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S T A T E O F R H O D E I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2026

A N A C T

**RELATING TO TOWNS AND CITIES -- LOW AND MODERATE INCOME HOUSING --
PROCEDURE FOR APPROVAL OF CONSTRUCTION**

Introduced By: Senators Rogers, E Morgan, Patalano, Thompson, de la Cruz, Dimitri,
Burke, Raptakis, Paolino, and Tikoian

Date Introduced: January 23, 2026

Referred To: Senate Housing & Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-53-3 and 45-53-4 of the General Laws in Chapter 45-53 entitled

2 "Low and Moderate Income Housing" are hereby amended to read as follows:

3 **45-53-3. Definitions. [Effective January 1, 2026, inclusive of existing language in § 45-53-3.]**

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

7 (1) "Adjustment(s)" means a request or requests by the applicant to seek relief from the
8 literal use and dimensional requirements of the municipal zoning ordinance and/or the design
9 standards or requirements of the municipal land development and subdivision regulations. The
10 standard for the local review board's consideration of adjustments is set forth in § 45-53-
11 4(e)(3)(iii)(E)(II).

12 (2) "Affordable housing plan" means a component of a housing element, as defined in §
13 45-22.2-4(1), that addresses low- and moderate-income housing needs in a city or town that is
14 prepared in accordance with guidelines adopted by the state planning council, and/or to meet the
15 provisions of § 45-53-4(f)(1) and (g). Affordable housing units shall be included in each town and
16 city when the building permits for said units are granted.

17 (3) "Approved affordable housing plan" means an affordable housing plan that is part of
18 an approved and unexpired local comprehensive plan as provided for in § 45-22.2-8, § 45-22.2-9,

1 or § 45-22.2-12.

2 (4) "Comprehensive plan" means a comprehensive plan adopted and approved by a city or
3 town pursuant to chapter 22.2 of this title.

4 (5) "Consistent with local needs" means reasonable in view of the state and local need for
5 low- and moderate-income housing, considered with the number of low-income persons in the city
6 or town affected and the need to protect the health and safety of the occupants of the proposed
7 housing or of the residents of the city or town, to promote better site and building design in relation
8 to the surroundings, or to preserve open spaces, and if the local zoning or land use ordinances,
9 requirements, and regulations are applied as equally as possible to both subsidized and
10 unsubsidized housing. Local zoning and land use ordinances, requirements, or regulations are
11 consistent with local needs when imposed by a city or town council after a comprehensive hearing
12 in a city or town where:

13 (i) Low- or moderate-income housing exists which is:

14 (A) In the case of an urban city or town which has at least five thousand (5,000) occupied
15 year-round rental units and the units, as reported in the latest decennial census of the city or town,
16 comprise twenty-five percent (25%) or more of the year round housing units, and is in excess of
17 fifteen percent (15%) of the total occupied year-round rental units; or

18 (B) In the case of all other cities or towns, is in excess of ten percent (10%) of the year-
19 round housing units reported in the census.

20 (ii) The city or town has promulgated zoning or land use ordinances, requirements, and
21 regulations to implement a comprehensive plan that has been adopted and approved pursuant to
22 chapters 22.2 and 22.3 of this title, and the housing element of the comprehensive plan provides
23 for low- and moderate-income housing in excess of either ten percent (10%) of the year-round
24 housing units or fifteen percent (15%) of the occupied year-round rental housing units as provided
25 in subsection (5)(i).

26 (6) "Infeasible" means any condition brought about by any single factor or combination of
27 factors, as a result of limitations imposed on the development by conditions attached to the approval
28 of the comprehensive permit, to the extent that it makes it financially or logically impracticable
29 for any applicant to proceed in building or operating low- or moderate-income housing within the
30 limitations set by the subsidizing agency of government or local review board, on the size or
31 character of the development, on the amount or nature of the subsidy, or on the tenants, rentals, and
32 income permissible, and without substantially changing the rent levels and unit sizes proposed by
33 the applicant.

34 (7) "Letter of eligibility" means a letter issued by the Rhode Island housing and mortgage

1 finance corporation in accordance with § 42-55-5.3(a).

2 (8) “Local review board” means the local planning board or commission as defined by §
3 45-22.2-4.

4 (9) “Low- or moderate-income housing” shall be synonymous with “affordable housing”
5 as defined in § 42-128-8.1, and further means any type of housing whether built or operated by any
6 public agency or any nonprofit organization or by any limited equity housing cooperative or any
7 private developer, that is subsidized by a federal, state, or municipal government subsidy under any
8 program to assist the construction or rehabilitation of affordable housing and that will remain
9 affordable through a land lease and/or deed restriction for ninety-nine (99) years or such other
10 period that is either agreed to by the applicant and town or prescribed by the federal, state, or
11 municipal government subsidy program but that is not less than thirty (30) years from initial
12 occupancy. [Affordable housing units shall be included in each town and city's affordable housing stock when the building permits for said units are granted.](#)

14 (i) Any housing unit that qualifies under this subsection (9) and under § 42-128-8.1 shall
15 be counted as one whole unit toward the municipality’s requirement for low- or moderate-income
16 housing.

17 (ii) Any mobile or manufactured home(s) that meet the requirements of § 42-128-
18 8.1(d)(1)(ii) but are not subsidized by a federal, state, or municipal government subsidy and/or do
19 not have a deed restriction or land lease as described in this subsection (9), shall count as one-half
20 (½) of one unit for the purpose of the calculation of the total of low- or moderate-income year-
21 round housing within a city or town, as long as a municipality contracts with a monitoring agent to
22 verify that the requirements of § 42-128-8.1(d)(1)(ii) are met for these units. Such units shall not
23 be required to meet the income verification requirements of § 42-128-8.1. The monitoring agent
24 shall provide a listing of the eligible units to Rhode Island Housing, who shall provide a report as
25 to the qualifying mobile or manufactured homes under this subsection (9) to the governor, speaker
26 of the house of representatives, senate president, and secretary of housing on an annual basis,
27 beginning on or before December 31, 2025.

28 (iii) Low- or moderate-income housing also includes rental property located within a
29 municipality that is secured with a federal government rental assistance voucher.

30 (iv) For the period beginning on or after July 1, 2024, any housing unit that qualifies as
31 low- or moderate-income housing under this subsection (9) and under § 42-128-8.1 and any rental
32 property secured with a federal government rental assistance voucher that does not otherwise meet
33 the other requirements to qualify as low- or moderate-income housing under this section shall be
34 counted as one whole unit toward the municipality’s requirement for low- or moderate-income

1 housing, as long as a municipality confirms with the issuing authority that the voucher is in good
2 standing and active.

3 (10) "Monitoring agents" means those monitoring agents appointed by the executive office
4 of housing pursuant to § 45-53-3.2 and to provide the monitoring and oversight set forth in this
5 chapter, including, but not limited to, §§ 45-53-3.2 and 45-53-4.

6 (11) "Municipal government subsidy" means assistance that is made available through a
7 city or town program sufficient to make housing affordable, as affordable housing is defined in §
8 42-128-8.1(d)(1); such assistance shall include a combination of, but is not limited to, direct
9 financial support, abatement of taxes, waiver of fees and charges, and density bonuses and/or
10 internal subsidies, zoning incentives, and adjustments as defined in this section and any
11 combination of forms of assistance.

12 **45-53-4. Procedure for approval of construction of low- or moderate-income housing.**

13 **[Effective January 1, 2026, inclusive of existing language in § 45-53-4.]**

14 (a) Any applicant proposing to build low- or moderate-income housing may submit to the
15 local review board a single application for a comprehensive permit to build that housing in lieu of
16 separate applications to the applicable local boards. This procedure is only available for proposals
17 in which at least twenty-five percent (25%) of the housing is low- or moderate-income housing.
18 This procedure is not available in cities and towns that have low- or moderate-income housing in
19 excess of ten percent (10%) of its year-round housing units which also have an inclusionary zoning
20 ordinance which complies with § 45-24-46.1.

21 (b) Cities and towns that have low- or moderate-income housing in excess of ten percent
22 (10%) of its year-round housing units:

23 (1) May provide an applicant with more dwelling units than allowed by right under its
24 zoning ordinance in the form of a density bonus to allow an increase in the allowed dwelling units
25 per acre (DU/A), as well as other incentives and municipal government subsidies as defined in §
26 45-53-3;

27 (2) May, by council action, limit the annual total number of dwelling units in
28 comprehensive permit applications from for-profit developers to an aggregate of one percent (1%)
29 of the total number of year-round housing units in the town, and notwithstanding the timetables set
30 forth elsewhere in this section, the local review board shall have the authority to consider
31 comprehensive permit applications from for-profit developers, which are made pursuant to this
32 subsection, sequentially in the order in which they are submitted.

33 (c) Cities and towns that do not have low- or moderate-income housing in excess of ten
34 percent (10%) of its year-round housing units:

5 (A) Density bonuses. These cities and towns shall provide an applicant with more dwelling
6 units than allowed by right under its zoning ordinances in the form of a density bonus to allow an
7 increase in the allowed dwelling units per acre (DU/A). At a minimum, the following density
8 bonuses for projects submitted under this chapter, provided that the total land utilized in the density
9 calculation shall exclude wetlands; area devoted to roadway infrastructure necessary for
10 development; and easements or rights of way of record:

11 (i) For properties connected to public sewer and water, or eligible to be connected to public
12 sewer and water based on written confirmation from each respective service provider, the density
13 bonus for a project that provides at least twenty-five percent (25%) low- and moderate-income
14 housing shall be at least five (5) units per acre;

15 (ii) For properties connected to public sewer and water, or eligible to be connected to public
16 sewer and water based on written confirmation from each respective service provider, the density
17 bonus for a project that provides at least fifty percent (50%) low- and moderate-income housing
18 shall be at least nine (9) units per acre;

19 (iii) For properties connected to public sewer and water, or eligible to be connected to
20 public sewer and water based on written confirmation from each respective service provider, the
21 density bonus for a project that provides one hundred percent (100%) low- and moderate-income
22 housing shall be at least twelve (12) units per acre;

23 (iv) For properties not connected to either public water or sewer or both, but which provide
24 competent evidence as to the availability of water to service the development and/or a permit for
25 on-site wastewater treatment facilities to service the dwelling units from the applicable state
26 agency, the density bonus for a project that provides at least twenty-five percent (25%) low- and
27 moderate-income housing shall be at least three (3) units per acre;

28 (v) For properties not connected to either public water or sewer or both, but which provide
29 competent evidence as to the availability of water to service the development and/or a permit for
30 on-site wastewater treatment facilities to service the dwelling units from the applicable state
31 agency, the density bonus for a project that provides at least fifty percent (50%) low- and moderate-
32 income housing shall be at least five (5) units per acre:

33 (vi) For properties not connected to either public water or sewer or both, but which provide
34 competent evidence as to the availability of water to service the development and/or a permit for

1 on-site wastewater treatment facilities to service the dwelling units from the applicable state
2 agency, the density bonus for a project that provides one hundred percent (100%) low- and
3 moderate-income housing shall be at least eight (8) units per acre;

4 (B) Parking. A municipality shall not require more than one off-street parking space per
5 dwelling unit for units up to and including two (2) bedrooms in applications submitted under this
6 chapter;

7 (C) Bedrooms. A municipality shall not limit the number of bedrooms for applications
8 submitted under this chapter to anything less than three (3) bedrooms per dwelling unit for single-
9 family dwelling units;

10 (D) Floor area. A municipality shall not utilize floor area requirements to limit any
11 application, except as provided by § 45-24.3-11.

12 (d) A municipality shall not restrict comprehensive permit applications and permits by any
13 locally adopted ordinance or policy that places a limit or moratorium on the development of
14 residential units.

15 (e) The application and review process for a comprehensive permit shall be as follows:

16 (1) Pre-application conference. A municipality may require an applicant proposing a
17 project under this chapter, who is not electing to have master plan review, to complete, or the
18 applicant proposing a project under this chapter may request a pre-application conference with the
19 local review board, the technical review committee established pursuant to § 45-23-56, or with the
20 administrative officer for the local review board as appropriate. In advance of a pre-application
21 conference, the applicant shall be required to submit only a short description of the project in
22 writing including the number of units, type of housing, density analysis, preliminary list of
23 adjustments needed, as well as a location map, and conceptual site plan. The purpose of the pre-
24 application conference shall be to review a concept plan of the proposed development and to elicit
25 feedback from the reviewing person or board. Upon receipt of a request by an applicant for a pre-
26 application conference, the municipality shall have thirty (30) days to schedule and hold the pre-
27 application conference, unless a different timeframe is agreed to by the applicant in writing. If thirty
28 (30) days has elapsed from the filing of the pre-application submission and no pre-application
29 conference has taken place, nothing shall be deemed to preclude an applicant from thereafter filing
30 and proceeding with an application for preliminary plan review for a comprehensive permit.

31 (2) Optional master plan. An applicant may elect to apply for and be heard on master plan
32 review prior to preliminary plan submission. If a master plan review is elected by the applicant the
33 following shall apply:

34 (i) Submission requirements. Submission requirements for master plan review shall be

1 limited to the following:

2 (A) An application form and fee;

3 (B) A short description of the project in writing including the number of units, type of
4 housing, density analysis, list of adjustments needed, as well as a location map, and preliminary
5 determinations as to site constraints;

6 (C) Conceptual site plans showing infrastructure locations for roadways, preliminary
7 locations and design of conceptual stormwater facilities, location of sewer and water lines and/or
8 wells and on-site wastewater treatment systems, locations of housing units, estimated locations of
9 site constraints and wetlands;

10 (D) A preliminary traffic opinion for projects of over thirty (30) dwelling units;

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

15 (F) If the applicant submits any requests for adjustments at master plan, a public hearing
16 shall be held in the same manner as during preliminary plan review as set forth in this section and
17 the applicant shall be responsible for providing the list of abutters and all advertising costs.

18 (ii) Certification of completeness. The master plan application must be certified complete
19 or incomplete by the administrative officer according to the provisions of § 45-23-36; provided,
20 however, that the certificate shall be granted within twenty-five (25) days of submission of the
21 application. The running of the time period set forth herein will be deemed stopped upon the
22 issuance of a written certificate of incompleteness of the application by the administrative officer
23 and will recommence upon the resubmission of a corrected application by the applicant. However,
24 in no event will the administrative officer be required to certify a corrected submission as complete
25 or incomplete less than ten (10) days after its resubmission. If the administrative officer certifies
26 the application as incomplete, the officer shall set forth in writing with specificity the missing or
27 incomplete items.

28 (iii) Review of applications. A master plan application filed in accordance with this chapter
29 shall be reviewed in accordance with the following provisions:

30 (A) Timeframe for review. The local review board shall render a decision on the master
31 plan application within sixty (60) days of the date the application is certified complete, or within a
32 further amount of time that may be consented to by the applicant through the submission of a
33 written consent.

34 (B) Failure to act. Failure of the local review board to act within the prescribed period

1 constitutes approval of the master plan, and a certificate of the administrative officer as to the failure
2 of the local review board to act within the required time and the resulting approval shall be issued
3 on request of the applicant.

4 (C) Required findings. In voting on an application, the local review board shall make
5 findings, supported by legally competent evidence on the record that discloses the nature and
6 character of the observations upon which the fact finders acted, on the standards required for
7 preliminary plan review in this section, to the extent applicable at the master plan. The failure to
8 provide information which is required later at preliminary plan review shall not form a basis for
9 denial. If the board votes to defer a finding to preliminary plan it shall do so on the record during
10 the proceedings and in the written decision and specify what items are necessary for review at the
11 preliminary plan stage in order to address that finding.

12 (iv) Vesting. The approved master plan is vested for a period of two (2) years with the right
13 to extend for two (2), one-year extensions upon written request by the applicant, who must appear
14 before the planning board for each annual review. Thereafter, vesting may be extended for a longer
15 period, for good cause shown, if requested, in writing by the applicant, and approved by the local
16 review board. The vesting for the master plan approval includes all ordinance provisions and
17 regulations at the time of the approval, general and specific conditions shown on the approved
18 master plan drawings and supporting material.

19 (3) **Preliminary plan review.**

20 (i) Submission requirements. Applications for preliminary plan review under this chapter
21 shall include:

22 (A) Unless already submitted at a master plan stage, a letter of eligibility issued by the
23 Rhode Island housing and mortgage finance corporation, or in the case of projects primarily funded
24 by the U.S. Department of Housing and Urban Development or other state or federal agencies, an
25 award letter indicating the subsidy, or application in such form as may be prescribed for a municipal
26 government subsidy; and

27 (B) A letter signed by the authorized representative of the applicant, setting forth the
28 specific sections and provisions of applicable local ordinances and regulations from which the
29 applicant is seeking adjustments; and

30 (C) A proposed timetable for the commencement of construction and completion of the
31 project; and

32 (D) Those items required by local regulations promulgated pursuant to applicable state law,
33 with the exception of evidence of state or federal permits; and for comprehensive permit
34 applications included in the checklist for the preliminary plan review in the local regulations

1 promulgated pursuant to chapter 23 of this title; and

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

6 (ii) Certification of completeness. The preliminary plan application must be certified
7 complete or incomplete by the administrative officer according to the provisions of § 45-23-36;
8 provided, however, that the certificate shall be granted within twenty-five (25) days of submission
9 of the application. The running of the time period set forth herein will be deemed stopped upon the
10 issuance of a written certificate of incompleteness of the application by the administrative officer
11 and will recommence upon the resubmission of a corrected application by the applicant. However,
12 in no event will the administrative officer be required to certify a corrected submission as complete
13 or incomplete less than ten (10) days after its resubmission. If the administrative officer certifies
14 the application as incomplete, the officer shall set forth in writing with specificity the missing or
15 incomplete items.

16 (iii) Review of applications. An application filed in accordance with this chapter shall be
17 reviewed in accordance with the following provisions:

18 (A) Public hearing. A public hearing shall be noticed and held as soon as practicable after
19 the issuance of a certificate of completeness.

20 (B) Notice. Public notice for the public hearing will be the same notice required under local
21 regulations for a public hearing for a preliminary plan promulgated in accordance with § 45-23-42.
22 The cost of notice shall be paid by the applicant.

23 (C) Timeframe for review. The local review board shall render a decision on the
24 preliminary plan application within ninety (90) days of the date the application is certified
25 complete, or within a further amount of time that may be consented to by the applicant through the
26 submission of a written consent.

27 (D) Failure to act. Failure of the local review board to act within the prescribed period
28 constitutes approval of the preliminary plan, and a certificate of the administrative officer as to the
29 failure of the local review board to act within the required time and the resulting approval shall be
30 issued on request of the applicant. Further, if the public hearing is not convened or a decision is not
31 rendered within the time allowed in subsections (e)(3)(iii)(A) and (e)(3)(iii)(C) of this section, the
32 application is deemed to have been allowed and the preliminary plan approval shall be issued
33 immediately.

34 (E) Required findings. In voting on an application, the local review board shall make

1 findings, supported by legally competent evidence on the record that discloses the nature and
2 character of the observations upon which the fact finders acted, on each of the following standards,
3 where applicable:

4 (I) Whether the proposed development is consistent with local needs as identified in the
5 community's affordable housing plan and/or has satisfactorily addressed the issues where there
6 may be inconsistencies. If the local board finds that the proposed development is inconsistent with
7 the community's affordable housing plan, it must also find that the municipality has made
8 significant progress in implementing its housing plan.

9 (II) Whether the proposed development is in compliance with the standards and provisions
10 of the municipality's zoning ordinance and subdivision regulations, and/or where adjustments are
11 requested by the applicant, whether local concerns that have been affected by the relief granted do
12 not outweigh the state and local need for low- and moderate-income housing. For cities and towns
13 that have low- or moderate-income housing in excess of ten percent (10%) of its year-round housing
14 units, where adjustments are requested, in addition to the above-showing, the proposed
15 development must show it has mitigated any impact of the proposed development on the general
16 character of the surrounding area.

17 (III) Whether the low- and moderate-income housing units proposed are integrated
18 throughout the development; are compatible in scale, meaning that: (1) The size of the low- and
19 moderate-income units shall not be less than seventy-five percent (75%) of the size of the market
20 rate units, unless otherwise allowed by the local board; (2) The affordable units are of similar
21 architectural style to the market rate units within the project so that the exterior of the units look
22 like an integrated neighborhood with similar rooflines, window patterns, materials and colors; and
23 (3) The affordable units will be built and occupied in a proportional manner with the construction
24 and occupancy of the market rate units. Except that for housing units that are intended to be
25 occupied by persons fifty-five (55) years of age or older, or sixty-two (62) years of age or older, as
26 permitted by the federal Fair Housing Act pursuant to 42 U.S.C. § 3607(b) and 24 C.F.R. §§
27 100.300-308 and the Rhode Island fair housing practices act pursuant to § 34-37-4.1, such units
28 need not be integrated in any building or phase within the development that contains housing units
29 that are not age-restricted, and neither age-restricted housing units nor any building or phase
30 containing age-restricted housing units must be compatible in scale and architectural style to other
31 housing unit types to the extent the age-restricted housing units are designed to meet the physical
32 or social needs of older persons or necessary to provide housing opportunities for older persons.

33 (IV) Whether there will be significant negative impacts on the health and safety of current
34 or future residents of the community, in areas including, but not limited to, safe circulation of

1 pedestrian and vehicular traffic, provision of emergency services, sewerage disposal, availability
2 of potable water, adequate surface water run-off, and the preservation of natural, historical, or
3 cultural features.

4 (V) Whether the proposed land developments or subdivisions lots will have adequate and
5 permanent physical access to a public street in accordance with the requirements of § 45-23-
6 60(a)(5), or the local review board has approved other access, such as a private road.

7 (VI) Whether the proposed development will result in the creation of individual lots with
8 any physical constraints to development that building on those lots according to pertinent
9 regulations and building standards would be impracticable, unless created only as permanent open
10 space or permanently reserved for a public purpose on the approved, recorded plans.

11 (F) [Deleted by P.L. 2025, ch. 363, § 1 and P.L. 2025, ch. 364, § 1.]

12 (G) Required findings for denial. In reviewing the comprehensive permit request, the local
13 review board may deny the request for any of the following reasons:

14 (I) If the city or town has an approved affordable housing plan and is meeting housing
15 needs, and the proposal is inconsistent with the affordable housing plan; provided that, the local
16 review board also finds that the municipality has made significant progress in implementing that
17 housing plan;

18 (II) The proposal is not consistent with local needs, including, but not limited to, the needs
19 identified in an approved comprehensive plan, and/or local zoning ordinances and procedures
20 promulgated in conformance with the comprehensive plan;

21 (III) The proposal is not in conformance with the comprehensive plan;

22 (IV) The community has met or has plans to meet the goal of ten percent (10%) of the year-
23 round units or, in the case of an urban town or city, fifteen percent (15%) of the occupied rental
24 housing units as defined in § 45-53-3(5)(i) being low- and moderate-income housing; provided
25 that, the local review board also finds that the community has achieved or has made significant
26 progress towards meeting the goals required by this section; or

27 (V) Concerns for the environment and the health and safety of current residents have not
28 been adequately addressed.

29 (iv) Vesting. The approved preliminary plan is vested for a period of two (2) years with the
30 right to extend for two (2), one-year extensions upon written request by the applicant, who must
31 appear before the planning board for each annual review and provide proof of valid state or federal
32 permits as applicable. Thereafter, vesting may be extended for a longer period, for good cause
33 shown, if requested, in writing by the applicant, and approved by the local review board. The
34 vesting for the preliminary plan approval includes all ordinance provisions and regulations at the

1 time of the approval, general and specific conditions shown on the approved preliminary plan
2 drawings and supporting material.

3 (4) Final plan review. The second and final stage of review for the comprehensive permit
4 project shall be done administratively, unless an applicant has requested and been granted any
5 waivers from the submission of checklist items for preliminary plan review, and then, at the local
6 review board's discretion, it may vote to require the applicant to return for final plan review and
7 approval.

8 (i) Submission requirements. Applications for final plan review under this chapter shall
9 include:

10 (A) All required state and federal permits must be obtained prior to the final plan approval
11 or the issuance of a building permit; and

12 (B) A draft monitoring agreement which identifies an approved entity that will monitor the
13 long-term affordability of the low- and moderate-income units pursuant to § 45-53-3.2; and

14 (C) A sample land lease or deed restriction with affordability liens that will restrict use as
15 low- and moderate-income housing in conformance with the guidelines of the agency providing
16 the subsidy for the low- and moderate-income housing, but for a period of not less than thirty (30)
17 years; and

18 (D) Those items required by local regulations promulgated pursuant to applicable state law
19 included in the checklist for final plan review in the local regulations promulgated pursuant to
20 chapter 23 of this title, including, but not limited to:

21 (I) Arrangements for completion of the required public improvements, including
22 construction schedule and/or financial guarantees; and

23 (II) Certification by the tax collector that all property taxes are current; and

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

27 (ii) Certification of completeness. The final plan application must be certified complete or
28 incomplete by the administrative officer according to the provisions of § 45-23-36; provided
29 however, that the certificate shall be granted within twenty-five (25) days of submission of the
30 application. The running of the time period set forth herein will be deemed stopped upon the
31 issuance of a written certificate of incompleteness of the application by the administrative officer
32 and will recommence upon the resubmission of a corrected application by the applicant. However,
33 in no event will the administrative officer be required to certify a corrected submission as complete
34 or incomplete less than ten (10) days after its resubmission. If the administrative officer certifies

1 the application as incomplete, the officer shall set forth in writing with specificity the missing or
2 incomplete items.

3 **(iii) Review of applications.**

4 (A) Timeframe for review. The reviewing authority shall render a decision on the final plan
5 application within forty-five (45) days of the date the application is certified complete.

6 **(B) Modifications and changes to plans:**

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

14 (II) Major changes, as defined in the local regulations, to the plans may be approved only
15 by the local review board and must follow the same review and public hearing process required for
16 approval of preliminary plans as described in subsection (e)(3)(iii) of this section.

17 (III) The administrative officer shall notify the applicant in writing within fourteen (14)
18 days of submission of the final plan application if the administrative officer is referring the
19 application to the local review board under this subsection.

20 (C) Decision on final plan. An application filed in accordance with this chapter shall be
21 approved by the administrative officer unless such application does not satisfy conditions set forth
22 in the preliminary plan approval decision or such application does not have the requisite state and/or
23 federal approvals or other required submissions, does not post the required improvement bonds, or
24 such application is a major modification of the plans approved at preliminary plan.

25 (D) Failure to act. Failure of the reviewing authority to act within the prescribed period
26 constitutes approval of the final plan, and a certificate of the administrative officer as to the failure
27 to act within the required time and the resulting approval shall be issued on request of the applicant.

28 (iv) Vesting. The approved final plan decision is vested for a period of two (2) years with
29 the right to extend for one one-year extension upon written request by the applicant, who must
30 appear before the planning board for the extension request, unless, within that period, the plat or
31 plan has been submitted for signature and recording as specified in § 45-23-64. Thereafter, vesting
32 may be extended for a longer period, for good cause shown, if requested, in writing by the applicant,
33 and approved by the local review board.

34 (5) Infeasibility of conditions of approval. The burden is on the applicant to show, by

1 competent evidence before the local review board, that proposed conditions of approval are
2 infeasible, as defined in § 45-53-3. Upon request, the applicant shall be provided a reasonable
3 opportunity to respond to such proposed conditions prior to a final vote on the application.

4 (6) Fees. Municipalities may impose fees on comprehensive permit applications that are
5 consistent with but do not exceed fees that would otherwise be assessed for a project of the same
6 scope and type, but not proceeding under this chapter; provided, however, the imposition of such
7 fees shall not preclude a showing by an applicant that the fees make the project financially
8 infeasible.

9 (7) Recording of written decisions. All written decisions on applications under this chapter
10 shall be recorded in the land evidence records within twenty (20) days after the local review board's
11 vote or the administrative officer's decision, as applicable. A copy of the recorded decision shall
12 be mailed within one business day of recording, by any method that provides confirmation of
13 receipt, to the applicant and to any objector who has filed a written request for notice with the
14 administrative officer.

15 (8) Local review board powers. The local review board has the same power to issue permits
16 or approvals that any local board or official who would otherwise act with respect to the application,
17 including, but not limited to, the power to attach to the permit or approval, conditions, and
18 requirements with respect to height, site plan, size or shape, or building materials, as are consistent
19 with the terms of this section.

20 (9) Majority vote required. All local review board decisions on comprehensive permits
21 shall be by majority vote of the members present at the proceeding.

22 (10) Construction timetable. A comprehensive permit shall expire unless construction is
23 started within twelve (12) months and completed within sixty (60) months of the recording of the
24 final plan unless a longer and/or phased period for development is agreed to by the local review
25 board and the applicant. Low- and moderate-income housing units shall be built and occupied prior
26 to, or simultaneous with the construction and occupancy of market rate units.

27 (11) [Deleted by P.L. 2025, ch. 363, § 2 and P.L. 2025, ch. 364, § 2.]

28 (12) Report. The local review board of a town with an approved affordable housing plan
29 shall report the status of implementation to the housing resources commission, including the
30 disposition of any applications made under the plan, as of June 30, 2006, by September 1, 2006,
31 and for each June 30 thereafter by September 1 through 2010. The housing resources commission
32 shall prepare by October 15 and adopt by December 31, a report on the status of implementation,
33 which shall be submitted to the governor, the speaker and the president of the senate, and shall find
34 which towns are not in compliance with implementation requirements.

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

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

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

27 (g) Towns and cities that are not in conformity with the provisions of § 45-53-3(5)(i) shall
28 prepare by December 31, 2004, a comprehensive plan housing element for low- and moderate-
29 income housing as specified by § 45-53-3(5)(ii), consistent with applicable law and regulation.
30 That the secretary of the planning board or commission of each city or town subject to the
31 requirements of this paragraph shall report in writing the status of the preparation of the housing
32 element for low- and moderate-income housing on or before June 30, 2004, and on or before
33 December 31, 2004, to the secretary of the state planning council, to the chair of the house
34 committee on corporations and to the chair of the senate committee on commerce, housing and

1 municipal government.

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

9 (i) In planning for, awarding, and otherwise administering programs and funds for housing
10 and for community development, state departments, agencies, boards and commissions, and public
11 corporations, as defined in chapter 18 of title 35, shall among the towns subject to the provision of
12 § 45-53-3(5)(ii), give priority to the maximum extent allowable by law to towns with an approved
13 affordable housing plan. The director of administration shall adopt not later than January 31, 2005,
14 regulations to implement the provisions of this section.

15 (j) Multi-family rental units built under a comprehensive permit may be calculated towards
16 meeting the requirements of a municipality's low- or moderate-income housing inventory, as long
17 as the units meet and are in compliance with the provisions of § 45-53-3.1.

18 (k) Affordable housing units shall be included in each town and city when the building
19 permits for said units are granted.

20 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO TOWNS AND CITIES -- LOW AND MODERATE INCOME HOUSING --
PROCEDURE FOR APPROVAL OF CONSTRUCTION

- 1 This act would restore the requirement that a local review board issue findings for denial
- 2 in reviewing a comprehensive permit request. The act also clarifies that affordable housing units
- 3 shall be included in each town and city when the building permits for said units are granted.
- 4 This act would take effect upon passage.

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