan. The merger of lots shall not be required when the
15 substandard lot of record has an area equal to or greater than the area of fifty percent (50%) of the
16 lots within two hundred feet (200') of the subject lot, as confirmed by the zoning enforcement
17 officer.

18 **45-24-42. General provisions — Special-use permits. [Effective January 1, 2024.]**

19 (a) A zoning ordinance shall provide for the issuance of special-use permits approved by
20 the zoning board of review, or, where unified development review is enabled pursuant to § 45-24-
21 46.4, the planning board or commission.

22 (b) The ordinance shall:

23 (1) Specify the uses requiring special-use permits in each district. The ordinance shall
24 provide for a procedure under which a proposed land use that is not specifically listed may be
25 presented by the property owner to the zoning board of review or to a local official or agency
26 charged with administration and enforcement of the ordinance for an evaluation and determination
27 of whether the proposed use is of a similar type, character, and intensity as a listed use requiring a
28 special-use permit. Upon such determination, the proposed use may be considered to be a use
29 requiring a special-use permit;

30 (2) Describe the conditions and procedures under which special-use permits, of each of the
31 various categories of special-use permits established in the zoning ordinance, shall be issued;

32 (3) Establish specific and objective criteria for the issuance of each type of use category of
33 special-use permit, which criteria shall be in conformance with the purposes and intent of the
34 comprehensive plan and the zoning ordinance of the city or town; however, in no case shall any

1 specific and objective criteria for a special use permit include a determination of consistency with
2 the comprehensive plan;

3 (4) Provide for public hearings and notification of the date, time, place, and purpose of
4 those hearings to interested parties. Special-use permit requests submitted under a zoning
5 ordinance's unified development review provisions shall be heard and noticed in conjunction with
6 the subdivision or land development application, according to the requirements of § 45-23-50.1.
7 Public notice for special-use permits that are not submitted under a zoning ordinance's unified
8 development review provisions shall be given at least fourteen (14) days prior to the date of the
9 hearing in a newspaper of ~~general~~ local circulation in the city or town. Notice of hearing shall be
10 sent by first-class mail to the applicant, and to all those who would require notice under § 45-24-
11 53. The notice shall also include the street address of the subject property. A zoning ordinance may
12 require that a supplemental notice, that an application for a special-use permit is under
13 consideration, be posted at the location in question. The posting is for information purposes only
14 and does not constitute required notice of a public hearing. The same notice shall be posted in the
15 town or city clerk's office and one other municipal building in the municipality and the municipality
16 must make the notice accessible on the municipal home page of its website at least fourteen (14)
17 days prior to the hearing. For any notice sent by first-class mail, the sender of the notice shall submit
18 a notarized affidavit to attest to such mailing. The cost of the newspaper and mailing notification
19 shall be borne by the applicant;

20 (5) Provide for the recording of findings of fact and written decisions; and

21 (6) Provide that appeals may be taken pursuant to § ~~45-24-70 or § 45-23-66 [repealed]~~ 45-
22 24-69 or § 45-23-71, dependent on the board to which application was made.

23 (c) If an ordinance does not expressly provide for specific and objective criteria for the
24 issuance of a category of special use permit such category shall be deemed to be permitted use.

25 (d) The ordinance additionally shall provide that an applicant apply for, and be issued, a
26 dimensional variance in conjunction with a special-use permit. If the special use could not exist
27 without the dimensional variance, the zoning board of review, or, where unified development
28 review is enabled pursuant to § 45-24-46.4~~(b)~~, the planning board or commission shall consider the
29 special-use permit and the dimensional variance together to determine if granting the special use is
30 appropriate based on ~~both the~~ each respective special use criteria and the dimensional variance
31 evidentiary standards.

32 **45-24-46.4. Special provisions — Unified development review. [Effective January 1,**
33 **2024.]**

34 (a) A zoning ordinance shall provide that review and decision on variances and/or special-

1 use permits for properties undergoing review which qualifies for unified development review by
2 the authorized permitting authority, be conducted and decided by the authorized permitting
3 authority. This process is to be known as unified development review.

4 (b) The local ordinance and regulation shall provide for the application and review process
5 pursuant to § 45-23-50.1.

6 (c) A zoning ordinance that provides for unified development review shall:

7 (1) Empower the authorized permitting authority to grant, grant with conditions, or deny
8 zoning relief; and

9 (2) Provide that any person, group, agency, or corporation that files an application for a
10 project under this section shall also file specific requests for relief from the literal requirements of
11 a zoning ordinance on the subject property, pursuant to § 45-24-41, and/or for the issuance of
12 special-use permits for the subject property, pursuant to § 45-24-42, by including such within the
13 application to the administrative officer with the other required application materials, pursuant to
14 § 45-23-50.1(b).

15 (d) [Deleted by P.L. 2023, ch. 308, § 2 and P.L. 2023, ch. 309, § 2.]

16 (e) All land development and subdivision applications that include requests for variances
17 and/or special-use permits submitted pursuant to this section shall require a public hearing that
18 meets the requirements of § 45-23-50.1.

19 (f) In granting requests for dimensional and use variances, the authorized permitting
20 authority shall be bound to the requirements of § 45-24-41 relative to entering evidence into the
21 record in satisfaction of the applicable standards.

22 (g) In reviewing requests for special-use permits, the authorized permitting authority shall
23 be bound to the conditions and procedures under which a special-use permit may be issued and the
24 criteria for the issuance of such permits, as found within the zoning ordinance pursuant to § 45-24-
25 42, and shall be required to provide for the recording of findings of fact and written decisions as
26 described in the zoning ordinance pursuant to § 45-24-42.

27 (h) An appeal from any decision made pursuant to this section may be taken pursuant to §
28 ~~45-24-71~~ [45-23-71](#).

29 **45-24-49. Special provisions — Development plan review. [Effective January 1, 2024.]**

30 (a) A zoning ordinance ~~shall~~ [may](#) permit development plan review of applications pursuant
31 to § 45-23-50, for uses that are permitted by right under the zoning ordinance, but the review shall
32 only be based on specific and objective guidelines which must be stated in the zoning ordinance.
33 The permitting authority shall also be set forth in and be established by the zoning ordinance. A
34 rejection of the application shall be considered an appealable decision pursuant to § ~~45-24-64~~ [45-](#)

1 [23-71](#).

2 (b) The permitting authority may grant relief from the zoning ordinance and may grant
3 zoning incentives under specific conditions set forth in the zoning ordinance.

4 (c) [Deleted by P.L. 2023, ch. 308, § 2 and P.L. 2023, ch. 309, § 2.]

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

=====
LC005511/SUB A
=====

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

1 This act would make amendments to various provisions relative to subdivision of land
2 review, review stages, special provisions related to development and the procedures for approvals
3 from various permitting authorities.

4 This act would take effect upon passage.

=====
LC005867/SUB A
=====