

**2023 -- H 6061 SUBSTITUTE A AS AMENDED**

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LC002437/SUB A  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2023**

A N A C T

RELATING TO TOWNS AND CITIES -- SUBDIVISION OF LAND

Introduced By: Representatives Craven, Shekarchi, McGaw, Shanley, Dawson, and O'Brien

Date Introduced: March 03, 2023

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 45-23-27, 45-23-32, 45-23-36, 45-23-38, 45-23-39, 45-23-42, 45-  
2   23-50, 45-23-50.1, 45-23-55, 45-23-56, 45-23-62, 45-23-67 and 45-23-71 of the General Laws in  
3   Chapter 45-23 entitled "Subdivision of Land" are hereby amended to read as follows:

4           **45-23-27. ~~Applicability~~ Applicability -- Effective January 1, 2024.**

5           (a) Sections 45-23-25 — 45-23-74 and all local regulations are applicable to all  
6   applications under this chapter in all of the following instances:

7           ~~(1) In all cases of subdivision of land, including re-subdivision, as defined in § 45-23-32,~~  
8   ~~all provisions of §§ 45-23-25 — 45-23-74 apply;~~

9           ~~(2) In all cases of land development projects, as provided for in § 45-24-47 of the Zoning~~  
10   ~~Enabling Act of 1991, where a municipality has allowed for the land development projects in its~~  
11   ~~local zoning ordinance; and/or~~

12           ~~(3) In all cases of development plan review, as provided for in § 45-24-49 of the Zoning~~  
13   ~~Enabling Act of 1991, where a municipality has established, within their zoning ordinance, the~~  
14   ~~procedures for planning board review of applications.~~

15           (b) Plats required.

16           (1) All activity defined as a subdivision requires a new plat, drawn to the specifications of  
17   the local regulations, and reviewed and approved by the planning board or its agents as provided in  
18   this chapter; and

19           (2) Prior to recording, the approved plat shall be submitted for signature and recording as

1 specified in § 45-23-64.

2 **45-23-32. Definitions Definitions -- Effective January 1, 2024.**

3 Where words or phrases used in this chapter are defined in the definitions section of either  
4 the Rhode Island Comprehensive Planning and Land Use Regulation Act, § 45-22.2-4, or the Rhode  
5 Island Zoning Enabling Act of 1991, § 45-24-31, they have the meanings stated in those acts.  
6 Additional words and phrases may be defined in local ordinances, regulations and rules under this  
7 act in a manner that does not conflict or alter the terms or mandates in this act, the Rhode Island  
8 Comprehensive Planning and Land Use Regulation Act § 45-22.2-4, and the Rhode Island Zoning  
9 Enabling Act of 1991. The words and phrases defined in this section, however, shall be controlling  
10 in all local ordinances, regulations, and rules created under this chapter. ~~See also § 45-23-34.~~ In  
11 addition, the following words and phrases have the following meanings:

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

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

21 (3) Board of appeal. The local review authority for appeals of actions of the administrative  
22 officer ~~and the planning board on matters of land development or subdivision~~, which shall be the  
23 local zoning board of review constituted as the board of appeal. See § 45-23-57.

24 (4) Bond. See improvement guarantee.

25 (5) Buildable lot. A lot where construction for the use(s) permitted on the site under the  
26 local zoning ordinance is considered practicable by the planning board, considering the physical  
27 constraints to development of the site as well as the requirements of the pertinent federal, state and  
28 local regulations. See § 45-23-60(4).

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

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

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

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

10 (10) Development plan review. Design or site plan review of a development of a permitted  
11 use. A municipality may utilize development plan review under limited circumstances to encourage  
12 development to comply with design and/or performance standards of the community under specific  
13 and objective guidelines, for developments including, but not limited to:

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

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

18 (iii) An adaptive reuse project located in a residential zone which results in less than nine  
19 (9) residential units;

20 (iv) Development in a designated urban or growth center;

21 (v) Institutional development design review for educational or hospital facilities; or

22 (vi) Development in a historic district.

23 ~~(10)~~(11) Development regulation. Zoning, subdivision, land development plan,  
24 development plan review, historic district, official map, flood plain regulation, soil erosion control  
25 or any other governmental regulation of the use and development of land.

26 ~~(11)~~(12) Division of land. A subdivision.

27 ~~(12)~~(13) Environmental constraints. Natural features, resources, or land characteristics that  
28 are sensitive to change and may require conservation measures or the application of special  
29 development techniques to prevent degradation of the site, or may require limited development, or  
30 in certain instances, may preclude development. See also physical constraints to development.

31 ~~(13)~~(14) Final plan. The final stage of land development and subdivision review. See § 45-  
32 23-43.

33 ~~(14)~~(15) Final plat. The final drawing(s) of all or a portion of a subdivision to be recorded  
34 after approval by the planning board and any accompanying material as described in the

1 community's regulations and/or required by the planning board.

2 ~~(15)~~(16) Floor area, gross. See R.I. State Building Code.

3 ~~(16)~~(17) Governing body. The body of the local government, generally the city or town  
4 council, having the power to adopt ordinances, accept public dedications, release public  
5 improvement guarantees, and collect fees.

6 ~~(17)~~(18) Improvement. Any natural or built item which becomes part of, is placed upon, or  
7 is affixed to, real estate.

8 ~~(18)~~(19) Improvement guarantee. A security instrument accepted by a municipality to  
9 ensure that all improvements, facilities, or work required by the land development and subdivision  
10 regulations, or required by the municipality as a condition of approval, will be completed in  
11 compliance with the approved plans and specifications of a development. See § 45-23-46.

12 (20) Land-development project. A project in which one or more lots, tracts, or parcels of  
13 land or a portion thereof are developed or redeveloped as a coordinated site for one or more uses,  
14 units, or structures, including but not limited to, planned development or cluster development for  
15 residential commercial, institutional, recreational, open space, or mixed uses. The local regulations  
16 shall include all requirements, procedures and standards necessary for proper review and approval  
17 of land development projects to ensure consistency with this chapter and the Rhode Island zoning  
18 enabling act.

19 (i) Minor land development project. A land development project involving any one the  
20 following:

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

23 (B) An expansion of up to fifty percent (50%) of existing floor area or up to ten thousand  
24 (10,000) square feet for commercial, manufacturing or industrial structures; or

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

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

29 (E) Change in use at the property where no extensive construction of improvements are  
30 sought;

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

34 (G) An adaptive reuse project located in a residential zone which results in less than nine

1 (9) residential units;

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

6 (ii) Major land development project. A land development project which exceeds the  
7 thresholds for a minor land development project as set forth in this section and local ordinance or  
8 regulation. The process by which major land development projects are reviewed by the local  
9 planning board, commission, technical review committee or administrative officer is set forth in §  
10 45-23-39.

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

15 ~~(20)~~(22) Maintenance guarantee. Any security instrument which may be required and  
16 accepted by a municipality to ensure that necessary improvements will function as required for a  
17 specific period of time. See improvement guarantee.

18 ~~(21) Major land development plan. Any land development plan not classified as a minor~~  
19 ~~land development plan.~~

20 ~~(22) Major subdivision. Any subdivision not classified as either an administrative~~  
21 ~~subdivision or a minor subdivision.~~

22 (23) Master plan. An overall plan for a proposed project site outlining general, rather than  
23 detailed, development intentions. It describes the basic parameters of a major development  
24 proposal, rather than giving full engineering details. Required in major land development or major  
25 subdivision review only. It is the first formal review step of the major land development or major  
26 subdivision process and the step in the process in which the public hearing is held . See § 45-23-40  
27 45-23-39.

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

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

1           ~~(26)~~(24) Modification of requirements. See § 45-23-62.

2           ~~(27)~~(25) Parcel. A lot, or contiguous group of lots in single ownership or under single  
3 control, and usually considered a unit for purposes of development. Also referred to as a tract.

4           ~~(28)~~(26) Parking area or lot. All that portion of a development that is used by vehicles, the  
5 total area used for vehicular access, circulation, parking, loading and unloading.

6           ~~(29)~~(27) Permitting authority. The local agency of government, meaning any board,  
7 commission or administrative officer specifically empowered by state enabling law and local  
8 regulation or ordinance to hear and decide on specific matters pertaining to local land use.

9           ~~(30)~~(28) Phased development. Development, usually for large-scale projects, where  
10 construction of public and/or private improvements proceeds by sections subsequent to approval  
11 of a master plan for the entire site. See § 45-23-48.

12           ~~(31)~~(29) Physical constraints to development. Characteristics of a site or area, either natural  
13 or man-made, which present significant difficulties to construction of the uses permitted on that  
14 site, or would require extraordinary construction methods. See also environmental constraints.

15           ~~(32)~~(30) Planning board. The official planning agency of a municipality, whether  
16 designated as the plan commission, planning commission, plan board, or as otherwise known.

17           ~~(33)~~(31) Plat. A drawing or drawings of a land development or subdivision plan showing  
18 the location, boundaries, and lot lines of individual properties, as well as other necessary  
19 information as specified in the local regulations.

20           ~~(34)~~(32) Pre-application conference. An initial meeting between developers and municipal  
21 representatives which affords developers the opportunity to present their proposals informally and  
22 to receive comments and directions from the municipal officials and others. See § 45-23-35.

23           ~~(35)~~(33) Preliminary plan. ~~The~~ A required stage of land development and subdivision  
24 review which generally requires detailed engineered drawings ~~and all required state and federal~~  
25 ~~permits~~. See § ~~45-23-41~~ 45-23-39.

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

29           ~~(36)~~(35) Public improvement. Any street or other roadway, sidewalk, pedestrian way, tree,  
30 lawn, off-street parking area, drainage feature, or other facility for which the local government or  
31 other governmental entity either is presently responsible, or will ultimately assume the  
32 responsibility for maintenance and operation upon municipal acceptance.

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

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

6           ~~(39)~~(36) Slope of land. The grade, pitch, rise or incline of the topographic landform or  
7 surface of the ground.

8           ~~(40)~~(37) Storm water detention. A provision for storage of storm water runoff and the  
9 controlled release of the runoff during and after a flood or storm.

10          ~~(41)~~(38) Storm water retention. A provision for storage of storm water runoff.

11          ~~(42)~~(39) Street. A public or private thoroughfare used, or intended to be used, for passage  
12 or travel by motor vehicles. Streets are further classified by the functions they perform. See street  
13 classification.

14          ~~(43)~~(40) Street, access to. An adequate and permanent way of entering a lot. All lots of  
15 record shall have access to a public street for all vehicles normally associated with the uses  
16 permitted for that lot.

17          ~~(44)~~(41) Street, alley. A public or private thoroughfare primarily designed to serve as  
18 secondary access to the side or rear of those properties whose principal frontage is on some other  
19 street.

20          ~~(45)~~(42) Street, cul-de-sac. A local street with only one outlet and having an appropriate  
21 vehicular turnaround, either temporary or permanent, at the closed end.

22          ~~(46)~~(43) Street, limited access highway. A freeway or expressway providing for through  
23 traffic. Owners or occupants of abutting property on lands and other persons have no legal right to  
24 access, except at the points and in the manner as may be determined by the public authority having  
25 jurisdiction over the highway.

26          ~~(47)~~(44) Street, private. A thoroughfare established as a separate tract for the benefit of  
27 multiple, adjacent properties and meeting specific, municipal improvement standards. This  
28 definition does not apply to driveways.

29          ~~(48)~~(45) Street, public. All public property reserved or dedicated for street traffic.

30          ~~(49)~~(46) Street, stub. A portion of a street reserved to provide access to future development,  
31 which may provide for utility connections.

32          ~~(50)~~(47) Street classification. A method of roadway organization which identifies a street  
33 hierarchy according to function within a road system, that is, types of vehicles served and  
34 anticipated volumes, for the purposes of promoting safety, efficient land use and the design

1 character of neighborhoods and districts. Local classifications use the following as major  
2 categories:

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

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

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

8 ~~(51)~~(48) Subdivider. Any person who (1) having an interest in land, causes it, directly or  
9 indirectly, to be divided into a subdivision or who (2) directly or indirectly sells, leases, or develops,  
10 or offers to sell, lease, or develop, or advertises to sell, lease, or develop, any interest, lot, parcel,  
11 site, unit, or plat in a subdivision, or who (3) engages directly or through an agent in the business  
12 of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any  
13 interest, lot, parcel, site, unit, or plat in a subdivision.

14 ~~(52)~~(49) Subdivision. The division ~~or re-division~~, of a lot, tract or parcel of land into two  
15 or more lots, tracts, or parcels. ~~Any or any~~ adjustment to existing lot lines ~~of a recorded lot by any~~  
16 ~~means~~ is considered a subdivision. ~~All re-subdivision activity is considered a subdivision. The~~  
17 ~~division of property for purposes of financing constitutes a subdivision.~~

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

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

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

29 ~~(53)~~(50) Technical review committee. A committee or committees appointed by the  
30 ~~planning board~~ municipality for the purpose of reviewing, commenting, ~~and approving and/or~~  
31 making recommendations to the planning board ~~with respect to approval of land development and~~  
32 ~~subdivision applications~~ or administrative officer, as set forth in this chapter.

33 ~~(54)~~(51) Temporary improvement. Improvements built and maintained by a developer  
34 during construction of a development project and prior to release of the improvement guarantee,



1 but not intended to be permanent.

2 ~~(55)~~(52) Vested rights. The right to initiate or continue the development of an approved  
3 project for a specified period of time, under the regulations that were in effect at the time of  
4 approval, even if, after the approval, the regulations change prior to the completion of the project.

5 ~~(56)~~(53) Waiver of requirements. See § 45-23-62.

6 ~~45-23-36. General provisions — Application for development and certification of~~  
7 ~~completeness~~ **General provisions -- Authority and application for development and**  
8 **certification of completeness -- Effective January 1, 2024.**

9 (a) Authority. Municipalities shall provide for the submission and approval of land  
10 development projects and subdivisions, as such terms are defined in the Rhode Island Zoning  
11 Enabling Act of 1991, and/or this chapter, and such are subject to the local regulations which  
12 shall be consistent with the requirements of this chapter. The local regulations must include all  
13 requirements, procedures and standards necessary for proper review and approval of applications  
14 made under this chapter to ensure consistency with the intent and purposes of this chapter and  
15 with § 45-24-47 of the Rhode Island Zoning Enabling Act of 1991.

16 (b) Classification. ~~The~~ In accordance with this chapter, the administrative officer shall  
17 advise the applicant as to which ~~approvals are~~ category of approval is required ~~and the appropriate~~  
18 ~~board for hearing an application~~ for a ~~land development or subdivision~~ project. An applicant shall  
19 not be required to obtain both land development and development plan review, for the same project.

20 The following ~~types~~ categories of applications, as defined in ~~§ 45-23-32~~ this chapter, may be filed:

- 21 (1) Subdivisions. Administrative subdivision, minor subdivision or major subdivision;  
22 (2) ~~Minor subdivision or minor land development plan; and~~ Land development projects.  
23 Minor land development or major land development; and  
24 (3) Development plan review.

25 ~~(3) Major subdivision or major land development plan.~~

26 ~~(b)~~(c) Certification of a complete application. An application shall be complete for  
27 purposes of commencing the applicable time period for action when so certified by the  
28 administrative officer. Every certification of completeness required by this chapter shall be in  
29 writing. In the event the certification of the application is not made within the time specified in this  
30 chapter for the type of plan, the application is deemed complete for purposes of commencing the  
31 review period unless the application lacks information required for these applications as specified  
32 in the local regulations and the administrative officer has notified the applicant, in writing, of the  
33 deficiencies in the application. See §§ 45-23-38, 45-23-39 and 45-23-50 for applicable certification  
34 timeframes and requirements.

1           ~~(e)~~(d) Notwithstanding ~~subsections (a) and (b)~~ other provisions of this section, the planning  
2 board may subsequently require correction of any information found to be in error and submission  
3 of additional information specified in the regulations but not required by the administrative officer  
4 prior to certification, as is necessary to make an informed decision.

5           ~~(d)~~(e) Where the review is postponed with the consent of the applicant, pending further  
6 information or revision of information, the time period for review is stayed and resumes when the  
7 administrative officer or the planning board determines that the required application information is  
8 complete.

9           **45-23-38. General provisions — Minor land development and minor subdivision**  
10 **review General provisions -- Minor land development and minor subdivision review --**  
11 **Effective January 1, 2024.**

12           ~~(a) Review stages. Minor plan review consists of two (2) stages, preliminary and final;~~  
13 ~~provided, that if a street creation or extension is involved, or a request for variances and/or special-~~  
14 ~~use permits are submitted, pursuant to the regulation's unified development review provisions, a~~  
15 ~~public hearing is required. The planning board may combine the approval stages, providing~~  
16 ~~requirements for both stages are met by the applicant to the satisfaction of the planning officials.~~

17           Application types and review stages.

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

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

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

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

32           (2) Other applications.

33           The administrative officer shall review and grant, grant with conditions or deny all other  
34 applications under this section and may grant waivers of design standards as set forth in the local

1 regulations and zoning ordinance. The administrative officer may utilize the technical review  
2 committee for initial review and recommendation. The local regulations shall specifically list what  
3 limited waivers an administrative officer is authorized to grant as part of their review.

4 (3) Review stages.

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

11 (b) Submission requirements. Any applicant requesting approval of a proposed, minor  
12 subdivision or minor land development, as defined in this chapter, shall submit to the administrative  
13 officer the items required by the local regulations. ~~Requests for relief from the literal requirements~~  
14 ~~of the zoning ordinance and/or for the issuance of special-use permits related to minor subdivisions~~  
15 ~~and/or minor land development projects that are submitted under a zoning ordinance's unified~~  
16 ~~development review provisions shall be included as part of the preliminary plan application,~~  
17 ~~pursuant to § 45-23-50.1(b).~~

18 (c) Certification. ~~The~~ For each applicable stage of review, the application shall be certified,  
19 in writing, complete or incomplete by the administrative officer within twenty-five (25) days ~~or~~  
20 ~~within fifteen (15) days~~ of the submission so long as a completed checklist of the requirements for  
21 submission are provided as part of the submission. Such certification shall be made in accordance  
22 with the provisions of § 45-23-36(b). If ~~if~~ no street creation or extension is required, and/or unified  
23 development review is not requested, and a completed checklist of the requirements for submission  
24 are provided as part of the submission, such application shall be certified, in writing, complete or  
25 incomplete by the administrative officer within fifteen (15) days according to the provisions of §  
26 45-23-36(b). The running of the time period set forth in this section will be deemed stopped upon  
27 the issuance of a certificate of incompleteness of the application by the administrative officer and  
28 will recommence upon the resubmission of a corrected application by the applicant. However, in  
29 no event will the administrative officer be required to certify a corrected submission as complete  
30 or incomplete less than ~~fourteen (14)~~ ten (10) days after its resubmission.

31 ~~(d) Technical review committee. The technical review committee, if established, will~~  
32 ~~review the application and will comment and make recommendations to the planning board. The~~  
33 ~~application will be referred to the planning board as a whole if there is no technical review~~  
34 ~~committee. When reviewed by a technical review committee:~~

1           ~~(1) If the land development or subdivision application does not include a request for unified~~  
2 ~~development review and the plan is approved by a majority of the committee members, the~~  
3 ~~application is forwarded to the planning board with a recommendation for preliminary plan~~  
4 ~~approval without further review.~~

5           ~~(2) If the plan is not approved by a majority vote of the committee members, or the~~  
6 ~~application includes a request for unified development review, the minor land development and~~  
7 ~~subdivision application is referred to the planning board.~~

8           ~~(e) Re-assignment to major review. The planning board may re-assign a proposed minor~~  
9 ~~project to major review only when the planning board is unable to make the positive findings~~  
10 ~~required in § 45-23-60.~~

11           ~~(f)~~(d) Decision on preliminary plan. If no street creation or extension is required, the  
12 planning board or administrative officer will approve, deny, or approve with conditions, the  
13 preliminary plan within sixty-five (65) days of certification of completeness, or within any further  
14 time that is agreed to by the applicant and the board, according to the requirements of §§ 45-23-60  
15 and 45-23-63. If a street extension or creation is required, or the application is reviewed under the  
16 unified development plan review, the planning board will hold a public hearing prior to approval  
17 according to the requirements in § 45-23-42 and will approve, deny, or approve with conditions,  
18 the preliminary plan within ninety-five (95) days of certification of completeness, or within any  
19 specified time that is agreed to by the applicant and the board, according to the requirements of §§  
20 45-23-60 and 45-23-63.

21           ~~(g)~~(e) Failure to act. Failure of the planning board to act within the period prescribed  
22 constitutes approval of the preliminary plan and a certificate of the administrative officer as to the  
23 failure of the planning board to act within the required time and the resulting approval will be issued  
24 on request of the application.

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

28           ~~(h)~~(g) Final plan. ~~The planning board may delegate final plan review and approval to either~~  
29 ~~the administrative officer or the technical review committee.~~ Final plans shall be reviewed and  
30 approved by either the administrative officer or technical review committee. The officer or  
31 committee will report its actions, in writing to the planning board at its next regular meeting, to be  
32 made part of the record. The administrative officer or technical review committee shall approve,  
33 deny, approve with conditions, or refer the application to the planning board based upon a finding  
34 that there is a major change within twenty-five (25) days of the certificate of completeness.

1 (h) Modifications and changes to plans.

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

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

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

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

18 ~~(i)(j)~~ Expiration of ~~approval approvals~~. Approval Approvals of a minor land-development  
19 or subdivision plan expires ~~ninety (90) days~~ one year from the date of approval unless, within that  
20 period, a plat or plan, in conformity with approval, and as defined in this act, is submitted for  
21 signature and recording as specified in § 45-23-64. Validity may be extended for a longer period,  
22 for cause shown, if requested by the application in writing, and approved by the planning board.

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

26 ~~(a) Major plan review is required of all applications for land development and subdivision~~  
27 ~~approval subject to this chapter, unless classified as an administrative subdivision or as a minor~~  
28 ~~land development or a minor subdivision.~~

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

34 ~~(e)(b)~~ The ~~planning board may vote to~~ administrative officer may combine review stages

1 and to modify ~~and/or~~ but only the planning board may waive requirements as specified in § 45-23-  
2 62. Review stages may be combined only after the ~~planning board~~ administrative officer determines  
3 that all necessary requirements have been met by the applicant or that the planning board has  
4 waived any submission requirements not included by the applicant.

5 (c) Master 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 master plans.

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

15 (iii) Initial comments will be solicited from:

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

18 (B) Adjacent communities;

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

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

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

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

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

34 (2) Certification. The application must be certified, in writing, complete or incomplete by

1 the administrative officer within twenty-five (25) days of the submission, according to the  
2 provisions of § 45-23-36(b), so long as a completed checklist of requirements are provided with  
3 the submission. The running of the time period set forth herein will be deemed stopped upon the  
4 issuance of a certificate of incompleteness of the application by the administrative officer and will  
5 recommence upon the resubmission of a corrected application by the applicant. However, in no  
6 event will the administrative officer be required to certify a corrected submission as complete or  
7 incomplete less than ten (10) days after its resubmission.

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

11 (4) Public hearing.

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

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

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

22 (5) Decision. The planning board shall, within ninety (90) days of certification of  
23 completeness, or within a further amount of time that may be consented to by the applicant through  
24 the submission of a written waiver, approve of the master plan as submitted, approve with changes  
25 and/or conditions, or deny the application, according to the requirements of §§ 45-23-60 and 45-  
26 23-63.

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

31 (6) Vesting.

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

1 good cause shown, if requested by the applicant, in writing, and approved by the planning board.  
2 Master plan vesting includes the zoning requirements, conceptual layout, and all conditions shown  
3 on the approved master plan drawings and supporting materials.

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

6 (d) Preliminary plan review.

7 (1) Submission requirements.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

30 (e) Final plan.

31 (1) Submission requirements.

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

1           (ii) Arrangements for completion of the required public improvements, including  
2 construction schedule and/or financial guarantees.

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

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

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

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

23           (4) Failure to act. Failure of the planning board to act within the prescribed period  
24 constitutes approval of the final plan and a certificate of the administrative officer as to the failure  
25 of the planning board to act within the required time and the resulting approval shall be issued on  
26 request of the applicant.

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

33           (6) Acceptance of public improvements. Signature and recording as specified in § 45-23-  
34 64 constitute the acceptance by the municipality of any street or other public improvement or other

1 land intended for dedication. Final plan approval shall not impose any duty upon the municipality  
2 to maintain or improve those dedicated areas until the governing body of the municipality accepts  
3 the completed public improvements as constructed in compliance with the final plans.

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

7 (f) Modifications and changes to plans.

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

16 (2) Major changes, as defined in the local regulations, to the plans approved at any stage  
17 may be approved only by the applicable permitting authority and must include a 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 if the administrative officer determines the change to be  
20 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 ~~**45-23-42. General provisions -- Major land development and major subdivision --**~~  
24 ~~**Public hearing and notice**~~ **General provisions -- Major land development and major**  
25 **subdivision -- Public hearing and notice -- Effective January 1, 2024.**

26 (a) ~~Where a~~ **A** public hearing is required ~~for a major land development project or a major~~  
27 ~~subdivision or where a street extension or creation requires a public hearing for a minor land~~  
28 ~~development project or minor subdivision.~~ pursuant to this chapter, the following requirements  
29 shall apply ;

30 ~~(b)~~**(1)** Notice requirements. Public notice of the hearing shall be given at least fourteen (14)  
31 days prior to the date of the hearing in a newspaper of general circulation within the municipality  
32 following the municipality's usual and customary practices for this kind of advertising. Notice shall  
33 be sent to the applicant and to each owner within the notice area, by certified mail, return receipt  
34 requested, of the time and place of the hearing not less than ten (10) days prior to the date of the

1 hearing. Notice shall also be sent to any individual or entity holding a recorded conservation or  
2 preservation restriction on the property that is the subject of the application. The notice shall also  
3 include the street address of the subject property, or if no street address is available, the distance  
4 from the nearest existing intersection in tenths (1/10's) of a mile. Local regulations may require a  
5 supplemental notice that an application for development approval is under consideration be posted  
6 at the location in question. The posting is for informational purposes only and does not constitute  
7 required notice of a public hearing.

8 ~~(e)~~(2) Notice area.

9 ~~(d)~~(i) The distance(s) for notice of the public hearing shall be specified in the local  
10 regulations. The distance may differ by zoning district and scale of development. At a minimum,  
11 all abutting property owners to the proposed development's property boundary shall receive notice.

12 ~~(e)~~(ii) Watersheds. Additional notice within watersheds shall also be sent as required in §  
13 45-23-53(b) and (c).

14 ~~(e)~~(iii) Adjacent municipalities. Notice of the public hearing shall be sent by the  
15 administrative officer to the administrative officer of an adjacent municipality if (1) the notice area  
16 extends into the adjacent municipality, or (2) the development site extends into the adjacent  
17 municipality, or (3) there is a potential for significant negative impact on the adjacent municipality.

18 ~~(d)~~(3) Notice cost. The cost of all notice shall be borne by the applicant.

19 ~~45-23-50. Special provisions — Development plan review Special provisions --~~  
20 **Development plan review -- Effective January 1, 2024.**

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

33 (b) The authorized permitting authority may waive requirements for development plan  
34 approval where there is a change in use or occupancy and no extensive construction of

1 improvements is sought. The waiver may be granted only by a decision by the permitting authority  
2 finding that the use will not affect existing drainage, circulation, relationship of buildings to each  
3 other, landscaping, buffering, lighting and other considerations of development plan approval, and  
4 that the existing facilities do not require upgraded or additional site improvements. The application  
5 for a waiver of development plan approval review shall include documentation, as required by the  
6 permitting authority, on prior use of the site, the proposed use, and its impact.

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

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

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

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

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

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

32 (f) Certification. The application shall be certified, in writing, complete or incomplete by  
33 the administrative officer within twenty-five (25) days or within fifteen (15) days if no street  
34 creation or extension is required, and/or unified development review is not required, according to

1 the provisions of § 45-23-36(b). The running of the time period set forth in this section will be  
2 deemed stopped upon the issuance of a written certificate of incompleteness of the application by  
3 the administrative officer and will recommence upon the resubmission of a corrected application  
4 by the applicant. However, in no event will the administrative officer be required to certify a  
5 corrected submission as complete or incomplete less than ten (10) days after its resubmission. If  
6 the administrative officer certifies the application as incomplete, the officer shall set forth in writing  
7 with specificity the missing or incomplete items.

8 (g) Timeframes for decision.

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

12 (2) Formal development plan approval.

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

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

23 (h) Failure to act. Failure of the administrative officer or the permitting authority to act  
24 within the period prescribed constitutes approval of the preliminary plan and a certificate of the  
25 administrative officer as to the failure to act within the required time and the resulting approval  
26 shall be issued on request of the application.

27 (i) Vested rights. Approval of development plan review shall expire two (2) years from the  
28 date of approval unless, within that period, a plat or plan, in conformity with approval, and as  
29 defined in this act, is submitted for signature and recording as specified in § 45-23-64. Validity  
30 may be extended for an additional period upon application to the administrative officer or  
31 permitting authority, whichever entity approved the application, upon a showing of good cause.

32 (j) Modifications and changes to plans.

33 (1) Minor changes, as defined in the local regulations, to the plans approved at any stage  
34 may be approved administratively, by the administrative officer, whereupon final plan approval

1 may be issued. The changes may be authorized without an additional planning board meeting, at  
2 the discretion of the administrative officer. All changes shall be made part of the permanent record  
3 of the project application. This provision does not prohibit the administrative officer from  
4 requesting recommendation from either the technical review committee or the permitting authority.  
5 Denial of the proposed change(s) shall be referred to the permitting authority for review as a major  
6 change.

7 (2) Major changes, as defined in the local regulations, to the plans approved at any stage  
8 may be approved only by the permitting authority and must follow the same review and hearing  
9 process required for approval of preliminary plans, which shall include a public hearing.

10 (3) The administrative officer shall notify the applicant in writing within fourteen (14) days  
11 of submission of the final plan application if the administrative officer determines that there has  
12 been a major change to the approved plans.

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

15 **45-23-50.1. ~~Special provisions — Unified development review~~ Special provisions --**  
16 **Unified development review -- Effective January 1, 2024.**

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

20 (b) Review of ~~variances and special use permits~~ projects submitted under the unified  
21 development review provisions of the regulations shall adhere to the procedures, timeframes and  
22 standards of the underlying category of the project as listed in § 45-23-36, but shall also include  
23 the following procedures:

24 (1) Minor subdivisions and land-development projects. Except for dimensional relief  
25 granted by modification as set forth in § 45-23-38, requests ~~Requests~~ for ~~relief from the literal~~  
26 ~~requirements of the zoning ordinance~~ variances and/or for the issuance of special-use permits  
27 related to minor subdivisions and land-development projects shall be submitted as part of the  
28 application materials for the preliminary plan stage of review or if combined, for the first stage of  
29 reviews. A public hearing on the application, including any variance and special-use permit  
30 requests that meets the requirements of subsection (c) of this section shall be held prior to  
31 consideration of the preliminary plan by the planning board or commission. The planning board or  
32 commission shall conditionally approve or deny the request(s) for the variance(s) and/or special-  
33 use permit(s) before considering the preliminary plan application for the minor subdivision or land-  
34 development project. Approval of the variance(s) and/or special-use permit(s) shall be conditioned



1 on approval of the final plan of the minor subdivision or land-development project.

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

14 ~~(2)~~(3) Major subdivisions and land-development projects — Master plan. Except for  
15 dimensional relief granted by modification as set forth in § 45-23-39, requests ~~Requests~~ ~~for relief~~  
16 ~~from the literal requirements of the zoning ordinance~~ variances for relief from the literal  
17 requirements of the zoning ordinance and/or for the issuance of a special-use permit related to  
18 major subdivisions and land-development projects shall be submitted as part of the application  
19 materials for the master plan stage of review, or if combined, the first stage of review. A public  
20 hearing on the application, including any variance and special-use permit requests that meets the  
21 requirements of subsection (c) of this section, shall be held prior to consideration of the master plan  
22 by the planning board or commission. The planning board or commission shall conditionally  
23 approve or deny the requests for the variance(s) and/or special-use permit(s) before considering the  
24 master plan application for the major subdivision or land-development project. Approval of the  
25 variance(s) and/or special-use permit(s) shall be conditioned on approval of the final plan of the  
26 major subdivision or land-development project.

27 (3) Major subdivisions and land-development projects — Preliminary plan. During the  
28 preliminary plan stage of review, applicants shall have the ability to request alteration of any  
29 variance(s) and/or special-use permit(s) granted by the planning board or commission during the  
30 master plan stage of review, and/or to request new variance(s) and/or special-use permit(s), based  
31 on the outcomes of the more detailed planning and design necessary for the preliminary plan. If  
32 necessary, the applicant shall submit such requests and all supporting documentation along with  
33 the preliminary plan application materials. If the applicant requests new or additional zoning relief  
34 at this stage a ~~A~~ public hearing on the application, ~~including any alterations and new requests,~~ that



1 meets the requirements of subsection (c) of this section, shall be held prior to consideration of the  
2 preliminary plan by the planning board or commission. The planning board or commission shall  
3 conditionally approve, amend, or deny the requests for alteration(s), new variance(s) and/or new  
4 special-use permit(s), before considering the preliminary plan application for the major subdivision  
5 or land-development project. Approval of the alteration(s), new variance(s), and/or new special-  
6 use permit(s) shall be conditioned on approval of the final plan of the major subdivision or land-  
7 development project. If the planning board or commission denies the request for alteration(s), new  
8 variance(s), and/or new special-use permit(s), the planning board shall have the option of  
9 remanding the application back to the master plan stage of review. Alternatively, 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 applicant may consent to an extension of the decision period mandated by § 45-23-  
12 41(f) so that additional information can be provided and reviewed by the board or commission.

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

18 ~~(e)(d)~~ Unless otherwise provided in this chapter all ~~All-subdivision-and-land-development~~  
19 applications ~~that include requests for variances and/or special-use permits submitted under the~~  
20 ~~development review provisions of the regulations~~ under this section shall require a ~~singular~~ single  
21 public hearing, held pursuant to subsection (b) of this section. ~~All such~~ The public ~~hearings~~ hearing  
22 must meet the following requirements:

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

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: (1) The notice area extends into the adjacent municipality; or  
29 (2) The development site extends into the adjacent municipality; or (3) 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 special-  
33 use permit(s) are to be considered for the subdivision and/or land-development project.

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

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

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

9           ~~(e) Requests~~ (g) Decisions under this section, including requests for the variance(s) and/or  
10 special-use permits that are denied by ~~the planning board or commission~~ permitting authority may  
11 be appealed ~~to the board of appeal~~ pursuant to § ~~45-23-66~~ 45-23-71.

12           **45-23-55. Administration — The administrative officer Administration -- The**  
13 **administrative officer -- Effective January 1, 2024.**

14           (a) Local administration of the local regulations is under the direction of the administrative  
15 officer(s), who reports to the planning board.

16           (b) The local regulations specify the process of appointment and the responsibilities of the  
17 administrative officer(s) who oversees and coordinates the review, approval, recording and  
18 enforcement provisions of the local regulations. The administrative officer(s) serves as the chair of  
19 the technical review committee, where established. The local regulations state minimum  
20 qualifications for this position regarding appropriate education, training or experience in land use  
21 planning and site plan review.

22           (c) The administrative officer(s) is responsible for coordinating reviews of proposed land  
23 development projects and subdivisions with adjacent municipalities as is necessary to be consistent  
24 with applicable federal, state and local laws and as directed by the planning board.

25           (d) The administrative officer(s) has the authority to issue approvals and all other authority  
26 where specifically set forth in this chapter.

27           ~~(d)~~(e) Enforcement of the local regulations is under the direction of the administrative  
28 officer(s). The officer(s) is responsible for coordinating the enforcement efforts of the zoning  
29 enforcement officer, the building inspector, planning department staff, the city or town engineer,  
30 the department of public works and other local officials responsible for the enforcement or carrying  
31 out of discrete elements of the regulations.

32           **45-23-56. Administration — Technical review committee Administration -- Technical**  
33 **review committee -- Effective January 1, 2024.**

34           (a) The ~~planning board may~~ municipality may establish a technical review committee(s) of

1 not fewer than three (3) members, to conduct technical reviews of applications subject to their  
2 jurisdiction. ~~Where a technical review committee is established, the~~ The administrative officer shall  
3 serve as chairperson. Membership of this ~~subcommittee~~ committee, to be known as the technical  
4 review committee, or design review committee, may include, but is not limited to, members of the  
5 planning board, planning department staff, other municipal staff representing departments with  
6 responsibility for review or enforcement, conservation commissioners, public members, or other  
7 duly appointed local public commission members.

8 (b) ~~If the planning board establishes a technical review committee, the~~ If a municipality  
9 establishes a technical review committee or committees, the planning board shall adopt written  
10 procedures establishing the committee's responsibilities.

11 (c) The technical review committee(s) has the authority to issue approvals, make findings  
12 and provide recommendations as specifically set forth in this chapter.

13 ~~(e)~~(d) Reports of the technical review committee to the planning board shall be in writing  
14 and kept as part of the permanent documentation on the development application. In no case shall  
15 the recommendations of the technical review committee be binding on the planning board in its  
16 activities or decisions. All reports of the technical review committee shall be made available to the  
17 applicant prior to the meeting of the planning board meeting at which the reports are first  
18 considered.

19 ~~45-23-62. Procedure — Waivers — Modifications and reinstatement of plans~~  
20 **Procedure -- Waivers -- Modifications and reinstatement of plans -- Effective January 1, 2024.**

21 (a) ~~Waiver of development plan approval.~~

22 ~~(1) A planning board may waive requirements for development plan approval where there~~  
23 ~~is a change in use or occupancy and no extensive construction of improvements is sought. The~~  
24 ~~waiver may be granted only by a decision by the planning board finding that the use will not affect~~  
25 ~~existing drainage, circulation, relationship of buildings to each other, landscaping, buffering,~~  
26 ~~lighting and other considerations of development plan approval, and that the existing facilities do~~  
27 ~~not require upgraded or additional site improvements.~~

28 ~~(2) The application for a waiver of development plan approval review shall include~~  
29 ~~documentation, as required by the planning board, on prior use of the site, the proposed use, and its~~  
30 ~~impact.~~

31 ~~(b)~~ Waiver and/or modification of requirements. The planning board has the power to grant  
32 waivers and/or modifications from the requirements for land development and subdivision approval  
33 as may be reasonable and within the general purposes and intents of the provisions for local  
34 regulations. The only grounds for waivers and/or modifications are where the literal enforcement

1 of one or more provisions of the regulations is impracticable and will exact undue hardship because  
2 of peculiar conditions pertaining to the land in question or where waiver and/or modification is in  
3 the best interest of good planning practice and/or design as evidenced by consistency with the  
4 municipality's comprehensive plan and zoning ordinance.

5 ~~(b)~~ Local regulations shall include provisions for [an applicant to seek](#) reinstatement of  
6 development applications when the deadlines set in the local regulations and approval agreements  
7 for particular actions are exceeded and the development application or approval is therefore  
8 rendered invalid. Where an approval has expired, the local regulations shall specify the point in the  
9 review to which the application may be reinstated.

10 ~~(c)~~ Decision. The planning board shall approve, approve with conditions or deny the  
11 request for either a waiver or modification as described in subsection (a) or (b) in this section,  
12 according to the requirements of § 45-23-63.

13 **~~45-23-67. Appeals — Process of appeal~~ Appeals from decision of administrative**  
14 **~~officer -- Effective January 1, 2024.~~**

15 (a) [Process and timing. Local regulations adopted pursuant to this chapter shall provide](#)  
16 [that an appeal from any decision of the administrative officer charged in the regulations with](#)  
17 [enforcement of any provisions, except as provided in this section, may be taken to the board of](#)  
18 [appeal by an aggrieved party as set forth in this section. Decisions by the administrative officer](#)  
19 [approving or denying projects under §§ 45-23-38 or 45-23-50 shall not be subject to this section](#)  
20 [and shall proceed directly to Superior Court as set forth in § 45-23-71.](#)

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

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

30 ~~(3)~~ Upon receipt of an appeal, the board of appeal shall require the ~~planning board or~~  
31 administrative officer to immediately transmit to the board of appeal, all papers, documents and  
32 plans, or a certified copy thereof, constituting the record of the action which is being appealed.

33 [\(b\) Stay. An appeal stays all proceedings in furtherance of the action being appealed.](#)

34 [\(c\) Hearing.](#)

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

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

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

13 (d) Standards of Review.

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

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

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

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

29 **45-23-71. Appeals to the superior court Appeals to the superior court -- Effective**  
30 **January 1, 2024.**

31 (a) An aggrieved party may appeal a decision of the board of appeal, a decision of an  
32 administrative officer made pursuant to §§ 45-23-38 or §45-23-50 where authorized to approve or  
33 deny an application, a decision of the technical review committee, where authorized to approve or  
34 deny an application, or a decision of the planning board, to the superior court for the county in

1 which the municipality is situated by filing a complaint stating the reasons ~~of~~ for the appeal within  
2 twenty (20) days after the decision has been recorded and posted in the office of the city or town  
3 clerk. Recommendations by any public body or officer under this chapter are not appealable under  
4 this section. The ~~board of appeal~~ authorized permitting authority shall file the original documents  
5 acted upon by it and constituting the record of the case appealed from, or certified copies of the  
6 original documents, together with any other facts that may be pertinent, with the clerk of the court  
7 within thirty (30) days after being served with a copy of the complaint. When the complaint is filed  
8 by someone other than the original applicant or appellant, the original applicant or appellant and  
9 the ~~members of the~~ planning board shall be made parties to the proceedings. No responsive pleading  
10 is required for an appeal filed pursuant to this section. The appeal does not stay proceedings upon  
11 the decision appealed from, but the court may, in its discretion, grant a stay on appropriate terms  
12 and make any other orders that it deems necessary for an equitable disposition of the appeal.

13 (b) Appeals from a decision granting or denying approval of a final plan shall be limited to  
14 elements of the approval or disapproval not contained in the decision reached by the planning board  
15 at the preliminary stage; providing that, a public hearing has been held on the plan, if required  
16 pursuant to this chapter.

17 (c) The review shall be conducted by the superior court without a jury. The court shall  
18 consider the record of the hearing before the planning board and, if it appear to the court that  
19 additional evidence is necessary for the proper disposition of the matter, it may allow any party to  
20 the appeal to present evidence in open court, which evidence, along with the report, shall constitute  
21 the record upon which the determination of the court shall be made.

22 ~~(e)~~(d) The court shall not substitute its judgment for that of the planning board as to the  
23 weight of the evidence on questions of fact. The court may affirm the decision of the board of  
24 appeal or remand the case for further proceedings, or may reverse or modify the decision if  
25 substantial rights of the appellant have been prejudiced because of findings, inferences, conclusions  
26 or decisions which are:

- 27 (1) In violation of constitutional, statutory, ordinance or planning board regulations  
28 provisions;
- 29 (2) In excess of the authority granted to the planning board by statute or ordinance;
- 30 (3) Made upon unlawful procedure;
- 31 (4) Affected by other error of law;
- 32 (5) Clearly erroneous in view of the reliable, probative, and substantial evidence of the  
33 whole record; or
- 34 (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted

1 exercise of discretion.

2 SECTION 2. Sections 45-24-31, 45-24-46.4, 45-24-47, 45-24-49 and 45-24-58 of the  
3 General Laws in Chapter 45-24 entitled "Zoning Ordinances" are hereby amended to read as  
4 follows:

5 **45-24-31. Definitions Definitions --Effective January 1, 2024.**

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

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

13 (2) Accessory dwelling unit (ADU). A residential living unit on the same parcel where the  
14 primary use is a legally established single-unit or multi-unit dwelling. An ADU provides complete  
15 independent living facilities for one or more persons. It may take various forms including, but not  
16 limited to: a detached unit; a unit that is part of an accessory structure, such as a detached garage;  
17 or a unit that is part of an expanded or remodeled primary dwelling.

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

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

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

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

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

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

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

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

34 (9) Buffer. Land that is maintained in either a natural or landscaped state, and is used to

1 screen or mitigate the impacts of development on surrounding areas, properties, or rights-of-way.

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

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

7 (12) Building height. For a vacant parcel of land, building height shall be measured from  
8 the average, existing-grade elevation where the foundation of the structure is proposed. For an  
9 existing structure, building height shall be measured from average grade taken from the outermost  
10 four (4) corners of the existing foundation. In all cases, building height shall be measured to the top  
11 of the highest point of the existing or proposed roof or structure. This distance shall exclude spires,  
12 chimneys, flag poles, and the like. For any property or structure located in a special flood hazard  
13 area, as shown on the official FEMA Flood Insurance Rate Maps (FIRMs), or depicted on the  
14 Rhode Island coastal resources management council (CRMC) suggested design elevation three foot  
15 (3') sea level rise (CRMC SDE 3 SLR) map as being inundated during a one-hundred-year (100)  
16 storm, the greater of the following amounts, expressed in feet, shall be excluded from the building  
17 height calculation:

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

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

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

33 (14) Common ownership. Either:

34 (i) Ownership by one or more individuals or entities in any form of ownership of two (2)



1 or more contiguous lots; or

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

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

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

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

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

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

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

27 (17) Day care — Daycare center. Any other daycare center that is not a family daycare  
28 home.

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

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

34 (20) Development. The construction, reconstruction, conversion, structural alteration,

1 relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance;  
2 or any change in use, or alteration or extension of the use, of land.

3 (21) Development plan review. ~~The process whereby authorized, local officials review the~~  
4 ~~site plans, maps, and other documentation of a development to determine the compliance with the~~  
5 ~~stated purposes and standards of the ordinance.~~ [See §§ 45-23-32 and 45-23-50.](#)

6 (22) District. See “zoning-use district.”

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

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

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

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

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

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

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

29 (30) Groundwater. “Groundwater” and associated terms, as defined in § 46-13.1-3.

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

33 (32) Hardship. See § 45-24-41.

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

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

3 (35) Household. One or more persons living together in a single-dwelling unit, with  
4 common access to, and common use of, all living and eating areas and all areas and facilities for  
5 the preparation and storage of food within the dwelling unit. The term “household unit” is  
6 synonymous with the term “dwelling unit” for determining the number of units allowed within any  
7 structure on any lot in a zoning district. An individual household shall consist of any one of the  
8 following:

- 9 (i) A family, which may also include servants and employees living with the family; or
- 10 (ii) A person or group of unrelated persons living together. The maximum number may be  
11 set by local ordinance, but this maximum shall not be less than three (3).

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

15 (37) Infrastructure. Facilities and services needed to sustain residential, commercial,  
16 industrial, institutional, and other activities.

17 (38) Land-development project. As defined in § 45-23-32. ~~A project in which one or more~~  
18 ~~lots, tracts, or parcels of land are developed or redeveloped as a coordinated site for one or more~~  
19 ~~uses, units, or structures, including, but not limited to, planned development or cluster development~~  
20 ~~for residential, commercial, institutional, recreational, open space, or mixed uses as provided in the~~  
21 ~~zoning ordinance.~~

22 (39) Lot. Either:

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

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

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

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

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

34 (43) Lot depth. The distance measured from the front lot line to the rear lot line. For lots

1 where the front and rear lot lines are not parallel, the lot depth is an average of the depth.

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

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

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

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

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

14 (46) Lot size, minimum. Shall have the same meaning as “minimum lot area” defined  
15 herein.

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

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

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

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

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

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

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

34 (ii) Nonconforming by dimension: a building, structure, or parcel of land not in compliance

1 with the dimensional regulations of the zoning ordinance. Dimensional regulations include all  
2 regulations of the zoning ordinance, other than those pertaining to the permitted uses. A building  
3 or structure containing more dwelling units than are permitted by the use regulations of a zoning  
4 ordinance is nonconforming by use; a building or structure containing a permitted number of  
5 dwelling units by the use regulations of the zoning ordinance, but not meeting the lot area per  
6 dwelling unit regulations, is nonconforming by dimension.

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

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

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

15 (56) Planned development. A “land-development project,” as defined in subsection (38),  
16 and developed according to plan as a single entity and containing one or more structures or uses  
17 with appurtenant common areas.

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

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

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

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

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

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

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

34 (64) Substandard lot of record. Any lot lawfully existing at the time of adoption or

1 amendment of a zoning ordinance and not in conformance with the dimensional or area provisions  
2 of that ordinance.

3 (65) Use. The purpose or activity for which land or buildings are designed, arranged, or  
4 intended, or for which land or buildings are occupied or maintained.

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

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

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

19 (67) Waters. As defined in § 46-12-1(23).

20 (68) Wetland, coastal. As defined in § 45-22.2-4.

21 (69) Wetland, freshwater. As defined in § 2-1-20.

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

26 (71) Zoning map. The map, or maps, that are a part of the zoning ordinance and that  
27 delineate the boundaries of all mapped zoning districts within the physical boundary of the city or  
28 town.

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

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

5 ~~45-24-46.4. Special provisions — Unified development review~~ **Special provisions --**  
6 **Unified development review -- Effective January 1, 2024.**

7 (a) A zoning ordinance ~~may~~ shall provide that review and ~~approval of~~ decision on  
8 ~~dimensional~~ variances, ~~use variances~~, and/or special-use permits for properties undergoing review  
9 which qualifies for unified development review by the ~~planning board or commission as land~~  
10 ~~development or subdivision projects pursuant to § 45-23-36~~ authorized permitting authority, be  
11 conducted and decided by the ~~planning board or commission~~ authorized permitting authority. This  
12 process is to be known as unified development review.

13 (b) ~~If unified development review is desired, such review must be enabled within the~~  
14 ~~zoning ordinance, in accordance with this section, and the~~ The local ~~subdivision and land~~  
15 ~~development regulations must be brought into conformance;~~ ordinance and regulation shall provide  
16 for the application and review process pursuant to § 45-23-50.1.

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

18 (1) ~~Specify which types of zoning approval~~ Empower the ~~planning board or commission~~  
19 ~~shall be empowered~~ authorized permitting authority to grant, grant with conditions or deny zoning  
20 relief for which types of projects ; and

21 (2) Provide that any person, group, agency, or corporation that files an application for ~~an~~  
22 ~~included land development or subdivision~~ a project under this section ~~may~~ shall also file specific  
23 requests for relief from the literal requirements of a zoning ordinance on the subject property,  
24 pursuant to § 45-24-41, and/or for the issuance of special-use permits for the subject property,  
25 pursuant to § 45-24-42, by including such within the application to the administrative officer ~~of the~~  
26 ~~planning board or commission~~ with the other required application materials, pursuant to § 45-23-  
27 50.1(b).

28 (d) ~~A zoning ordinance that provides for unified development review may specify design,~~  
29 ~~use, public benefit, or other relevant criteria that must be met in order for an application to qualify~~  
30 ~~for review under the unified development review provisions of the zoning ordinance. Certification~~  
31 ~~as to whether an application meets the established criteria shall be conducted in conjunction with,~~  
32 ~~and following the time lines outlined for, certification of completeness of the application, pursuant~~  
33 ~~to §§ 45-23-38(c), 45-23-40(b), or 45-23-41(b).~~

34 (e)(d) All land development and subdivision applications that include requests for

1 variances and/or special-use permits submitted pursuant to this section shall require a public  
2 hearing that meets the requirements of §§ 45-23-50.1~~(b)~~ and 45-23-50.1~~(e)~~.

3 ~~(f)(e)~~ In granting requests for dimensional and use variances, the ~~planning board or~~  
4 ~~commission~~ authorized permitting authority shall be bound to the requirements of §§ ~~45-24-41(d)~~  
5 ~~and 45-24-41(e)~~ § 45-24-41 relative to entering evidence into the record in satisfaction of the  
6 applicable standards.

7 ~~(e)(f)~~ In reviewing requests for special-use permits, the ~~planning board or commission~~  
8 authorized permitting authority shall be bound to the conditions and procedures under which a  
9 special-use permit may be issued and the criteria for the issuance of such permits, as found within  
10 the zoning ordinance pursuant to §§ ~~45-24-42(b)(1), 45-24-42(b)(2) and 45-24-42(b)(3)~~ § 45-24-  
11 42, and shall be required to provide for the recording of findings of fact and written decisions as  
12 described in the zoning ordinance pursuant to ~~§ 45-24-42(b)(5)~~ § 45-24-42.

13 ~~(h)(g)~~ An appeal from any decision made pursuant to this section may be taken pursuant to  
14 ~~§ 45-23-66~~ § 45-24-71.

15 **45-24-47. ~~Special provisions -- Land development projects~~ Special provisions -- Land**  
16 **development projects -- Effective January 1, 2024.**

17 (a) A zoning ordinance ~~may~~ shall provide for land development projects which ~~are projects~~  
18 ~~in which one or more lots, tracts, or parcels of land are to be developed or redeveloped as a~~  
19 ~~coordinated site for a complex of uses, units, or structures, including, but not limited to, planned~~  
20 ~~development and/or cluster development for residential, commercial, institutional, industrial,~~  
21 ~~recreational, open space, and/or mixed uses as may be provided for in the zoning ordinance~~ are  
22 defined in § 45-23-32.

23 (b) A zoning ordinance adopted pursuant to this chapter which permits or requires the  
24 creation of land development projects in one or more zoning districts shall require that any land  
25 development project ~~is referred to the city or town planning board or commission for approval~~ shall  
26 be reviewed, in accordance with the procedures established by chapter 23 of this title, including  
27 those for appeal and judicial review, and with any ordinances or regulations adopted pursuant to  
28 the procedures, whether or not the land development project constitutes a “subdivision”, as defined  
29 in chapter 23 of this title. No land development project shall be initiated until a plan of the project  
30 has been submitted ~~to the planning board or commission~~ and approval has been granted by the  
31 ~~planning board or commission~~ authorized permitting authority. In reviewing, hearing, and deciding  
32 upon a land development project, ~~the city or town planning board or commission~~ authorized  
33 permitting authority may be empowered to allow zoning incentives within the project; provided,  
34 that standards for the ~~adjustments~~ zoning incentives are described in the zoning ordinance, and may



1 be empowered to apply any special conditions and stipulations to the approval that may, in the  
2 opinion of the ~~planning board or commission~~ authorized permitting authority, be required to  
3 maintain harmony with neighboring uses and promote the objectives and purposes of the  
4 comprehensive plan and zoning ordinance.

5 (c) In regulating land development projects, an ordinance adopted pursuant to this chapter  
6 may include, but is not limited to, regulations governing the following:

- 7 (1) A minimum area or site size for a land development project;
- 8 (2) Uses to be permitted within the development;
- 9 (3) Ratios of residential to nonresidential uses where applicable;
- 10 (4) Maximum density per lot and maximum density for the entire development, ~~with;~~

11 (5) Roads, driveways, utilities, parking, and other facilities; regulations may distinguish  
12 between those facilities intended to remain in private ownership or to be dedicated to the public;  
13 and

14 (6) Buffer areas, landscaping, screening, and shading.

15 (d) In regulating land development projects, an ordinance adopted pursuant to this chapter  
16 shall include provisions for zoning incentives which include the adjustment of applicable lot density  
17 and dimensional standards where open space is to be permanently set aside for public or common  
18 use, and/or where the physical characteristics, location, or size of the site require an adjustment,  
19 and/or where the location, size, and type of housing, commercial, industrial, or other use require an  
20 adjustment, and/or where housing for low and moderate income families is to be provided, or where  
21 other amenities not ordinarily required are provided, as stipulated in the zoning ordinance.  
22 Provision may be made for adjustment of applicable lot density and dimensional standards for  
23 payment or donation of other land or facilities in lieu of an on-site provision of an amenity that  
24 would, if provided on-site, enable an adjustment;

25 ~~(5) Roads, driveways, utilities, parking, and other facilities; regulations may distinguish~~  
26 ~~between those facilities intended to remain in private ownership or to be dedicated to the public;~~  
27 ~~and~~

28 ~~(6) Buffer areas, landscaping, screening, and shading.~~

29 ~~(4)~~(e)(1) A zoning ordinance requiring open land in a cluster development or other land  
30 development project for public or common use, shall provide that such open land either: (i) be  
31 conveyed to the city or town and accepted by it for park, open space, agricultural, or other specified  
32 use or uses, or (ii) be conveyed to a nonprofit organization, the principal purpose of which is the  
33 conservation of open space or resource protection, or (iii) be conveyed to a corporation or trust  
34 owned or to be owned by the owners of lots or units within the development, or owners of shares

1 within a cooperative development. If such a corporation or trust is used, ownership shall pass with  
2 conveyances of the lots or units, or (iv) remain in private ownership if the use is limited to  
3 agriculture, habitat or forestry, and the city or town has set forth in its community comprehensive  
4 plan and zoning ordinance that private ownership is necessary for the preservation and management  
5 of the agricultural, habitat or forest resources.

6 (2) In any case where the land is not conveyed to the city or town:

7 (i) A restriction, in perpetuity, enforceable by the city or town or by any owner of property  
8 in the cluster or other land development project in which the land is located shall be recorded  
9 providing that the land is kept in the authorized condition(s) and not built upon or developed for  
10 accessory uses such as parking or roadway; and

11 (ii) The developmental rights and other conservation easements on the land may be held,  
12 in perpetuity, by a nonprofit organization, the principal purpose of which is the conservation of  
13 open space or resource protection.

14 (3) All open space land provided by a cluster development or other land development  
15 project shall be subject to a community approved management plan that will specify the permitted  
16 uses for the open space.

17 ~~45-24-49. Special provisions --- Development plan review Special provisions --~~  
18 ~~Development plan review -- Effective January 1, 2024.~~

19 (a) A zoning ordinance ~~may shall~~ permit development plan review of applications ~~for uses~~  
20 ~~requiring a special use permit, a variance, a zoning ordinance amendment, and/or a zoning map~~  
21 ~~change. The review shall be conducted by the planning board or commission and shall be advisory~~  
22 ~~to the permitting authority. pursuant to § 45-23-50. (b) A zoning ordinance may permit~~  
23 ~~development plan review of applications~~ for uses that are permitted by right under the zoning  
24 ordinance, but the review shall only be based on specific and objective guidelines which must be  
25 stated in the zoning ordinance. The ~~review body~~ permitting authority shall also be set forth in and  
26 be established by the zoning ordinance. A rejection of the application shall be considered an  
27 appealable decision pursuant to § 45-24-64.

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

30 ~~(c) Nothing in this subsection shall be construed to permit waivers of any regulations unless~~  
31 ~~approved by the permitting authority pursuant to the local ordinance and this act.~~

32 ~~45-24-58. Administration --- Application procedure Administration -- Application~~  
33 ~~procedure -- Effective January 1, 2024.~~

34 The zoning ordinance establishes the various application procedures necessary for the

1 filing of appeals, requests for variances, special-use permits, development plan reviews, ~~site plan~~  
2 ~~reviews~~, and other applications that may be specified in the zoning ordinance as allowed by this  
3 chapter, with the zoning board of review, consistent with the provisions of this chapter. The zoning  
4 ordinance provides for the creation of appropriate forms, and for the submission and resubmission  
5 requirements, for each type of application required. A zoning ordinance may establish that a time  
6 period of a certain number of months is required to pass before a successive similar application  
7 may be filed.

8 SECTION 3. Sections 45-23-34, 45-23-40, 45-23-41, 45-23-43, 45-23-49, 45-23-66, 45-  
9 23-68, 45-23-69 and 45-23-70 of the General Laws in Chapter 45-23 entitled "Subdivision of Land"  
10 are hereby repealed as of January 1, 2024.

11 ~~**45-23-34. General provisions — Definitions.**~~

12 ~~Local regulations adopted pursuant to this chapter shall provide definitions for words or~~  
13 ~~phrases contained in the regulations as is deemed appropriate. Where words or phrases used in any~~  
14 ~~local regulations, whether or not defined in those regulations, are substantially similar to words or~~  
15 ~~phrases defined in § 45-23-32 of this chapter, or § 45-22-2-4 of the Comprehensive Planning and~~  
16 ~~Land Use Act or § 45-24-31 of the Zoning Enabling Act of 1991 the words or phrases shall be~~  
17 ~~construed according to the definitions provided in those sections of the law.~~

18 ~~**45-23-40. General provisions — Major land development and major subdivision —**~~  
19 ~~**Master plan.**~~

20 ~~(a) Submission requirements.~~

21 ~~(1) The applicant shall first submit to the administrative officer the items required by the~~  
22 ~~local regulations for master plans.~~

23 ~~(2) Requirements for the master plan and supporting material for this phase of review~~  
24 ~~include, but are not limited to: information on the natural and built features of the surrounding~~  
25 ~~neighborhood, existing natural and man-made conditions of the development site, including~~  
26 ~~topographic features, the freshwater wetland and coastal zone boundaries, the floodplains, as well~~  
27 ~~as the proposed design concept, proposed public improvements and dedications, tentative~~  
28 ~~construction phasing; and potential neighborhood impacts.~~

29 ~~(3) Initial comments will be solicited from:~~

30 ~~(i) Local agencies including, but not limited to, the planning department, the department of~~  
31 ~~public works, fire and police departments, the conservation and recreation commissions;~~

32 ~~(ii) Adjacent communities;~~

33 ~~(iii) State agencies, as appropriate, including the departments of environmental~~  
34 ~~management and transportation and the coastal resources management council; and~~

1           ~~(iv) Federal agencies, as appropriate. The administrative officer shall coordinate review~~  
2 ~~and comments by local officials, adjacent communities, and state and federal agencies.~~

3           ~~(4) Requests for relief from the literal requirements of the zoning ordinance and/or for the~~  
4 ~~issuance of special use permits related to major subdivisions and/or major land development~~  
5 ~~projects that are submitted under a zoning ordinance's unified development review provisions shall~~  
6 ~~be included as part of the master plan application, pursuant to § 45-23-50.1(b).~~

7           ~~(b) Certification. The application must be certified, in writing, complete or incomplete by~~  
8 ~~the administrative officer within twenty five (25) days, according to the provisions of § 45-23-~~  
9 ~~36(b). The running of the time period set forth herein will be deemed stopped upon the issuance of~~  
10 ~~a certificate of incompleteness of the application by the administrative officer and will recommence~~  
11 ~~upon the resubmission of a corrected application by the applicant. However, in no event will the~~  
12 ~~administrative officer be required to certify a corrected submission as complete or incomplete less~~  
13 ~~than ten (10) days after its resubmission.~~

14           ~~(c) Technical review committee. The technical review committee, if established, shall~~  
15 ~~review the application and shall comment and make recommendations to the planning board.~~

16           ~~(d) Informational meeting.~~

17           ~~(1) A public informational meeting will be held prior to the planning board decision on the~~  
18 ~~master plan, unless the master plan and preliminary plan approvals are being combined, in which~~  
19 ~~case the public informational meeting is optional, based upon planning board determination, or~~  
20 ~~unified development review has been requested, in which case a public hearing shall be held~~  
21 ~~pursuant to § 45-23-50.1(b).~~

22           ~~(2) Public notice for the informational meeting is required and must be given at least seven~~  
23 ~~(7) days prior to the date of the meeting in a newspaper of general circulation within the~~  
24 ~~municipality. Postcard notice must be mailed to the applicant and to all property owners within the~~  
25 ~~notice area, as specified by local regulations.~~

26           ~~(3) At the public informational meeting, the applicant will present the proposed~~  
27 ~~development project. The planning board must allow oral and written comments from the general~~  
28 ~~public. All public comments are to be made part of the public record of the project application.~~

29           ~~(e) Decision. The planning board shall, within ninety (90) days of certification of~~  
30 ~~completeness, or within a further amount of time that may be consented to by the applicant through~~  
31 ~~the submission of a written waiver, approve of the master plan as submitted, approve with changes~~  
32 ~~and/or conditions, or deny the application, according to the requirements of §§ 45-23-60 and 45-~~  
33 ~~23-63.~~

34           ~~(f) Failure to act. Failure of the planning 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 planning board to act within the required time and the resulting approval will be issued on  
3 request of the applicant.

4 (g) Vesting.

5 (1) The approved master plan is vested for a period of two (2) years, with the right to extend  
6 for two (2), one-year extensions upon written request by the applicant, who must appear before the  
7 planning board for the annual review. Thereafter, vesting may be extended for a longer period, for  
8 good cause shown, if requested by the applicant, in writing, and approved by the planning board.  
9 Master plan vesting includes the zoning requirements, conceptual layout, and all conditions shown  
10 on the approved master plan drawings and supporting materials.

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

13 ~~45-23-41. General provisions — Major land development and major subdivision —~~

14 ~~Preliminary plan.~~

15 (a) Submission requirements.

16 (1) The applicant shall first submit to the administrative officer the items required by the  
17 local regulations for preliminary plans.

18 (2) Requirements for the preliminary plan and supporting materials for this phase of the  
19 review include, but are not limited to: engineering plans depicting the existing site conditions,  
20 engineering plans depicting the proposed development project, a perimeter survey, all permits  
21 required by state or federal agencies prior to commencement of construction, including permits  
22 related to freshwater wetlands, the coastal zone, floodplains, preliminary suitability for individual  
23 septic disposal systems, public water systems, and connections to state roads.

24 (3) At the preliminary plan review phase, the administrative officer shall solicit final,  
25 written comments and/or approvals of the department of public works, the city or town engineer,  
26 the city or town solicitor, other local government departments, commissions, or authorities as  
27 appropriate.

28 (4) Prior to approval of the preliminary plan, copies of all legal documents describing the  
29 property, proposed easements, and rights of way.

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

1           ~~(b) Certification. The application will be certified as complete or incomplete by the~~  
2 ~~administrative officer within twenty five (25) days, according to the provisions of § 45-23-36(b).~~  
3 ~~The running of the time period set forth herein will be deemed stopped upon the issuance of a~~  
4 ~~certificate of incompleteness of the application by the administrative officer and will recommence~~  
5 ~~upon the resubmission of a corrected application by the applicant. However, in no event shall the~~  
6 ~~administrative officer be required to certify a corrected submission as complete or incomplete less~~  
7 ~~than ten (10) days after its resubmission.~~

8           ~~(c) Technical review committee. The technical review committee, if established, shall~~  
9 ~~review the application and shall comment and make recommendations to the planning board.~~

10           ~~(d) Public hearing. Prior to a planning board decision on the preliminary plan, a public~~  
11 ~~hearing, which adheres to the requirements for notice described in § 45-23-42, must be held.~~

12           ~~(e) Public improvement guarantees. Proposed arrangements for completion of the required~~  
13 ~~public improvements, including construction schedule and/or financial guarantees, shall be~~  
14 ~~reviewed and approved by the planning board at preliminary plan approval.~~

15           ~~(f) Decision. A complete application for a major subdivision or development plan shall be~~  
16 ~~approved, approved with conditions, or denied, in accordance with the requirements of §§ 45-23-~~  
17 ~~60 and 45-23-63, within ninety (90) days of the date when it is certified complete, or within a~~  
18 ~~further amount of time that may be consented to by the developer through the submission of a~~  
19 ~~written waiver.~~

20           ~~(g) Failure to act. Failure of the planning board to act within the prescribed period~~  
21 ~~constitutes approval of the preliminary plan and a certificate of the administrative officer as to the~~  
22 ~~failure of the planning board to act within the required time and the resulting approval shall be~~  
23 ~~issued on request of the applicant.~~

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

31           ~~**45-23-43. General provisions — Major land development and major subdivision —**~~

32           ~~**Final plan:**~~

33           ~~(a) Submission requirements.~~

34           ~~(1) The applicant shall submit to the administrative officer the items required by the local~~

1 ~~regulations for the final plan, as well as all material required by the planning board when the~~  
2 ~~application was given preliminary approval.~~

3 ~~(2) Arrangements for completion of the required public improvements, including~~  
4 ~~construction schedule and/or financial guarantees.~~

5 ~~(3) Certification by the tax collector that all property taxes are current.~~

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

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

21 ~~(c) Referral to the planning board. If the administrative officer determines that an~~  
22 ~~application for final approval does not meet the requirements set by local regulations or by the~~  
23 ~~planning board at preliminary approval, the administrative officer shall refer the final plans to the~~  
24 ~~planning board for review. The planning board shall, within forty five (45) days after the~~  
25 ~~certification of completeness, or within a further amount of time that may be consented to by the~~  
26 ~~applicant, approve or deny the final plan as submitted.~~

27 ~~(d) Failure to act. Failure of the planning board to act within the prescribed period~~  
28 ~~constitutes approval of the final plan and a certificate of the administrative officer as to the failure~~  
29 ~~of the planning board to act within the required time and the resulting approval shall be issued on~~  
30 ~~request of the applicant.~~

31 ~~(e) Expiration of approval. The final approval of a major subdivision or land development~~  
32 ~~project expires one year from the date of approval with the right to extend for one year upon written~~  
33 ~~request by the applicant, who must appear before the planning board for the annual review, unless,~~  
34 ~~within that period, the plat or plan has been submitted for signature and recording as specified in §~~

1 ~~45-23-64. Thereafter, the planning board may, for good cause shown, extend the period for~~  
2 ~~recording for an additional period.~~

3 ~~(f) Acceptance of public improvements. Signature and recording as specified in § 45-23-~~  
4 ~~64 constitute the acceptance by the municipality of any street or other public improvement or other~~  
5 ~~land intended for dedication. Final plan approval shall not impose any duty upon the municipality~~  
6 ~~to maintain or improve those dedicated areas until the governing body of the municipality accepts~~  
7 ~~the completed public improvements as constructed in compliance with the final plans.~~

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

11 ~~**45-23-49. Special provisions — Land development projects.**~~

12 ~~(a) If municipalities provide for land development projects, as defined in § 45-24-47 of the~~  
13 ~~Rhode Island Zoning Enabling Act of 1991, the projects are subject to the local regulations.~~

14 ~~(b) In these instances, the local regulations must include all requirements, procedures and~~  
15 ~~standards necessary for proper review and approval of land development projects to ensure~~  
16 ~~consistency with the intent and purposes of this chapter and with § 45-24-47 of the Rhode Island~~  
17 ~~Zoning Enabling Act of 1991.~~

18 ~~**45-23-66. Appeals — Right of appeal.**~~

19 ~~(a) Local regulations adopted pursuant to this chapter shall provide that an appeal from any~~  
20 ~~decision of the planning board, or administrative officer charged in the regulations with~~  
21 ~~enforcement of any provisions, except as provided in this section, may be taken to the board of~~  
22 ~~appeal by an aggrieved party. Appeals from a decision granting or denying approval of a final plan~~  
23 ~~shall be limited to elements of the approval or disapproval not contained in the decision reached by~~  
24 ~~the planning board at the preliminary stage, providing that a public hearing has been held on the~~  
25 ~~plan pursuant to § 45-23-42.~~

26 ~~(b) Local regulations adopted pursuant to this chapter shall provide that an appeal from a~~  
27 ~~decision of the board of appeal may be taken by an aggrieved party to the superior court for the~~  
28 ~~county in which the municipality is situated.~~

29 ~~**45-23-68. Appeals — Stay of proceedings.**~~

30 ~~An appeal stays all proceedings in furtherance of the action being appealed.~~

31 ~~**45-23-69. Appeals — Public hearing.**~~

32 ~~(a) The board of appeal shall hold a public hearing on the appeal within forty five (45) days~~  
33 ~~of the receipt of the appeal, give public notice of the hearing, as well as due notice to the parties of~~  
34 ~~interest. At the hearing any party may appear in person, or be represented by an agent or attorney.~~



1 ~~The board shall render a decision within ten (10) days of the close of the public hearing. The cost~~  
2 ~~of any notice required for the hearing shall be borne by the applicant.~~

3 ~~(b) The board of appeal shall only hear appeals of the actions of a planning board or~~  
4 ~~administrative officer at a meeting called especially for the purpose of hearing the appeals and~~  
5 ~~which has been so advertised.~~

6 ~~(c) The hearing, which may be held on the same date and at the same place as a meeting of~~  
7 ~~the zoning board of review, must be held as a separate meeting from any zoning board of review~~  
8 ~~meeting. Separate minutes and records of votes as required by § 45-23-70(d) shall be maintained~~  
9 ~~by the board of appeal.~~

10 ~~**45-23-70. Appeals — Standards of review.**~~

11 ~~(a) As established by this chapter, in instances of a board of appeal's review of a planning~~  
12 ~~board or administrative officer's decision on matters subject to this chapter, the board of appeal~~  
13 ~~shall not substitute its own judgment for that of the planning board or the administrative officer but~~  
14 ~~must consider the issue upon the findings and record of the planning board or administrative officer.~~  
15 ~~The board of appeal shall not reverse a decision of the planning board or administrative officer~~  
16 ~~except on a finding of prejudicial procedural error, clear error, or lack of support by the weight of~~  
17 ~~the evidence in the record.~~

18 ~~(b) The concurring vote of three (3) of the five (5) members of the board of appeal sitting~~  
19 ~~at a hearing, is necessary to reverse any decision of the planning board or administrative officer.~~

20 ~~(c) In the instance where the board of appeal overturns a decision of the planning board or~~  
21 ~~administrative officer, the proposed project application is remanded to the planning board or~~  
22 ~~administrative officer, at the stage of processing from which the appeal was taken, for further~~  
23 ~~proceedings before the planning board or administrative officer and/or for the final disposition,~~  
24 ~~which shall be consistent with the board of appeal's decision.~~

25 ~~(d) The board of appeal shall keep complete records of all proceedings including a record~~  
26 ~~of all votes taken, and shall put all decisions on appeals in writing. The board of appeal shall include~~  
27 ~~in the written record the reasons for each decision.~~

28 SECTION 4. This act shall take effect on January 1, 2024.

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LC002437/SUB A  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO TOWNS AND CITIES -- SUBDIVISION OF LAND

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- 1           This act would amend the provisions relative to the subdivision of land and the application
- 2 process requesting relief from zoning ordinances and the review process thereof.
- 3           This act would take effect on January 1, 2024

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LC002437/SUB A  
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