

0Low and Moderate Income Housing Act (Title 45, Chapter 53)

1§ 45-53-1. Short title.

2This chapter shall be known as the “Rhode Island Low and Moderate Income Housing Act”.

3§ 45-53-2. Legislative findings and intent.

4The general assembly finds and declares that there exists an acute shortage of affordable,
5accessible, safe, and sanitary housing for its citizens of low and moderate income, both
6individuals and families; that it is imperative that action is taken immediately to assure the
7availability of affordable, accessible, safe, and sanitary housing for these persons; that it is
8necessary that each city and town provide opportunities for the establishment of low and
9moderate income housing; and that the provisions of this chapter are necessary to assure the
10health, safety, and welfare of all citizens of this state, and that each citizen enjoys the right to
11affordable, accessible, safe, and sanitary housing. It is further declared to be the purpose of this
12chapter to provide for housing opportunities for low and moderate income individuals and
13families in each city and town of the state and that an equal consideration shall be given to the
14retrofitting and rehabilitation of existing dwellings for low and moderate income housing and
15assimilating low and moderate income housing into existing and future developments and
16neighborhoods.

17 § 45-53-3. Definitions.

18The following words, wherever used in this chapter, unless a different meaning clearly appears
19from the context, have the following meanings:

20(1) “Affordable housing plan” means a component of a housing element, as defined in §
21~~45-22.2-4(1)~~,[45-22.2-6\(b\)\(6\)](#), [that is designed](#) to meet [local](#) housing needs in a city or town [and](#)

0that is prepared in accordance with any guidelines adopted by the state planning council, and/or
1to meet the provisions of § 45-53-4~~(b)(1) and~~(c).

2(2) “Approved affordable housing plan” means an affordable housing plan that has been
3approved by the director of administration as meeting the guidelines for the local comprehensive
4plan as promulgated by the state planning council; provided, however, that state review and
5approval, for plans submitted by December 31, 2004, shall not be contingent on the city or town
6having completed, adopted, or amended its comprehensive plan as provided for in § 45-22.2-8, §
745-22.2-9, or § 45-22.2-12.

8(3) “Comprehensive plan” means a comprehensive plan adopted and approved by a city or town
9pursuant to chapters 22.2 and 22.3 of this title.

10

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

20~~(i) Low- or moderate income housing exists which is: (A) In the case of an urban city or town~~
21~~which has at least 5,000 occupied year-round rental units and the units, as reported in the latest~~
22~~decennial census of the city or town, comprise twenty five percent (25%) or more of the~~

~~0 year-round housing units, and is in excess of fifteen percent (15%) of the total occupied
1 year-round rental units; or (B) In the case of all other cities or towns, is in excess of ten percent
2 (10%) of the year-round housing units reported in the census.~~

~~3 (ii) The city or town has promulgated zoning or land use ordinances, requirements, and
4 regulations to implement a comprehensive plan that has been adopted and approved pursuant to
5 chapters 22.2 and 22.3 of this title, and the housing element of the comprehensive plan provides
6 for low- and moderate-income housing in excess of either ten percent (10%) of the year-round
7 housing units or fifteen percent (15%) of the occupied year-round rental housing units as
8 provided in subdivision (4)(i).~~

~~9 (iii) Multi-family rental units built under a comprehensive permit may be calculated towards
10 meeting the requirements of a municipality's low- or moderate-income housing inventory, as
11 long as the units meet and are in compliance with the provisions of § 45-53-3.1 Repealed.~~

12 (5) "Infeasible" means any condition brought about by any single factor or combination of
13 factors, as a result of limitations imposed on the development by conditions attached to the
14 approval of the comprehensive permit, to the extent that it makes it ~~impossible for a public
15 agency, nonprofit organization, or limited equity housing cooperative~~ financially or logistically
16 impractical for an applicant to proceed in building or operating low- or moderate- income
17 housing ~~without financial loss~~, within the limitations set by the subsidizing agency of
18 government, on the size or character of the development, on the amount or nature of the subsidy,
19 or on the tenants, rentals, and income permissible, and without substantially changing the rent
20 levels and unit sizes proposed by the ~~public agency, nonprofit organization, or limited equity~~
21 ~~housing cooperative~~ applicant.

0(6) “Letter of eligibility” means a letter issued by the Rhode Island housing and mortgage finance
1corporation in accordance with § 42-55-5.3(a).

2(7) “Local board” means any town or city official, zoning board of review, planning board or
3commission, board of appeal or zoning enforcement officer, local conservation commission,
4historic district commission, or other municipal board having supervision of the construction of
5buildings or the power of enforcing land use regulations, such as subdivision, or zoning laws.

6(8) “Local review board” means the planning board as defined by § 45-22.2-4(20), ~~or if~~
7~~designated by ordinance as the board to act on comprehensive permits for the town, the zoning~~
8~~board of review established pursuant to § 45-24-56.~~

9(9) “Low- or moderate- income housing” means any housing whether built or operated by any
10public agency or any nonprofit organization or by any limited equity housing cooperative or any
11private developer, that is subsidized by a federal, state, or municipal government subsidy under
12any program to assist the construction or rehabilitation of housing that is affordable to ~~low-very~~
13~~low, low,~~ or moderate- income households, as defined ~~in the applicable federal or state statute, or~~
14~~local ordinance~~ by § 42-128-8.1(d), and that will remain affordable through a land lease and/or
15deed restriction for ninety-nine (99) years or such other period that is either agreed to by the
16applicant and town or prescribed by the federal, state, or municipal government subsidy program
17but that is not less than thirty (30) years from initial occupancy.

18(10) “Meeting local housing needs” means, as a result of the adoption of the implementation
19program of an approved affordable housing plan ~~and the absence of unreasonable denial of~~
20~~applications that are made pursuant to an approved affordable housing plan in order to~~
21~~accomplish the purposes and expectations of the approved affordable housing plan,~~ a
22municipality increases its share of low or moderate income housing by a degree equivalent to at

0 least two percent (2%) of the city or town’s year-round housing units over the previous
1 twenty-four (24) months, or at least one percent (1%) over the previous twelve (12) months.

2(11) “Monitoring agents” means those monitoring agents appointed by the Rhode Island housing
3resources commission pursuant to § 45-53-3.2 and to provide the monitoring and oversight set
4forth in this chapter, including, but not limited to, §§ 45-53-3.2 and 45-53-4.

5(12) “Municipal government subsidy” means assistance that is made available through a city or
6town program sufficient to make housing affordable, as affordable housing is defined in §
742-128-8.1(d)(1); such assistance may include, but is not limited to, direct financial support,
8abatement of taxes, waiver of fees and charges, and approval of density bonuses and/or internal
9subsidies, and any combination of forms of assistance.

10~~§ 45-53-3.1. Formula to include non-income restricted multi-family rental units as low- and~~
11~~moderate-income housing.~~

12~~(a) In calculating the number of year-round housing units towards meeting the goals of an excess~~
13~~of ten percent (10%) of the year-round housing units consistent with local needs required~~
14~~pursuant to § 45-53-4, rental units in multi-family housing built after the effective date of this~~
15~~section may be included as low- or moderate-income housing, in accordance with the following~~
16~~conditions:~~

17~~(1) At least thirty percent (30%) of the units created are deed restricted for households earning~~
18~~not more than sixty percent (60%) of the area median income, adjusted for household size; or~~

19~~(2) At least fifty percent (50%) of the units created are deed restricted for households earning not~~
20~~more than eighty percent (80%) of the area median income, adjusted for household size; and~~

21~~(3) The proposed affordable units meet all other requirements of this chapter to be calculated as~~
22~~low- or moderate-income housing; and~~

~~0(4) All non-deed restricted units developed under the same comprehensive permit shall be
1included in the low- and moderate-income housing inventory as one-half (0.5) units each.~~

~~2(b) As used in this section and as applied to this chapter:~~

~~3(1) “Area median income (AMI)” means area median household income as defined by the U.S.
4Department of Housing and Urban Development, adjusted for household size.~~

~~5(2) “Multi-family housing” means a building with three (3) or more residential dwelling units or
6two (2) or more buildings on the same lot with more than one residential dwelling unit in each
7building~~

8(12) “Objective” means the quality of involving no personal or subjective judgment by a local
9review board or other local board, being uniformly verifiable by reference to an external
10benchmark or criterion that is available to and knowable by a comprehensive permit applicant.

11(13) “Specific and substantial adverse impact” means an objective, quantifiable, and direct
12impact of the type categorically assessed by the state of Rhode Island as significant and adverse
13according to a written policy or standard adopted and in effect as of the date that a
14comprehensive permit application was deemed complete.

15§ 45-53-3.1. Repealed.

16§ 45-53-3.2. Approved monitoring agent program.

17(a) There is hereby established an approved monitoring agent program (the “program”). Effective
18July 1, 2022, the Rhode Island housing resources commission (the “commission”) established
19pursuant to chapter 128 of title 42 shall appoint and oversee approved monitoring agents as part
20of this program.

21 (b) On or before July 1, 2023, the commission shall promulgate rules and regulations pursuant to
22chapter 35 of title 42 (“administrative procedures”) for the implementation of the program,

0which shall include a process for the selection and approval of monitoring agents. These rules
1and regulations shall be prepared to ensure the selection and appointment of organizations that
2shall be capable of monitoring and ensuring that municipally subsidized housing developments
3remain affordable, and that income-eligible buyers and tenants are occupying these units. The
4commission shall appoint these monitoring agents, who shall serve for terms of not more than
5five (5) consecutive years; provided that, the term of an approved monitoring agent may be
6renewed by the commission.

7 (c) As used in this section, the term “LMI” means low- and moderate-income housing and
8includes area median-income levels as established by the U.S. Department of Housing and Urban
9Development (“HUD”).

10 (d) Specific duties of approved monitoring agents shall include, but not be limited to, the
11following:

12(1) To oversee, monitor, and ensure that tenants in LMI rental units meet income limits annually
13and that monthly rental rates are consistent with the low- and moderate-income guidelines and
14the recorded deed restrictions;

15(2) To oversee, monitor, and ensure that LMI homeownership units continue to serve as the
16owners’ year-round principal residences; monitor and ensure that any proposed refinance of a
17LMI unit during the period in which a deed restriction is in effect is in compliance with program
18requirements: in the case of the resale of any LMI unit during the period in which a deed
19restriction is in effect, the maximum sales price is consistent with the recorded deed restriction
20and that the proposed buyer of the LMI unit meets the income limits as defined within the
21recorded deed restriction;

22 (3) To oversee, monitor and ensure any LMI accessory dwelling unit being counted is in

0compliance with the following requirements:

1(i) An annual lease; and

2(ii) The accessory dwelling unit is occupied by a household whose income does not exceed
3eighty percent (80%) of the area median income (AMI), adjusted for family size; and

4(iii) The cost of rent, heat, and utilities other than telephone, cable, and internet, based on the
5number of the bedrooms in the unit does not exceed thirty percent (30%) of the gross annual
6household income for a household with eighty percent (80%) or less of area median income,
7adjusted for family size as certified by the selected approved monitoring agent;

8(4) Any other provision contained in chapter 24 of this title that reasonably relates to affordable
9housing compliance and enforcement; and

10(5) Such other duties as the commission sets forth in its rules and regulations for the monitoring
11agents.

12(e) The commission shall also promulgate rules and regulations providing for the terms of
13engagement of the approved monitoring agents, standards for approval and recertification of the
14approved monitoring agents, and establish reporting requirements for the approved monitoring
15agents to the commission.

16(f) Commencing on or before January 1, 2023, and on or before January 1 thereafter, the
17commission shall prepare a report on the approved monitoring agent program to the governor,
18the speaker of the house, the president of the senate, and the secretary of housing.

19**§ 45-53-4. Procedure for approval of construction of low- or moderate- income housing.**

20(a) Any applicant proposing to build low- or moderate- income housing may submit to the local
21review board a single application for a comprehensive permit ([a “comprehensive permit
22application”](#)) to build that housing in lieu of separate applications to the applicable local boards.

0This procedure is only available for ~~proposals~~ proposal in which at least twenty-five percent
1(25%) of the housing is low- or moderate-income housing, or the proposal otherwise qualifies for
2zoning incentives for low- or moderate- income housing under § 45-53-16(c). The ~~application~~
3~~and~~-review and approval process for a comprehensive permit application shall be as follows:

4

5(1) ~~Submission requirements. Applications for a comprehensive permit shall include:~~

6(~~All proposals for low or moderate income housing shall be a major land development and/or~~
7major subdivision under chapter 23 of title 45, with unified development review required for any
8request for a dimensional variance, use variance, special-use permit, and/or any other form of
9relief from the literal requirements of the zoning ordinance or subdivision regulations of a
10municipality (each, a “request for relief”). Unified development review shall be conducted
11according to the provisions of § 45-23-50.1 except as specified herein.

12(2) A comprehensive permit application shall be reviewed in three stages: master plan,
13preliminary plan, and final plan review.

14(3) To obtain master plan approval, an applicant must submit (i) a written description of the
15applicant’s intent to develop low or moderate income housing; (ii) any requests for relief; and
16(iii) those items required by local land development and subdivision regulations for master plan
17review.

18(i) The administrative officer of a municipality shall certify the application as complete or
19incomplete according to the requirements of § 45-23-40(b).

20(ii) For any application that does not include a request for relief, the administrative officer shall
21review and render a decision on the master plan within sixty (60) days of the application being

0certified as complete. The officer shall report its actions to the local review board at its next
1regular meeting, to be made part of the record.

2(iii) For any application that includes a request for relief, the administrative officer shall
3immediately refer the application to the local review board to be placed on the agenda of the
4board's next regular meeting.

5(iv) The local review board shall hold a public hearing and render a decision on the master plan
6and request(s) for relief within ninety (90) days of the application being certified as complete. At
7least seven (7) days prior to the public hearing, the administrative officer shall submit to the local
8review board the officer's professional recommendation as to whether the applicant's request(s)
9for relief should be granted in light of the requirements of § 45-53-4(b). Any such
10recommendation shall be provided to the applicant simultaneous with the local review board and
11be made part of the record. Failure by the administrative officer to submit a recommendation
12creates a rebuttable presumption that the requested relief warrants approval under subsection (b).

13(4) An approved master plan vests for a period of five (5) years, with the right to extend for an
14additional two (2) years upon the written request of the applicant. Thereafter, a local review
15board may further extend the vesting period upon the written request of the applicant and for
16good cause shown. Master plan vesting includes the zoning requirements, conceptual layout, all
17conditions shown on the approved master plan drawings and supporting materials, and any
18approved requests for relief.

19(5) To obtain preliminary plan approval, an applicant must submit those items required by local
20land development and subdivision regulations for preliminary plan review, except that the
21applicant need only submit proof of application for (rather than final approval of) the permits
22required by state or federal agencies prior to the commencement of construction. The applicant

0 may request, and shall be granted, a pre-application meeting with the administrative officer to
1 ensure that any such permit applications align with any prerequisites for preliminary plan
2 approval. The officer shall furnish a written list of all such prerequisites to the applicant upon
3 request.

4 (i) The administrative officer shall certify the application as complete or incomplete according to
5 the requirements of § 45-23-41(b) and render a decision on the application within ninety (90) of
6 certifying it as complete. The application shall not be subject to public hearings or review by the
7 local board review, except that the administrative officer may remand an application to the local
8 review board where an applicant submits new or altered requests for relief.

9 (ii) An approved preliminary plan vests as provided by § 45-23-41(h).

10 (6) To obtain final plan approval, an applicant must submit those items required by land
11 development and subdivision regulations for final plan review, as well as:

12 (i) All permits required by state or federal agencies prior to commencement of construction,
13 including permits related to freshwater wetlands, the coastal zone, floodplains, preliminary
14 suitability for individual septic disposal systems, public water systems, and connections to state
15 roads;

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

20 ~~(ii) A written request to the local review board to submit a single application to build or~~
21 ~~rehabilitate low or moderate income housing in lieu of separate applications to the applicable~~

0 local boards. The written request shall identify the specific sections and provisions of applicable
1 local ordinances and regulations from which the applicant is seeking relief; and
2 (iii) ~~A proposed timetable for the commencement of construction and completion of the project;~~
3 and
4 (iv
5 (iii) A sample of the land lease or deed restriction with affordability liens that will restrict the use
6 of dwelling units as low- ~~and~~or moderate- income housing in conformance with the guidelines of
7 ~~the~~any agency providing ~~the~~a subsidy for the low- ~~and~~or moderate- income housing, as
8 applicable, but for a period of not less than thirty (30) years; and
9 (v) Identification of an approved entity that will monitor the long-term affordability of the low-
10 ~~and~~or moderate- income ~~units; provided, that, on or after July 1, 2022, this entity shall include~~
11 ~~the Rhode Island housing resources commission established pursuant to chapter 128 of title 42~~
12 ~~and acting through its monitoring agents, and these agents shall monitor the long term~~
13 ~~affordability of the low and moderate income units~~housing pursuant to § 45-53-3.2; ~~and~~.
14 (vi) ~~A financial pro forma for the proposed development; and~~
15 (vii) ~~For comprehensive permit applications: (A) Not involving major land developments or~~
16 ~~major subdivisions including, but not limited to, applications seeking relief from specific~~
17 ~~provisions of a local zoning ordinance, or involving administrative subdivisions, minor land~~
18 ~~developments or minor subdivisions, or other local ordinances and regulations: those items~~
19 ~~required by local regulations promulgated pursuant to applicable state law, with the exception of~~
20 ~~evidence of state or federal permits; and for comprehensive permit applications; and (B)~~
21 ~~Involving major land developments and major subdivisions, unless otherwise agreed to by the~~
22 ~~applicant and the town; those items included in the checklist for the master plan in the local~~

~~0 regulations promulgated pursuant to § 45-23-40. Subsequent to master plan approval, the~~
~~1 applicant must submit those items included in the checklist for a preliminary plan for a major~~
~~2 land development or major subdivision project in the local regulations promulgated pursuant to §~~
~~3 45-23-41, with the exception of evidence of state or federal permits. All required state and~~
~~4 federal permits must be obtained prior to the final plan approval or the issuance of a building~~
~~5 permit; and~~

~~6 (viii) Municipalities may impose fees on comprehensive permit applications that are consistent~~
~~7 with but do not exceed fees that would otherwise be assessed for a project of the same scope and~~
~~8 type but not proceeding under this chapter, provided, however, that the imposition of such fees~~
~~9 shall not preclude a showing by a nonprofit applicant that the fees make the project financially~~
~~10 infeasible; and~~

~~11 (xi) Notwithstanding the submission requirements set forth above, the local review board may~~
~~12 request additional, reasonable documentation throughout the public hearing, including, but not~~
~~13 limited to, opinions of experts, credible evidence of application for necessary federal and/or state~~
~~14 permits, statements and advice from other local boards and officials.~~

~~15 (2) Certification of completeness. The application must be certified complete or incomplete by~~
~~16 the administrative officer according to the provisions of § 45-23-36; provided, however, that for~~
~~17 a major land development or major subdivision, the certificate for a master plan shall be granted~~
~~18 within twenty-five (25) days and for a preliminary plan shall be granted within twenty-five (25)~~
~~19 days. The running of the time period set forth herein will be deemed stopped upon the issuance~~
~~20 of a certificate of incompleteness of the application by the administrative officer and will~~
~~21 recommence upon the resubmission of a corrected application by the applicant. However, in no~~
~~22 event will the administrative officer be required to certify a corrected submission as complete or~~

~~0 incomplete less than ten (10) days after its resubmission. If the administrative officer certifies the
1 application as incomplete, the officer shall set forth in writing with specificity the missing or
2 incomplete items.~~

~~3 (3) Pre-application conference. Where the comprehensive permit application proposal is a major
4 land development project or a major subdivision pursuant to chapter 23 of this title, a
5 municipality may require an applicant proposing a project under this chapter to first schedule a
6 pre-application conference with the local review board, the technical review committee
7 established pursuant to § 45-23-56, or with the administrative officer for the local review board
8 and other local officials, as appropriate. To request a pre-application conference, the applicant
9 shall submit a short description of the project in writing including the number of units, type of
10 housing, as well as a location map. The purpose of the pre-application conference shall be to
11 review a concept plan of the proposed development. Upon receipt of a request by an applicant for
12 a pre-application conference, the municipality has thirty (30) days to schedule and hold the
13 pre-application conference. If thirty (30) days has elapsed from the filing of the pre-application
14 submission and no pre-application conference has taken place, nothing shall be deemed to
15 preclude an applicant from thereafter filing and proceeding with an application for a
16 comprehensive permit.~~

~~17 (4) Review of applications. An application filed in accordance with this chapter shall be
18 reviewed by the local review board at a public hearing in accordance with the following
19 provisions:~~

~~20 (i) Notification. Upon issuance of a certificate of completeness for a comprehensive permit, the
21 local review board shall immediately notify each local board, as applicable, of the filing of the
22 application, by sending a copy to the local boards and to other parties entitled to notice of~~

~~0hearings on applications under the zoning ordinance and/or land development and subdivision
1regulations as applicable.~~

~~2(ii) Public Notice. Public notice for all public hearings will be the same notice required under
3local regulations for a public hearing for a preliminary plan promulgated in accordance with §
445-23-42. The cost of notice shall be paid by the applicant.~~

~~5(iii) Review of minor projects. The review of a comprehensive permit application involving only
6minor land developments or minor subdivisions or requesting zoning ordinance relief or relief
7from other local regulations or ordinances not otherwise addressed in this subsection, shall be
8conducted following the procedures in the applicable local regulations, with the exception that
9all minor land developments or minor subdivisions under this section are required to hold a
10public hearing on the application, and within ninety five (95) days of issuance of the certificate
11of completeness, or within such further time as is agreed to by the applicant and the local review
12board, render a decision.~~

~~13(iv) Review of major projects. In the review of a comprehensive permit application involving a
14major land development and/or major subdivision, the local review board shall hold a public
15hearing on the master plan and shall, within ninety (90) days of issuance of the certification of
16completeness, or within such further amount of time as may be agreed to by the local review
17board and the applicant, render a decision. Preliminary and final plan review shall be conducted
18according to local regulations promulgated pursuant to chapter 23 of this title except as
19otherwise specified in this section.~~

~~20(v) Required findings. In approving an application, the local review board shall make positive
21findings, supported by legally competent evidence on the record that discloses the nature and~~

~~0 character of the observations upon which the fact finders acted, on each of the following standard
1 provisions, where applicable:~~

~~2 (A) The proposed development is consistent with local needs as identified in the local
3 comprehensive community plan with particular emphasis on the community's affordable housing
4 plan and/or has satisfactorily addressed the issues where there may be inconsistencies.~~

~~5 (B) The proposed development is in compliance with the standards and provisions of the
6 municipality's zoning ordinance and subdivision regulations, and/or where expressly varied or
7 waived local concerns that have been affected by the relief granted do not outweigh the state and
8 local need for low- and moderate-income housing.~~

~~9 (C) All low- and~~

10 (7) The procedure for final plan review and approval shall be as set forth in § 45-23-43, except
11 that the administrative officer shall not utilize the referral mechanism described in § 45-23-43(c).

12 (b) A local review board shall not disapprove a comprehensive permit application submitted
13 under this chapter, nor condition its approval in a manner that renders it infeasible to build or
14 operate the proposed development, unless the board makes at least one of the following written
15 findings based upon clear and convincing evidence on the record:

16 (1) A municipality has met or plans to meet the goal of an excess of ten percent (10%) of its
17 year-round housing units (as reported in the latest decennial census) being low- or
18 moderate-income housing;

19 (2) A municipality has an approved affordable housing plan that is meeting local housing needs,
20 as defined in §§ 45-53-3(10);

21 (3) The proposed development fails to integrate low- or moderate-income housing units
22 proposed are integrated throughout the development; are compatible in scale and architectural

~~0 style to the market rate, with equal access to common entrances and amenities, with a~~
~~1 comparable or more varied mix of bedrooms, and with the intent for such units within the~~
~~2 project; and will to~~ be built and occupied prior to, or simultaneous with the construction and
~~3 occupancy of any market rate units;~~

~~4 (D) There will be no significant negative environmental impacts from the proposed development~~
~~5 as shown on the final plan, with all required conditions for approval.~~

~~6 (E) There will be no significant negative impacts on the health and safety of current or future~~
~~7 residents of the community, in areas including, but not limited to: safe circulation of pedestrian~~
~~8 and vehicular traffic; provision of emergency services; sewerage disposal; availability of potable~~
~~9 water; adequate surface water run-off; and the preservation of natural, historical, or cultural~~
~~10 features that contribute to the attractiveness of the community.~~

~~11 (F) All proposed land developments and all subdivisions lots will have adequate and permanent~~
~~12 physical access to a public street in accordance with the requirements of § 45-23-60(5).~~

~~13 (G) The proposed development will not result in the creation of individual lots with any physical~~
~~14 constraints to development that building on those lots according to pertinent regulations and~~
~~15 building standards would be impracticable, unless created only as permanent open space or~~
~~16 permanently reserved for a public purpose on the approved, recorded plans.~~

~~17 (vi) The~~

~~18 (4) The proposed development is located on land that was already zoned for agriculture, open~~
~~19 space, or heavy industry, or otherwise subject to a conservation or preservation restriction that is~~
~~20 incompatible with the development of residential housing, as of the date that the application was~~
~~21 deemed complete; or~~

0(5) The proposed development fails to comply with the zoning ordinance or subdivision
1regulations of a municipality applicable as of the date that the application was deemed complete,
2which standards and provisions cannot be expressly waived or varied without a specific and
3substantial adverse impact on public health or safety, as defined in § 45-53-3(13), that there is no
4feasible method to satisfactorily mitigate or avoid.

5(c) In any action taken to challenge the denial of a comprehensive permit application, or an
6approval with conditions and requirements imposed, the local review board shall bear the burden
7of proof to demonstrate that its decision conforms to the requirements of this chapter.

8(d) The review and approval process for a comprehensive permit application shall further
9conform to the following procedures and requirements:

10(1) A local review board has the same power to issue permits or approvals that any local board or
11official who would otherwise act with respect to the application, including, but not limited to, the
12power to attach to the permit or approval, such conditions, and requirements ~~with respect to~~
13~~height, site plan, size or shape, or building materials,~~ as are consistent with the terms of this
14~~section~~ chapter.

15

16~~(vii) In reviewing the comprehensive permit request, the local review board may deny the request~~
17~~for any of the following reasons: (A) If the city or town has an approved affordable housing plan~~
18~~and is meeting housing needs, and the proposal is inconsistent with the affordable housing plan;~~
19~~provided that, the local review board also finds that the municipality has made significant~~
20~~progress in implementing that housing plan; (B) The proposal is not consistent with local needs,~~
21~~including, but not limited to, the needs identified in an approved comprehensive plan, and/or~~
22~~local zoning ordinances and procedures promulgated in conformance with the comprehensive~~

0 plan; (C) The proposal is not in conformance with the comprehensive plan; (D) The community
1 has met or has plans to meet the goal of ten percent (10%) of the year-round units or, in the case
2 of an urban town or city, fifteen percent (15%) of the occupied rental housing units as defined in
3 § 45-53-3(4)(i) being low and moderate income housing; provided that, the local review board
4 also finds that the community has achieved or has made significant progress towards meeting the
5 goals required by this section; or (E) Concerns for the environment and the health and safety of
6 current residents have not been adequately addressed. 2) A comprehensive permit application
7 shall be deemed complete for the purposes of a given review stage whenever an administrative
8 officer fails to certify the application as complete or incomplete within the relevant time period
9 prescribed by § 45-53-4(a). If the administrative officer certifies an application as incomplete,
10 the officer shall set forth in writing, with specificity, the missing or incomplete items.
11 (3) If the administrative officer determines that an application does not satisfy the requirements
12 for a given review stage, the officer shall set forth in writing, with specificity, the defective or
13 deficient items and how they may be remedied.
14 (4) A comprehensive permit application shall be deemed approved for the purposes of a given
15 review stage whenever an administrative officer or the local review board fails to approve or
16 deny the application within the relevant time period prescribed by § 45-53-4(a). At the request of
17 the applicant, the administrative officer shall provide a certificate as to the failure to act within
18 the required time and the resulting approval. The certificate shall be provided within seven (7)
19 days of request.
20 ~~viii~~ 5) All local review board decisions on a comprehensive ~~permits~~ permit application shall be
21 made by majority vote of the members present at the proceeding; provided that, there is at least a

Quorum of the local review board present and voting at the proceeding, ~~and may be appealed by the applicant to the state housing appeals board.~~

2

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

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

(xi) In denying a comprehensive permit application, the local review board shall make positive findings as required by § 45-53-4(b). The local review board may, but is not required to, make positive findings in order to approve a comprehensive permit application, notwithstanding the requirements of § 45-23-60.

(7) A municipality may impose fees on a comprehensive permit application according to the same methodology that it uses to assess fees for a land development or subdivision project that is of the same scope and type, but that does not proceed under this chapter; provided, however, that the imposition of such fees shall not preclude a showing by a non-profit applicant that the fees make the project financially infeasible.

(8) A comprehensive permit shall expire unless construction is started within twelve (12) months and completed within sixty (60) months of final plan approval unless a longer and/or phased period for development is agreed to by the local review board and the applicant. Low- and

0 moderate-income housing units shall be built and occupied prior to, or simultaneous with the
1 construction and occupancy of market rate units.

2 ~~(xii) A town with an approved affordable housing plan and that is meeting local housing needs
3 may by council action limit the annual total number of dwelling units in comprehensive permit
4 applications from for profit developers to an aggregate of one percent (1%) of the total number
5 of year round housing units in the town, as recognized in the affordable housing plan and
6 notwithstanding the timetables set forth elsewhere in this section, the local review board shall
7 have the authority to consider comprehensive permit applications from for profit developers,
8 which are made pursuant to this paragraph, sequentially in the order in which they are submitted.~~

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

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

~~0(b)(1) The general assembly finds and declares that in January 2004 towns throughout Rhode
1Island have been confronted by an unprecedented volume and complexity of development
2applications as a result of private for profit developers using the provisions of this chapter and
3that in order to protect the public health and welfare in communities and to provide sufficient
4time to establish a reasonable and orderly process for the consideration of applications made
5under the provisions of this chapter, and to have communities prepare plans to meet low and
6moderate income housing goals, that it is necessary to impose a moratorium on the use of
7comprehensive permit applications as herein provided by private for profit developers; a
8moratorium is hereby imposed on the use of the provisions of this chapter by private for profit
9developers, which moratorium shall be effective on passage and shall expire on January 31,
102005, and may be revisited prior to expiration and extended to such other date as may be
11established by law. Notwithstanding the provisions of subsection (a) of this section, private
12for profit developers may not utilize the procedure of this chapter until the expiration of the
13moratorium.~~

~~14(2) No for profit developer shall submit a new application for comprehensive permits until July
151, 2005, except by mutual agreement with the local review board.~~

~~16(3) Notwithstanding the provisions of subdivision (b)(2) of this section, a local review board in a
17town that has submitted a plan in accordance with subsection (c) of this section, shall not be
18required to accept an application for a new comprehensive permit from a for profit developer
19until October 1, 2005~~

20(e) Any person who demonstrates an injury pursuant to § 45-24-31(4)(i) may appeal the issuance
21of an approval to the superior court within twenty (20) days of the issuance of approval, provided
22that the injury is substantial in nature (defect in notice, alone, not sufficing to qualify) and the

0 aggrieved party makes a threshold showing of gross negligence, willful misconduct, or ultra vires
1 action on the part of the local review board. An affirmative decision of the local review board is
2 binding on a municipality, which shall not be considered an aggrieved party for the purposes of
3 this subsection.

4 (e) Towns and cities that are not in conformity with the provisions of § 45-53-3(2)(i) shall
5 prepare by December 31, 2004, a comprehensive plan housing element for low- and moderate-
6 income housing as specified by § 45-53-3(2)(ii), consistent with applicable law and regulation.

7 That the secretary of the planning board or commission of each city or town subject to the
8 requirements of this paragraph shall report in writing the status of the preparation of the housing
9 element for low- and moderate- income housing on or before June 30, 2004, and on or before
10 December 31, 2004, to the secretary of the state planning council, to the chair of the house
11 committee on corporations and to the chair of the senate committee on commerce, housing, and
12 municipal government. ~~The state housing appeals board shall use said plan elements in making~~
13 ~~determinations provided for in § 45-53-6(e)(2).~~

14 (d)

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

22 (e) In planning for, awarding, and otherwise administering programs and funds for housing and

0for community development, state departments, agencies, boards, ~~and~~ commissions, and public
1corporations, as defined in chapter 18 of title 35, shall, among the towns subject to the provision
2of § 45-53-3(ii), give priority to the maximum extent allowable by law, to cities and towns
3~~with~~ that have met the goal of an excess of ten percent (10%) of the year-round units in a
4community being low and moderate income housing, or have an approved affordable housing
5plan that is meeting local housing needs. The director of administration shall adopt not later than
6January 31, 2005, regulations to implement the provisions of this section.

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

10§ 45-53-5. Appeals to state housing appeals board — Judicial review.

11(a) Whenever ~~an~~ a comprehensive permit application filed under the provisions of § 45-53-4 is
12denied, or is granted with conditions and requirements that make the building or operation of the
13low or moderate income housing infeasible, the applicant has the right to appeal to the state
14housing appeals board ~~(“SHAB”)~~ established by § 45-53-7, for a review of the application. ~~The~~
15~~appeal~~ by one of the hearing officers of the board. All such appeals shall be taken within twenty
16(20) days after the date of the notice of the decision by the local review board by filing with the
17appeals board a statement of the prior proceedings ~~and,~~ the reasons upon which the appeal is
18based, and a copy of the comprehensive permit application as it was submitted to the local
19review board.

20(b) The appeals board shall immediately notify the local review board of the filing of the petition
21for review. ~~Municipalities~~ A municipality shall submit the complete record of the local review

0board ~~record~~ to the state housing appeals board within thirty (30) days of receiving notification
1from ~~SHAB~~the appeals board that an appeal has been filed.

2

3(c) ~~SHAB decisions~~A hearing officer shall ~~be made~~hear the appeal within ~~ninesixty (960)~~
4~~months~~days of ~~theits~~ filing ~~of the appeal, which time period may only be extended for good~~
5~~cause by an affirmative vote of the SHAB to so extend the time, if circumstances demand more~~
6~~time. Any extension beyond the nine-month (9) period shall be limited to the least extent~~
7~~reasonable and shall not cumulatively extend the decision period by more than an additional two~~
8~~(2) months.~~ The hearing officer shall consider the petition of the applicant and the record of the
9local review board, which, together, shall constitute the entirety of the record upon which the
10determination of the officer is made. A stenographic record of the proceedings shall be kept ~~and~~
11~~the appeals board shall,~~ which shall be available as a public document. No intervenor shall be
12permitted.

13(d) The hearing officer shall, within thirty (30) days of terminating the hearing, render a written
14decision and order, ~~based upon a majority vote of the members present at the proceeding;~~
15~~provided that, there is at least a minimum quorum of members of the appeals board present and~~
16~~voting at the proceeding, stating its findings of fact, and its conclusions and the reasons for those~~
17~~conclusions, within thirty (30) days after the termination of the hearing, unless the time has been~~
18~~extended by mutual agreement between the appeals board and the applicant~~ affirming, reversing,
19or modifying the decision of the local review board in whole or in part based on whether the
20board satisfies its burden of proof under this chapter. In the case of an approval with conditions
21and requirements imposed, the hearing officer shall issue a decision and order modifying or

0 removing the conditions and requirements as necessary in order to make the proposal no longer
1 infeasible.

2 (e) If the hearing officer fails to act within the prescribed period, the comprehensive permit is
3 deemed to have been allowed and the relevant approval shall issue immediately. The decision
4 and order of the hearing officer may be appealed in the superior court within twenty (20) days of
5 ~~the~~ its issuance ~~of the decision. The~~.

6 (f) Superior court review shall be conducted by the superior court without a jury. To the extent
7 practicable, efforts shall be made to assign such cases to a small number of judges, sitting in
8 geographically diverse parts of the state, so that a consistent body of expertise can be developed.

9 (g) The court shall consider the record of the ~~hearing before the~~ state housing appeals board ~~and,~~
10 ~~if it appears to the court that additional evidence is necessary for the proper disposition of the~~
11 ~~matter, it may allow any party to the appeal to present that evidence in open court, which~~
12 ~~evidence, along with the report, constitutes~~ which shall constitute the entirety of the record upon
13 which the determination of the court is made. The court shall affirm, reverse, or modify the
14 decision of the hearing officer in whole or in part based on whether the local review board
15 satisfies its burden of proof under this chapter.

16 (d) ~~The court shall not substitute its judgment for that of the state housing appeals board as to the~~
17 ~~weight of the evidence on questions of fact. The court may affirm the decision of the state~~
18 ~~housing appeals board or remand the case for further proceedings, or may reverse or modify the~~
19 ~~decision if substantial rights of the appellant have been prejudiced because of findings,~~
20 ~~inferences, conclusions, or decisions which are:~~

21 (1) ~~In violation of constitutional, statutory, or ordinance provisions;~~

22 (2) ~~In excess of the authority granted to the state housing appeal board by statute or ordinance;~~

~~0(3) Made upon unlawful procedure;~~

~~1(4) Affected by other error of law;~~

~~2(5) Clearly erroneous in view of the reliable, probative, and substantial evidence of the whole
3record; or~~

~~4(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted
5exercise of discretion.~~

6(h) The court, in its discretion, may, upon its own motion or the motion of any party, require any
7plaintiff(s) challenging the issuance of a comprehensive permit under § 45-53-4(e) to post a
8surety or cash bond securing the payment of costs for an applicant where the harms of delay to
9the applicant or to the public interest outweigh the financial burden of the surety or cash bond on
10the plaintiff(s), particularly where an action appears to be brought in bad faith, vexatiously, for
11the purpose of delaying or thwarting the development of low or moderate income housing. In so
12deciding, the court shall consider the relative merits of the appeal and the relative financial
13means of the parties.

14(i) The court, in its discretion, may, upon its own motion, the motion of any party, the motion of
15the attorney general, or the motion of any legal resident or landowner, including any group of
16residents or landowners, whether or not incorporated, provide for comprehensive permit
17applications to be reviewed directly by the state housing appeals board where a local review
18board or other local board of a municipality recurringly or egregiously fails to satisfy the
19requirements of this chapter. For the purposes of this section, “egregious” conduct includes, but
20is not limited to, rendering decisions that are frivolous, entirely without merit, or otherwise
21exhibit conspicuous bad faith. The state housing appeals board shall review any comprehensive
22permit application submitted within the jurisdiction until the municipality next satisfies the

0criteria of § 45-53-4(b)(1), or for such a discrete period of time as the superior court may direct;
1provided that the time period shall be sufficient to allow reasonable opportunity for the
2submission of new comprehensive permit applications.

3(ej) Any appeal from the superior court to the supreme court pursuant to this section shall be by
4writ of certiorari.

5§ 45-53-6. Powers of state housing appeals board.

6(a) The state housing appeals board established under § 45-53-7 to shall have the powers to: (i)
7Adopt, amend, and repeal such rules and regulations that are consistent with this chapter and are
8necessary to implement ~~the~~its requirements ~~of §§ 45-53-5, 45-53-6, and 45-53-7~~; (ii) Receive
9and expend state appropriations; and (iii) Establish a reasonable fee schedule, which may be
10waived, to carry out its duties.

11~~(b) In hearing the appeal, the state housing appeals board shall determine whether: (i) In the case~~
12~~of the denial of an application, the decision of the local review board was consistent with an~~
13~~approved affordable housing plan, or if the town does not have an approved affordable housing~~
14~~plan, was reasonable and consistent with local needs; and (ii) In the case of an approval of an~~

15(b) The appeals board shall hear any appeal taken by a comprehensive permit applicant pursuant
16to § 45-53-5(a). The chief hearing officer shall assign a hearing officer to each appeal brought
17before the board, which hearing officer shall conduct the proceedings according to the
18requirement set forth in § 45-53-5(b)-(e).

19(c) The appeals board shall publish and maintain a public archive of the decisions and orders of
20its hearing officers, which decisions and orders shall constitute persuasive precedent in any
21subsequent proceedings that involve similar questions of law or fact.

0(d) Pursuant to § 45-53-5(i), the state housing appeals board shall review comprehensive permit
1applications in place of a local review board of a municipality where so directed by the superior
2court. The appeals board shall have the same power to issue permits or approvals as any local
3board or official who would otherwise act with respect to the application ~~with conditions and~~
4~~requirements imposed, whether those conditions and requirements make~~, including, but not
5limited to, the power to attach to the construction permit or ~~operation of the housing infeasible~~
6~~and whether those~~approval such conditions and requirements as are consistent with ~~an approved~~
7~~affordable housing plan, or if the town does not have an approved affordable housing plan, are~~
8~~consistent with local needs.~~

9(c) ~~In making a determination, the standards for reviewing the appeal include, but are not limited~~
10~~to:~~

11~~(1) The consistency of the decision to deny or condition the permit with the approved affordable~~
12~~housing plan and/or approved comprehensive plan;~~

13~~(2) The extent to which the community meets or plans to meet housing needs, as defined in an~~
14~~affordable housing plan, including, but not limited to, the ten percent (10%) goal for existing~~
15~~low and moderate income housing units as a proportion of year round housing;~~

16~~(3) The consideration of the health and safety of existing residents;~~

17~~(4) The consideration of environmental protection; and~~

18~~(5) The extent to which the community applies local zoning ordinances and review procedures~~
19~~evenly on subsidized and unsubsidized housing applications alike.~~

20~~(d) If the appeals board finds, in the case of a denial, that the decision of the local review board~~
21~~was not consistent with an approved affordable housing plan, or if the town does not have an~~
22~~approved affordable housing plan, was not reasonable and consistent with local needs, it shall~~

~~0 vacate the decision and issue a decision and order approving the application, denying the
1 application, or approving with various conditions consistent with local needs. If the appeals
2 board finds, in the case of an approval with conditions and requirements imposed, that the
3 decision of the local review board makes the building or operation of the housing infeasible,
4 and/or the conditions and requirements are not consistent with an approved affordable housing
5 plan, or if the town does not have an approved affordable housing plan, are not consistent with
6 local needs, it shall issue a decision and order, modifying or removing any condition or
7 requirement so as to make the proposal no longer infeasible and/or consistent, and approving the
8 application; provided, that the appeals board shall not issue any decision and order that would
9 permit the building or operation of the housing in accordance with standards less safe than the
10 applicable building and site plan requirements of the federal Department of Housing and Urban
11 Development or the Rhode Island housing and mortgage finance corporation, whichever agency
12 is financially assisting the housing. Decisions or conditions and requirements imposed by a local
13 review board that are consistent with approved affordable housing plans and/or with local needs
14 shall not be vacated, modified, or removed by the appeals board notwithstanding that the
15 decision or conditions and requirements have the effect of denying or making the applicant's
16 proposal infeasible~~ the terms of this chapter.

17 (1) The chief hearing officer shall assign a hearing officer to each comprehensive permit
18 application brought before the appeals board. The hearing officer shall conduct the application
19 review and approval process according to the procedures and requirements set forth in § 45-53-4
20 (except to the extent such procedures and requirements cannot be made applicable to the
21 proceedings of the appeals board). A stenographic record of any public proceedings shall be
22 kept, which shall be available as a public document.

0(2) The appeals board may require an applicant to reimburse the board for expenses reasonably
1incurred to obtain third-party professional review of a comprehensive permit application. The
2applicant may name a preferred consultant, or consultants, and the appeals board shall exercise
3reasonable discretion to determine whether the request is warranted. In any instance where the
4appeals board retains services for third-party professional review, the board shall require detailed
5invoices with reasonable task descriptions for services rendered. Upon the request of an
6applicant, the board shall provide a detailed accounting of expenses, or corresponding escrow
7deductions, with copies of supporting documentation.

8(3) The appeals board shall notify a municipality of any instance in which a hearing officer of the
9board approves or denies the comprehensive permit application for a development proposed
10within the municipality.

11(4) The authority of the state housing appeals board to review comprehensive permit applications
12in place of a local review board shall terminate upon the expiration of the time period designated
13by the superior court pursuant to § 45-53-5(i). The appeals board may complete the full review of
14any application certified as complete for the purposes of master plan review prior to the
15expiration of the designated period.

16(e) ~~The~~ Both the state housing appeals board ~~or the~~ and a comprehensive permit applicant ~~has~~ have
17the power to enforce the orders of the appeals board by an action brought in the superior court.
18The local review board shall carry out ~~the~~ any decision and order of the appeals board within
19thirty (30) days of its entry and, upon failure to do so, the decision and order of the appeals board
20is, for all purposes, deemed to be the action of ~~the local review board, unless the applicant~~
21~~consents to a different decision or order by~~ the local review board. The decision and order of the
22appeals board is binding on the city or town, which shall immediately issue any and all necessary

Permits and approvals to allow the construction and operation of the housing as approved by the appeals board.

~~2(f) The state housing appeals board shall:~~

~~3(1) Upon an appeal of the applicant prior to August 1, 2004, rule on December 1, 2004, on the
4substantial completeness of applications as of February 13, 2004, that were affected by the
5moratorium established by § 45-53-4(b).~~

~~6(i) The determination of substantial completeness shall be based on whether there was on or
7before February 13, 2004, substantial completeness of substantially all of the following:~~

~~8(A) A written request to the zoning board of review to submit a single application to build or
9rehabilitate low or moderate income housing in lieu of separate applications to the application
10local boards;~~

~~11(B) A written list of variances, special use permits and waivers requested to local requirements
12and regulations, including local codes, ordinances, bylaws or regulations, including any
13requested waivers from the land development or subdivisions regulations, and a proposed
14timetable for completion of the project;~~

~~15(C) Evidence of site control;~~

~~16(D) Evidence of eligibility for a state or federal government subsidy, including a letter from the
17funding agency indicating the applicant and the project;~~

~~18(E) Site development plans showing the locations and outlines of proposed buildings; the
19proposed location, general dimensions and materials for street, drives, parking areas, walks, and
20paved areas; proposed landscaping improvements and open areas within the site; and the
21proposed location and types of sewage, drainage and water facilities;~~

~~0(F) A report on existing site conditions and a summary of conditions in the surrounding areas,
1 showing the location and nature of existing buildings, existing street elevations, traffic patterns
2 and character of open areas, including wetlands and flood plains, in the neighborhood;~~

~~3(G) A tabulation of proposed buildings by type, size (number of bedrooms, floor area) and
4 ground coverage and a summary showing the percentage of the tract to be occupied by buildings,
5 by parking and other paved vehicular areas and by open spaces;~~

~~6(H) A master plan, if the development proposal is for a major or minor land development plan or
7 a major or minor subdivision;~~

~~8(I) a sample land lease or deed restrictions with affordability liens that will restrict use as low
9 and moderate income housing units for a period of not less than thirty (30) years; and~~

~~10(J) The list of all persons entitled to notice in accordance with § 45-24-53.~~

~~11(ii) Notwithstanding the provisions of subsection (f)(1)(i) of this section, if the zoning board of
12 review determined the application to be substantially complete and/or acted in a manner
13 demonstrating that it considered the application substantially complete for the purposes of
14 reviewing the application, the state housing appeals board shall consider the application
15 substantially complete.~~

~~16(2) Remand for hearing in accordance with the provisions of § 45-53-4 applications that are
17 determined to be substantially complete, which hearings may be conducted (or resume) under the
18 provisions in effect on February 13, 2004, unless the applicant and the board shall mutually agree
19 that the hearing shall proceed under the provisions in effect on December 1, 2004, which
20 hearings may commence on or after January 1, 2005, but shall commence not later than January
21 31, 2005, on applications in the order in which they were received by the town, unless a different
22 commencement date is mutually agreed to by the applicant and the local board hearing the~~

0 applications; the local review board shall not be obligated to hear, and may deny, any application
1 affected by the moratorium unless it was determined to be substantially complete in accordance
2 with the provisions of subsection (f)(1) of this section, and the local review board may require
3 such additional submissions as may be specified by the town or necessary for the review of the
4 application.

5 (3) Hear and decide appeals, other than those covered by subsection (f)(1) of this section, for
6 which it took jurisdiction on or before May 1, 2004.

7 (4) Continue to hear and decide appeals filed by nonprofit organizations.

8 (5) Conduct such other business as may be reasonable and appropriate in order to facilitate an
9 orderly transfer of activities to the state housing appeals board as it shall be constituted after
10 January 1, 2005.

11 § 45-53-7. Housing appeals board.

12

13 (a)(1) There shall be within the state a housing appeals board consisting of ~~nine (9) voting~~
14 ~~members and~~ at least three (3) ~~alternates as follows: one voting member who shall be from the~~
15 ~~Center for Justice Rhode Island; one voting member who shall be from Direct Action for Rights~~
16 ~~and Equality (DARE); and seven (7) voting members to be appointed by the governor, who shall~~
17 ~~include four (4) local officials, who shall not be from the same city or town; two (2) of whom~~
18 ~~shall be from a city or town with a population of less than twenty five thousand (25,000); and~~
19 ~~two (2) of whom shall be from a city or town with a population of twenty five thousand (25,000)~~
20 ~~or greater, and shall include one local zoning board member, one local planning board member,~~
21 ~~one city council member and one town council member, one of the local official~~
22 ~~members~~ hearing officers, one of whom shall be designated by the governor as ~~the alternative~~

~~0 local official member who shall be a voting member of the board only in the event~~ chief hearing
1 officer.

2 (b) The governor shall, with the advice and consent of the senate, appoint each hearing officer
3 for a term of five (5) years, and until a successor is appointed and qualified; provided, however,
4 that ~~one or more~~ of the ~~other~~ first three (3) ~~local officials is unable to serve at a~~ hearing; officers
5 appointed, one ~~affordable housing developer; one affordable housing advocate; one~~
6 ~~representative of the business community; and one attorney knowledgeable in land use~~
7 ~~regulation, who should be chairperson of the board. There shall be (2) additional alternates~~
8 appointed ~~by the governor chosen from candidates submitted by realtors or developers doing~~
9 ~~business in the state and the alternates shall rotate service as a voting member at the discretion of~~
10 ~~the chairperson.~~

11 ~~(2) Those members of the board as of July 2, 2004, who were appointed to the board by members~~
12 ~~of the general assembly shall cease to be members of the board on July 2, 2004, and the governor~~
13 ~~shall thereupon nominate~~ for an initial term of three (3) years, one shall be appointed for an initial
14 term of four (4) ~~new members each of whom~~ years, and one shall ~~serve~~ be appointed for the
15 balance of the current an initial term of his or her predecessor.

16 ~~(3) All other members of the commission as of July 2, 2004, shall continue to serve~~ five (5) years.
17 A hearing officer is eligible for reappointment to the board for successive terms, and any vacancy
18 that may occur shall be filled by appointment for the ~~duration~~ remainder of ~~their current terms.~~

19 ~~(4) All gubernatorial appointments made under this section after July 2, 2004, shall be subject to~~
20 ~~the advice and consent of the senate.~~

21 ~~(b)(1) All appointments are for two-year (2) terms; except as otherwise provided in subsection~~
22 ~~(a)(2) of this section, the terms of members appointed after December 31, 2004, shall be for three~~

~~0(3) years. Each member who is duly appointed or continued in office after January 1, 2005, shall
1hold office for the term for which the member is appointed and until the member's successor
2shall have been appointed and qualified, or until the member's earlier death, resignation, or
3removal. A member shall receive no compensation for his or her services, but shall be
4reimbursed by the state for all reasonable expenses actually and necessarily incurred in the
5performance of his or her official duties. The board shall hear all petitions for review filed under
6§ 45-53-5, and shall conduct all hearings in accordance with the rules and regulations established
7by the chair. Rhode Island housing shall provide space, and clerical and other assistance, as the
8board may require.~~

~~9(2) Provided, effective January 1, 2023, the Rhode Island housing resources commission (the
10"commission") established pursuant to chapter 128 of title 42 shall provide all space, and clerical
11and other assistance, as the board may require. All duties and responsibilities of Rhode Island
12housing resources commission as to providing space, clerical and other assistance to the board
13pursuant to subsection (b)(1) of this section shall be transferred to the commission effective
14January 1, 2023the unexpired term.~~

~~15(c) Each hearing officer shall be an attorney licensed to practice law in the state of Rhode Island,
16with experience in questions of land use, housing development, or both; or a community member
17whose experience similarly qualifies them to serve. A hearing officer shall be a full-time
18employee of the appeals board and shall not otherwise practice law or undertake any employment
19or appointments that conflict with the officer's duties as a member of the board.~~

~~20(d) Compensation for the hearing officers of the appeals board shall be determined by the
21department of administration.~~

~~22§ 45-53-8. Severability and interpretation.~~

0If any provision of this chapter or of any rule, regulation, or determination made under this
1chapter, or its application to any person, agency, or circumstances, is held invalid by a court of
2competent jurisdiction, the remainder of the chapter, rule, regulation, or determination, and the
3application of the provision to other persons, agencies, or circumstances, shall not be affected
4thereby. The invalidity of any section or sections, or part of any section or sections, of this
5chapter shall not affect the validity of the remainder of the chapter. All provisions of this chapter,
6and any rule, regulation, or determination made pursuant thereto, shall be construed in favor of
7producing the maximum number of units of low or moderate income housing.

8§ 45-53-9. Oversight commission.

9(a) There is hereby created an oversight commission to be known as “The Housing Act of 2013
10Implementation Oversight Commission” to consist of fifteen (15) members: chair of house
11corporations or designee; chair of senate housing and municipal government or designee; two (2)
12members of the house appointed by the speaker, one of whom shall be from the minority party;
13two (2) members of the senate appointed by the senate president, one of whom shall be from the
14minority party; four (4) designees of the president of the League of Cities and Towns, two (2) of
15whom shall be from a municipality under twenty-five thousand (25,000) population, and two (2)
16of whom shall be from a municipality of twenty-five thousand (25,000) population or over; and
17one representative each from the Rhode Island Builders Association, Rhode Island Housing,
18Housing Action Coalition, Grow Smart Rhode Island and Housing Network.

19(b) The purposes of the commission shall be: (1) to monitor and evaluate the implementation of
20the act including the preparation and review, by statewide planning, of local plans; (2) to monitor
21the development and adoption of the state strategic housing plan by the housing resources
22commission and statewide planning; (3) to review the progress reports submitted by the housing

0resources commission; (4) to recommend any changes that may be needed in the law; and (5) to
1assess the need for resources to accomplish housing objectives and to make recommendations.

2(c) Forthwith upon the passage of this act, the members shall meet at the call of the speaker, and
3shall elect from among themselves co-chairs, who shall be legislators. Vacancies in said
4commission shall be filled in the manner as the original appointment.

5(d) The commission is empowered to appoint committees, which may include persons who are
6not members of the commission. Five (5) members of the commission shall constitute a quorum.

7All departments and agencies of the state shall furnish such advice and information, documentary
8and otherwise, to said commission and its agents as necessary or desirable to accomplish the
9purpose set forth in this section. The speaker is hereby authorized and directed to provide
10quarters for the commission. The commission shall report findings and recommendations to the
11general assembly on or before March 1, 2017. The commission shall expire on March 31, 2020.

12§ 45-53-10. Repurposing of vacant schools for affordable housing program.

13(a) There is hereby established the repurposing of school buildings for an affordable housing
14program (the “program”). The program shall be administered by the secretary of housing as set
15forth herein.

16(b) The purpose of the program shall be to provide guidance and assistance in the repurposing of
17vacant and unused school buildings as identified and existing as of July 1 of each year,
18commencing October 1, 2022.

19(c) The department of elementary and secondary education (the “department”) shall,
20commencing on October 1, 2022, on an annual basis, provide to the speaker of the house, the
21president of the senate, and the secretary of housing a list of all school buildings that have been
22abandoned or are no longer being used by a school district.

0(d)(1) In the case of a municipality that has less than ten percent (10%) low- or moderate-income
1housing as defined in § 45-53-3, the municipality shall provide the department with a complete
2list of buildings abandoned or no longer being used by the school district for the purposes of
3conducting a feasibility assessment to repurpose the building as affordable housing. In the case
4of a municipality that has greater than ten percent (10%) low- and moderate-income housing as
5defined in § 45-53-3, the municipality may offer to the department a list of buildings abandoned
6or no longer being utilized by the school district by an affirmative vote of a majority of both the
7governing body of the school board and the municipality, and have voted to be willing to offer
8the former school building for a feasibility assessment for use by the program. In the case of
9buildings being abandoned or no longer used by a charter school that owns the school building in
10question, an affirmative vote of the governing body of the charter school and/or mayoral
11academy shall be required. The department shall also include and identify in the list those school
12buildings that the department anticipates will become abandoned or no longer used by a school
13district within the next six (6) months following the issuance of the list.

14(2) The secretary of housing shall conduct an assessment, in conjunction with a task force
15comprised of the Rhode Island housing and mortgage finance corporation, the department of
16environmental management, the department of health, a fire marshal, the local building
17inspector, and the local planning office, into its feasibility to be repurposed as affordable
18housing, and the anticipated costs of renovating the building for that intended purpose. This
19assessment shall be completed within one hundred and fifty (150) days after being notified by the
20task force of the availability of a vacant building available pursuant to this section.

21 (3) Once a building is determined by the task force to be appropriate for repurposing as
22affordable housing, the office of housing and community development shall actively identify and

0invite prospective developers to submit an application to the program, with the goal of
1repurposing the building into affordable housing.

2(e) The office of housing and community development shall maintain on its website a separate
3page related to the repurposing of buildings for the affordable housing program. This website
4shall contain a listing of all buildings for which a feasibility assessment was conducted and the
5outcome of the assessment, including a general statement of the condition of the property, an
6estimate of the types of renovations, if any, that must be performed to the property, a copy of the
7feasibility assessment, and an estimate of the costs thereof. Provided, it shall be made clear on
8the website that these are estimates to repurpose used buildings, and that neither the state, the
9corporation, the division, the commission, or any instrumentality of the state or of a municipality
10or school district shall be liable for any estimates that are incorrect.

11(f) The office of housing and community development shall seek to assist and facilitate persons
12and developers who or that want to repurpose former buildings as affordable housing. This
13assistance may include, but need not be limited to, technical and financial assistance, all to assist
14in the repurposing of the school building.

15(g) The Rhode Island department of education shall promulgate rules and regulations for the
16implementation and enforcement of this section.

17(h) The secretary of housing shall provide an annual report on or before December 31,
18commencing with calendar year 2023, including, but not limited to, the number of schools that
19are vacant and include a status report of any development and/or feasibility to repurpose a vacant
20building.

21(i) As used herein, the term “affordable housing” means housing that meets the definition for
22low- or moderate-income housing in § 45-53-3.

0§ 45-53-11. Annual comprehensive permit report.

1(a) The division of statewide planning (the “division”) established pursuant to chapter 11 of title 242 shall maintain records and shall prepare a report (“report”) on an annual basis to be submitted 3to the speaker of the house, the president of the senate, the housing resources commission, and 4the secretary of housing. The report shall also be made available on the division’s website for a 5period of at least three (3) years, and shall also be deemed to be a public record. The report shall 6be due on or before March 15, of each year, commencing in calendar year 2023.

7(b) The report required by this section shall contain the following for the preceding 8twelve-month (12) calendar period covered by the report:

9(1) The number of letters of eligibility issued for low- and moderate-income housing for 10applications made pursuant to this chapter and § 42-55-5.3, the federal, state, and municipal 11subsidy programs under which they were eligible, and the number of proposed subsidized units 12involved, by city and town, during the preceding calendar year, as provided by the Rhode Island 13housing corporation.

14 (2) The status of each comprehensive permit application for which a letter of eligibility was 15issued disaggregated by municipality.

16 (3) The number of comprehensive permit applications that have had building permits issued, 17including the number of market rate housing units, the number of low- and moderate-income 18housing units, and the AMI restrictions associated both pursuant to § 45-53-4, aggregated by the 19total number of such applications in the state and disaggregated by each municipality in the state.

20 (4) The number of comprehensive permit applications that have had certificates of occupancy 21issued, aggregated by the total number of such applications in the state and disaggregated by 22each municipality in the state.

0 (c) Each municipality [and, if applicable, the state housing appeals board](#), shall annually provide
1to the division the information on comprehensive permit activity described in subsection (b) of
2this section by February 1.

3**§ 45-53-12. Annual report.**

4(a) The Rhode Island housing corporation established pursuant to chapter 55 of title 42 (the
5“corporation”) shall collect data on the number of Section 8 Housing Choice Vouchers, as
6authorized by 42 U.S.C. § 1437(f) (“vouchers”), that are received and utilized by the public
7housing authorities (PHA) and agencies.

8 (b) The office of housing and community development (OHCD) shall prepare a report (“report”)
9on an annual basis to the general assembly, the housing resources commission, the Rhode Island
10housing corporation, the division of statewide planning, and the secretary of housing. The report
11required by this section shall be made available on the OHCD website for a period of at least
12three (3) years, and shall be deemed to be a public record. The report shall be due on or before
13March 1 of each year, commencing in the calendar year 2023.

14(c) The annual report required by this section shall contain the following information for the
15twelve-month (12) calendar period covered by the report commencing January 1, 2022, through
16December 31, 2022, and annually thereafter on an aggregated and disaggregated basis by each
17public housing authority:

18 (1) The total fees collected by each municipality from developers in lieu of development of low-
19and moderate-income housing as defined in § 45-24-46.1.

20 (2) The number of unfunded vouchers that result either due to cost of rent or due to an
21unavailability of housing units. The information required by this subsection shall be provided by
22all public housing authorities or agencies directly to the office of housing and community

0development (OHCD).

1 (3) The total number of vouchers received and utilized by all public housing authorities in the
2state during the preceding calendar year.

3 (4) The administrative fees received and utilized by the public housing authorities to administer
4the vouchers.

5 (d) As used herein, the term “public housing authority and agency” means and includes any
6public housing authority or agency established under chapter 25 of this title or chapter 26 of this
7title.

8§ 45-53-13. Annual status report on appeals.

9(a) The Rhode Island housing resources commission established pursuant to chapter 128 of title
1042 (the “commission”) shall maintain accurate records and shall prepare an annual status report
11(“status report”) on all active cases and appeals pending before the state housing appeals board
12(the “board”). The status report shall be forwarded to the secretary of housing, the speaker of the
13house, and the president of the senate. Each report shall also be made available on the
14commission’s website for a period of at least three (3) years, and shall also be deemed to be a
15public record. The report shall be due on or before March 15 of each year, commencing in the
16calendar year 2023.

17(b) The report required by this section shall contain the following information for the
18twelve-month (12) calendar period covered by the report:

19(1) The total number of appeals pending before the board;

20(2) The number of appeals for which a decision has been rendered, have been settled by
21agreement, or have otherwise been disposed of during the previous calendar year;

22(3) The number of board decisions which were appealed [to the superior court](#) in the previous

0calendar year and the status of those cases; and

1(4) The length of time for appeals to be decided by the board ~~to decide appeals~~ in the previous

2calendar year ~~aggregated by:~~

3~~(i) Appeals decided by the board within six (6) months;~~

4~~(ii) Appeals decided by the board within six (6) to nine (9) months; and~~

5~~(iii) Appeals decided by the board in more than nine (9) months.~~

6§ 45-53-14. Database of low-income rental units.

7(a) The Rhode Island housing and mortgage finance corporation established pursuant to §
842-55-4 (the “corporation”) shall maintain an online database (“database”) of low-income
9housing tax credit developments that are designated only for households at or below sixty
10percent (60%) of area median income, adjusted for household size and subsidized housing
11developments, as referenced in the corporation’s Rhode Island resource guide, which are
12designated only for households at or below eighty percent (80%) of area median income,
13adjusted for household size (collectively “low-income rental units”) in the state on the
14corporation’s website. The corporation shall place an emphasis on the database containing the
15following:

16 (1) Current, updated information on the existing inventory of low-income rental units in the
17state;

18 (2) The contact person or entity and contact information pertaining to individual developments;

19 (3) To the extent the information is available, a copy of the application to apply for housing in
20individual developments; and

21(4) Information pertaining to any special populations, including, but not limited to, elderly,
22disabled, homeless individuals, and victims of domestic violence, served by individual

0developments.

1(b) This database shall be accessible to the public by July 1, 2023.

2§ 45-53-15. Annual reports.

3(a) The Rhode Island housing corporation established pursuant to § 42-55-4 (the “corporation”)
4shall provide the annual reports pursuant to subsections (b) and (c) of this section to the speaker
5of the house, the president of the senate, the housing resources commission, the division of
6statewide planning, and the secretary of housing. Reports shall be made available on the
7corporation’s website for a period of at least three (3) years, and shall be deemed to be a public
8record. Reports shall be due on or before March 15, of each year, commencing in the calendar
9year 2023.

10(b) Report on Rhode Island housing corporation housing development and preservation activity.

11This report shall include the following information:

12(1) The identity of projects that have been provided funding by the corporation for housing
13development or preservation and that closed on that financing by December 31 of the previous
14calendar year;

15(2) The total aggregate of funds, in dollar amounts, that have been provided to projects by the
16corporation for housing development or preservation and that closed on that financing by
17December 31, of the previous calendar year, as well as those amounts disaggregated by each
18project; and

19(3) The number of housing units that received funding from the corporation for housing
20development or preservation that received a certificate of occupancy in the previous calendar
21year, both in total and disaggregated by project.

0(c) Report on tax payments made by affordable housing developments to municipalities pursuant
1to § 44-5-13.11. This report shall include data aggregated by all the municipalities and
2disaggregated by each individual municipality on the total amount of fees collected in the
3previous calendar year by municipalities on any assessment and taxation made pursuant to §
444-5-13.11.

5(d) With regard to the report in subsection (c) of this section, all municipalities in the state shall
6annually submit to the corporation by January 15, of each year, the total amount of fees collected
7in the previous calendar year by the municipality on any assessment and taxation made pursuant
8to § 44-5-13.11 disaggregated by individual development.

9**§ 45-53-16. Zoning incentives for low or moderate income housing.**

10(a) In order to foster opportunities for developing low or moderate income housing, as defined in
11§ 45-53-3, there is hereby established a set of by-right zoning incentives for low or moderate
12income housing.

13(b) Notwithstanding any contrary provision of law, any proposed development that qualifies for a
14comprehensive permit application under § 45-53-4(a) is exempt from any standard adopted
15pursuant to chapter 24 of title 45 that concerns:

16(1) The prohibition of any or all residential uses in a zoning-use district of a municipality, except
17as identified by § 45-53-4(b)(4);

18(2) Mandatory minimum floor area requirements, except as provided by the state housing
19maintenance and occupancy code pursuant to § 45-24.3-11;

20(3) Mandatory minimum lot sizes and related dimensional requirements;

21(4) Mandatory minimum requirements for the provision of off-street parking;

22(5) Mandatory maximum limitations on the number of bedrooms per dwelling unit;

0(6) For any development consisting of between three (3) and seven (7) dwellings units, a
1mandatory maximum floor area ratio of less than 1.0;

2(7) For any development consisting of between eight (8) and ten (10) units, a mandatory
3maximum floor area ratio of less than 1.25; or

4(8) For any development consisting of more than ten (10) dwelling units, a mandatory maximum
5floor area ratio of less than 2.0; except that an applicant must submit a request for relief as
6provided in § 45-53-4(a) in order to exceed a floor area ratio of 2.0 in any zoning-use district
7with a mandatory maximum floor area ratio of less than 1.0.

8(c) For any development consisting of at least five (5) dwelling units, the extent to which the
9development provides very low, low, or moderate income housing shall entitle the development,
10by right, to a scaled exemption (a “density bonus”) from any local standard adopted pursuant to
11chapter 24 of title 45 that limits the density or intensity of residential uses, including, but not
12limited to, restrictions on the maximum number of dwelling units per lot or per acre. A density
13bonus consists of a percentage increase over and above the maximum gross residential density
14that would otherwise be allowed for the development as a whole as of the date that the
15application was deemed complete. A development is entitled to the density bonus according to
16the criteria set forth below up to a total possible density increase of fifty percent (50%), except as
17provided by subsection (e) below. Any calculation that involves fractional dwelling units shall be
18rounded up to the next whole number.

19(1) A development is entitled to a twenty percent (20%) increase in density for every five percent
20(5%) of base dwelling units that are very low income housing, with an additional two point five
21percent (2.5%) increase in density for every additional one percent (1%) of base dwelling units
22that are very low income housing.

0(2) A development is entitled to a twenty percent (20%) increase in density for every ten percent
1(10%) of base dwelling units that are low income housing, with an additional one point five
2percent (1.5%) increase in density for every additional one percent (1%) of base dwelling units
3that are low income housing.

4(3) A development is entitled to a five percent (5%) increase in density for every ten percent
5(10%) of base dwelling units that are moderate income housing, with an additional one percent
6(1%) increase in density for every additional one percent (1%) of base dwelling units that are
7moderate income housing.

8(d) In order to qualify for a density bonus under this section, an applicant who proposes to
9develop a lot that already contains low or moderate income housing, as defined by § 45-53-3, or
10did contain low or moderate income housing within the five (5) years preceding the application,
11must replace that low or moderate income housing.

12(1) For the purposes of this section, “replace” means providing at least the same number of
13dwelling units, of equivalent size, and at a sales price or rental amount that is affordable to
14households in the same or a lower income category as those households (i) currently in
15occupancy or (ii) that were in occupancy during the high point of the five (5) years preceding the
16application.

17(e) Any development in which one hundred percent (100%) of the housing is low or moderate
18income housing, with moderate income housing comprising not more than twenty percent (20%)
19of the total, may deviate, by right, up to two (2) additional stories, consisting of not more than
20twenty-five (25) feet, from the standard for building height in the zoning-use district in which the
21development is located; provided that no such height bonus is available for single, two-family, or
22townhouse dwellings.

0(1) The development may deviate three (3) additional stories, consisting of not more than
1thirty-three (33) feet, if it located within one-half (0.5) of a mile, as measured by the shortest
2distance from any point on the lot, of a regional mobility hub, community mobility hub, or
3high-frequency transit stop, each as defined by the 2020 Rhode Island Transit Master Plan or its
4successor document. The development is further exempt from any restriction on the density or
5intensity of residential uses.

6(f) In no instance may a local review board apply a standard that has the effect of physically
7precluding or otherwise rendering infeasible the development of low or moderate income
8housing according to the zoning incentive criteria established under this section. If the superior
9court finds that the refusal to waive or modify a standard is in violation of this section, the court
10shall award the applicant reasonable attorney's fees and the costs of suit.

11**§ 42-128-8.1. Housing production and rehabilitation.**

12(d) As used in this section and for the purposes of the preparation of affordable housing plans as
13specified in chapter 22.2 of title 45, words and terms shall have the meaning set forth in chapter
1422.2 of title 45, chapter 53 of title 45, and/or § 42-11-10, unless this section provides a different
15meaning or unless the context indicates a different meaning or intent.

16(1) “Affordable housing” means residential housing that has a sales price or rental amount that is
17within the means of a household that is moderate income or less. In the case of dwelling units for
18sale, housing that is affordable means housing in which principal, interest, taxes, which may be
19adjusted by state and local programs for property tax relief, and insurance constitute no more
20than thirty percent (30%) of the gross household income for a household with less than one
21hundred and twenty percent (120%) of area median income, adjusted for family size. Provided,
22however, that exclusively for the residents of New Shoreham, their affordable housing eligibility

0standards shall include households whose adjusted gross income is less than one hundred forty
1percent (140%) of their residents' median income, adjusted for family size. In the case of
2dwelling units for rent, housing that is affordable means housing for which the rent, heat, and
3utilities other than telephone constitute no more than thirty percent (30%) of the gross annual
4household income for a household with eighty percent (80%) or less of area median income,
5adjusted for family size. Affordable housing shall include all types of year-round housing,
6including, but not limited to: manufactured housing; housing originally constructed for workers
7and their families; accessory dwelling units; housing accepting rental vouchers and/or
8tenant-based certificates under Section 8 of the United States Housing Act of 1937, as amended;
9and assisted living housing, where the sales or rental amount of such housing, adjusted for any
10federal, state, or municipal government subsidy, is less than or equal to thirty percent (30%) of
11the gross household income of the low and/or moderate income occupants of the housing.

12(i) In that New Shoreham has reached its ten percent (10%) low- and moderate-income housing
13goal, and for so long as they maintain at least ten percent (10%) of their year-round housing
14stock as low- and moderate-income housing as defined in § 45-53-3(4)(ii), and inasmuch as there
15are provable economic impacts related to the municipalities' substantial offshore location,
16residential housing units produced for sale in which principal, interest, taxes, which may be
17adjusted by state and local programs for property tax relief, and insurance constitute no more
18than thirty percent (30%) of the gross household income for a household with less than one
19hundred forty percent (140%) of the area median income, adjusted for family size, shall be
20counted towards the municipalities' low- and moderate-income housing inventory as defined in §
2145-53-3(9).

22(2) "Affordable housing plan" means a plan prepared and adopted by a town or city either to

0meet the requirements of chapter 53 of title 45 or to meet the requirements of § 45-22.2-10(f),
1which require that comprehensive plans and the elements thereof be revised to conform with
2amendments to the state guide plan.

3(3) “Approved affordable housing plan” means an affordable housing plan that has been
4reviewed and approved in accordance with § 45-22.2-9.

5

6(4) “Low-income household” means a single person, family, or unrelated persons living together
7whose adjusted gross income does not exceed eighty percent (80%) of the area median income,
8adjusted for family size.

9(5) “Moderate-income household” means a single person, family, or unrelated persons living
10together whose adjusted gross income is more than eighty percent (80%) but less than one
11hundred twenty percent (120%) of the area median income, adjusted for family size.

12(56) “Seasonal housing” means housing that is intended to be occupied during limited portions
13of the year.

14(67) “Year-round housing” means housing that is intended to be occupied by people as their
15usual residence and/or vacant units that are intended by their owner for occupancy at all times of
16the year; occupied rooms or suites of rooms in hotels are year-round housing only when occupied
17by permanent residents as their usual place of residence.

18

19(8) “Very low-income household” means a single person, family, or unrelated persons living
20together whose adjusted gross income does not exceed fifty percent (50%) of the area median
21income, adjusted for family size.

22

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