



March 26, 2026

Honorable Chairperson McEntee
House Judiciary Committee
Rhode Island State House
Providence, RI 02903

RE: H 8004 – An Act Relating to Towns and Cities – Rhode Island Comprehensive Planning and Land Use Act

Chairperson McEntee and Committee Members:

Please accept the following comments from our organization, the RI Chapter of the American Planning Association, regarding this bill, which amends Chapters 45-22.2, 45-23, and 45-24, the Comprehensive Planning and Land Use Act, and Subdivision Enabling and Zoning Enabling Acts.

While members of our organization held varying viewpoints on several aspects of this bill, we have determined that there are five sections in particular that the General Assembly should consider amending that could provide more clarity and protection to cities and towns regarding the land development process as is allowed by state law:

1. This bill proposes on Page 15 to shorten the timeframes in which planners and Planning Boards must render a decision on an application. The proposed timeframes are too short, not even providing enough time to schedule the matter for the following month's meeting, depending upon the date of submission.
2. Last year the General Assembly changed the procedural standards for Preliminary and Final Plan stages of review, moving the requirements for state and federal permits and legal documents from Preliminary to Final Plan. This change has had unintended consequences on the flow of applications that has slowed the approval process relative to prior years. We recommend that those permits be moved back to Preliminary Plan this year, while leaving legal documents at Final Plan. We recommend incorporating this change to the bill.
3. The bill proposes many changes to administrative subdivisions, applications where lot lines may be moved that don't result in the creation of new lots for development. APA-RI does not support those changes as proposed. Some of these amendments are not internally consistent with one another, such as the revised findings of fact to prohibit dimensional nonconformities but also provide for them elsewhere. And by prohibiting a Class 1 Survey from being required, the bill would remove the existing standard for subdivisions without identifying a suitable replacement. It creates potential pitfalls in cases where unexpected variables may exist, such as unclear title history or where a lot has not been legally created.
4. The bill proposes on Page 30 to remove the ability of Zoning Boards to place certain conditions on applications before them. We do not support this change and have questions

about the purpose of this proposed amendment. Removing those conditions could lead to more denials in the future, which is probably not the intent of the change, so we hope to understand the goal of this proposed amendment and with that context may be able to suggest language that accomplishes that goal without removing a tool from the Zoning Board's toolbox.

5. This bill includes amendments to a type of minor subdivision called, "oversized lot" subdivisions, that was created by the legislature last year. There is another bill this year, H 8007, which seeks to create, "single family infill" lots, another type of minor subdivision. These two types of subdivisions overlap one another in function, and we suggest that the Legislative reconcile these two concepts to avoid confusion for Rhode Island residents.

We have drafted an amended version of the proposed bill that incorporates our proposed amendments, which has been attached to this letter and submitted to the Committee as written testimony. We look forward to working with the Legislature to make improvements to this bill, and we strongly encourage legislators to contact the municipal planner(s) and Planning Board members in your city or town to discuss how these bills will affect your community.

Thank you for your time and consideration.

Sincerely,

Sean Henry & Gregory Guertin
Legislative Committee Co-Chairs

AMENDED VERSION

2026 -- H 8004A

LC005900

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2026

AN ACT

RELATING TO TOWNS AND CITIES – RHODE ISLAND COMPREHENSIVE PLANNING
AND LAND USE ACT

Introduced By: Representative Robert E. Craven

Date Introduced: February 27, 2026

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-22.2-2, 45-22.2-5 and 45-22.2-13 of the General Laws in Chapter
2 45-22.2 entitled "Rhode Island Comprehensive Planning and Land Use Act" are hereby amended
3 to read as follows:

4 **45-22.2-2. Status of comprehensive plans; relation to other statutes.**

5 (a) All lawfully adopted comprehensive plans shall remain in full force and effect but shall
6 be brought into conformance with this chapter prior to July 1, 2017.

7 (b) Nothing contained in this chapter is construed to supersede or diminish any regulatory
8 or planning authority granted or delegated to a state agency by state or federal statute.

9 (c) All lawfully adopted comprehensive plans shall be consistent with the provisions of this
10 chapter as well as chapters 23 and 24 of this title.

11 **45-22.2-5. Formulation of comprehensive plans by cities and towns.**

12 (a) The comprehensive plan is a statement (in text, maps, illustrations, or other media of
13 communication) that is designed to provide a basis for rational decision making regarding the long-
14 term physical development of the municipality. The definition of goals and policies relative to the
15 distribution of future land uses, both public and private, forms the basis for land use decisions to
16 guide the overall physical, economic, and social development of the municipality.

17 (b) There is established a program of local comprehensive planning to address the findings
18 and intent and accomplish the goals of this chapter. Rhode Island's cities and towns, through the

1 exercise of their power and responsibility pursuant to the general laws, any applicable articles of the
2 Rhode Island Constitution, and subject to the express limitations and requirements of this chapter,
3 shall prepare, adopt, amend, and maintain comprehensive plans, including implementation
4 programs, that relate development to land capacity, protect our natural resources, promote a balance
5 of housing choices, encourage economic development, preserve and protect our open space,
6 recreational, historic and cultural resources, provide for orderly provision of facilities and services
7 and are consistent with the goals, findings, intent, and other provisions of this chapter and the laws
8 of the state.

9 (c) Each municipality shall ensure that its zoning ordinance and map are consistent with its
10 comprehensive plan.

11 (d) Each municipality shall submit to the chief, as provided for in §§ 45-22.2-9 and 45-
12 22.2-12 and the rules promulgated by the state planning council:

- 13 (1) Its locally adopted comprehensive plan;
- 14 (2) Any amendment to its comprehensive plan;
- 15 (3) An informational report on the status of its implementation programs; and
- 16 (4) Its zoning ordinance text and generalized zoning map or maps.

17 **45-22.2-13. Compliance and implementation.**

18 (a) The municipality is responsible for the administration and enforcement of the plan.

19 (b) All municipal land use decisions shall be in conformance with the locally adopted
20 municipal comprehensive plan subject to § 45-22.2-12(b).

21 (c) Each municipality shall amend its zoning ordinance and map to conform to the
22 comprehensive plan in accordance with the implementation program as required by § 45-22.2-
23 6(b)(11) and § 45-22.2-6(b)(12)(iv). The zoning ordinance and map in effect at the time of plan
24 adoption shall remain in force until amended. Except with respect to comprehensive plans that have
25 failed to be updated within twelve (12) years, as set forth in § 45-22.2-6(b)(11), in instances where
26 the zoning ordinance is in conflict with an adopted comprehensive plan, the zoning ordinance in
27 effect at the time of the comprehensive plan adoption shall direct municipal land use decisions until
28 such time as the zoning ordinance is amended to achieve consistency with the comprehensive plan
29 and its implementation schedule. In instances of uncertainty in the internal construction or
30 application of any section of the zoning ordinance or map, the ordinance or map shall be construed
31 in a manner that will further the implementation of, and not be contrary to, the goals and policies
32 and applicable content of the adopted comprehensive plan.

33 (d) Limitations on land use applications, review, and approvals may be imposed according

1 to only the following provisions:

2 (1) Nothing in the chapter shall be deemed to preclude municipalities from imposing
3 reasonable limitations on the number of building permits or other land use approvals to be issued
4 at any time, provided such limitations are consistent with the municipality's comprehensive plan
5 in accordance with this chapter and are based on a reasonable, rational assessment of the
6 municipality's sustainable capacity for growth. If such limitation is applied to residential building
7 permits, the limitation must be vital to protecting public health and welfare and it must be
8 demonstrated that there is no other means available to protect public health and welfare given the
9 need for additional housing units in the community. No such limitation shall be applicable to
10 applications submitted as part of a comprehensive permit project under § 45-53-4 or units to be
11 developed under inclusionary zoning.

12 (2) In the event of a dire emergency not reasonably foreseeable as part of the
13 comprehensive planning process, a municipality may impose a limitation on the number of building
14 permits or other land use approvals to be issued at any time, provided that such limitation is
15 reasonably necessary to alleviate the emergency and is limited to the time reasonably necessary to
16 alleviate the emergency, but in no event shall such limitation be in place longer than one hundred
17 twenty (120) days.

18 (e) A one-time moratorium, for the purpose of providing interim protection for a planned
19 future land use or uses, may be imposed during the twelve (12) months subsequent to the adoption
20 of the local comprehensive plan provided that a change to the zoning ordinance and map has been
21 identified and scheduled for implementation within twelve (12) months of plan adoption. The
22 moratorium shall be enacted as an ordinance and may regulate, restrict, or prohibit any use,
23 development, or subdivisions under the following provisions:

24 (1) The moratorium is restricted to those areas identified on the map or maps as required
25 by § 45-22.2-6(b)(2)(iii).

26 (2) A notice of the moratorium must be provided by first class mail to property owners
27 affected by said moratorium at least fourteen (14) days in advance of the public hearing.

28 (3) The ordinance shall specify:

29 (i) The purpose of the moratorium;

30 (ii) The date it shall take effect and the date it shall end;

31 (iii) The area covered by the moratorium; and

32 (iv) The regulations, restrictions, or prohibitions established by the moratorium.

33 (4) The moratorium may be extended up to an additional ninety (90) days if necessary to
34 complete a zoning ordinance and map change provided that: (i) The public hearing as required by

1 § 45-24-53 has commenced; and (ii) The chief approves the extension based on a demonstration of
2 good cause. Said extension shall not be deemed as non-conformance to the implementation
3 schedule.

4 (f) A moratorium enacted under the provisions of subsection (e) of this section shall not
5 apply to state agencies until such time that the municipal comprehensive plan receives approval
6 from the chief or superior court.

7 (g) For a moratorium enacted under the provisions of subsection (e) of this section, in the
8 event a municipality fails to amend its zoning ordinance and map to conform to the comprehensive
9 plan within the implementation schedule, or by the expiration of the moratorium period, a
10 municipality must amend either their implementation schedule or, if the future land use is no longer
11 desirable or feasible, amend the future land use map.

12 (1) Failure to comply with this provision within one hundred twenty (120) days of the date
13 of the implementation schedule or the expiration of the moratorium period shall result in the denial
14 or rescission, in whole or in part, of state approval of the comprehensive plan and of all benefits
15 and incentives conditioned on state approval.

16 (2) An implementation schedule amended under this provision shall not be eligible for an
17 additional moratorium as provided for in subsection (e) of this section.

18 (h) For any moratorium related to the submission, review, or approval of any land use
19 application for residential housing development, other than that covered by subsection (e) of this
20 section, such moratorium must be vital to protecting public health and welfare and it must be
21 demonstrated that there is no other means available to protect public health and welfare given the
22 need for additional housing units in the community. No ~~such limitation~~ moratorium shall be
23 applicable to applications submitted as part of a comprehensive permit project under § 45-53-4, ~~or~~
24 nor shall it be applicable to units to be developed under inclusionary zoning. The proposal for such
25 moratorium shall be advertised in a newspaper of local circulation at least fourteen (14) days in
26 advance of the hearing and shall be posted on the municipal website for the fourteen (14) days in
27 advance of the hearing on the same. A moratorium under this provision shall not last for longer
28 than one hundred twenty (120) days. A moratorium under this provision must include a vesting
29 provision that vests all applications that are substantially complete at the time of the enactment of
30 the moratorium.

31 SECTION 2. Sections 45-23-32, 45-23-35, 45-23-37, 45-23-38, 45-23-60 and 45-23-71 of
32 the General Laws in Chapter 45-23 entitled "Subdivision of Land" are hereby amended to read as
33 follows:

34 **45-23-32. Definitions.**

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

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

16 (2) **Board of appeal.** The local review authority for appeals of actions of the administrative
17 officer, which shall be the local zoning board of review constituted as the board of appeal. See §
18 45-23-57.

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

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

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

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

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

34 (8) **Dedication, fee-in-lieu-of.** Payments of cash that are authorized in the local regulations

1 when requirements for mandatory dedication of land are not met because of physical conditions of
2 the site or other reasons. The conditions under which the payments will be allowed and all formulas
3 for calculating the amount shall be specified in advance in the local regulations. See § 45-23-47.

4 (9) **Development plan review.** Design or site plan review of a development of a permitted
5 use. A municipality may utilize development plan review under limited circumstances to encourage
6 development to comply with design and/or performance standards of the community under specific
7 and objective guidelines, for the following categories of developments:

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

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

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

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

15 (v) Institutional development for educational or hospital facilities.

16 (vi) [Deleted by P.L. 2024, ch. 292, § 1 and P.L. 2024, ch. 293, § 1.]

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

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

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

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

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

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

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

34 (17) **Improvement.** Any natural or built item that becomes part of, is placed upon, or is

1 affixed to, real estate.

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

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

13 (i) **Minor land development project.** A land development project involving any one of
14 the following categories which has not otherwise been specifically designated by local ordinance
15 as development plan review:

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

18 (B) An expansion of up to fifty percent (50%) of existing floor area or up to ten thousand
19 (10,000) square feet for commercial, manufacturing, or industrial structures; or

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

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

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

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

29 (G) An adaptive reuse project located in a residential zone that results in less than nine (9)
30 residential units.

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

1 (ii) **Major land development project.** A land development project that exceeds the
2 thresholds for a minor land development project as set forth in this section and local ordinance or
3 regulation. The process by which major land development projects are reviewed by the local
4 planning board, commission, technical review committee, or administrative officer is set forth in §
5 45-23-39.

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

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

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

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

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

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

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

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

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

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

34 (30) **Plat.** A drawing or drawings of a land development or subdivision plan showing the

1 location, boundaries, and lot lines of individual properties, as well as other necessary information
2 as specified in the local regulations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (ii) **Collector.** A street whose principal function is to carry traffic between local streets and
15 arterial streets but that may also provide direct access to abutting properties.

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

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

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

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

30 (ii) **Minor subdivision.** The following categories of subdivisions are minor subdivisions:

31 (A) A subdivision creating nine (9) or fewer ~~buildable~~ lots ~~and a~~ with or without a street
32 extension or creation.

33 (B) A subdivision ~~creating ten (10) or more buildable~~ of any number of lots on an existing
34 improved public street; and

1 (C) Oversized lot subdivisions. The process by which a municipal planning board,
2 commission, technical review committee, and/or administrative officer reviews a minor subdivision
3 is set forth in § 45-23-38. ~~Minor subdivisions shall include oversized lot subdivisions.~~ Oversized
4 lot ~~subdivision~~ — Subdivision subdivisions are subdivisions of an existing lot:

5 (A) Which results in the creation of a vacant lot or lots for residential use; and

6 (B) Which resulting vacant residential lots are equal to or greater in lot area than the lot
7 area of at least fifty percent (50%) of the developed residential lots within two hundred feet (200')
8 of the lot proposed for subdivision, as confirmed by a professional land surveyor based on a
9 compilation plan, as such term is defined by the rules and regulations for professional land
10 surveying; and

11 (C) Which resulting residential lots have access to available sewer and water, or have
12 demonstrated the ability to drill a private well meeting state standards if no public water is available
13 and/or the suitability and setbacks required for an on-site wastewater treatment system, where no
14 public sewer is available; and

15 (D) The resulting lots are not less than ~~three~~ four thousand square feet (~~34,000~~ ft²) in lot size
16 for each.

17 A lot, qualifying for this type of oversized lot subdivision shall be reviewed under the
18 requirements and procedures set forth in § 45-23-38, but shall not require zoning relief solely based
19 on the resulting reduced lot area of the newly created lots. The resulting subdivided lots shall have
20 the benefit of reduced requirements as set forth in § 45-24-38, and/or are eligible for the processes
21 set forth in § 45-24-46, as applicable.

22 (iii) **Major subdivision.** A subdivision creating ten (10) or more buildable lots where a
23 street extension or street creation is required. The process by which a municipal planning board or
24 commission reviews any subdivision qualifying for this review under § 45-23-39.

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

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

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

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

1 **45-23-35. General provisions — Pre-application meetings and concept review.**

2 (a) One or more pre-application meetings may be held for all major land development or
3 subdivision applications at the request of the applicant. Pre-application meetings may be held for
4 administrative and minor applications, upon request of the applicant. Pre-application meetings
5 allow the applicant to meet with appropriate officials, boards and/or commissions, planning staff,
6 and, where appropriate, state agencies, for advice as to the required steps in the approvals process,
7 the pertinent local plans, ordinances, regulations, rules and procedures and standards which may
8 bear upon the proposed development project.

9 (b) At the pre-application stage the applicant may request the planning board or the
10 technical review committee for an informal concept plan review for a development. The purpose
11 of the concept plan review is also to provide planning board or technical review committee input
12 in the formative stages of major subdivision and land development concept design.

13 (c) Applicants seeking a pre-application meeting or an informal concept review shall
14 submit general, conceptual materials in advance of the meeting(s) as requested by municipal
15 officials.

16 (d) Pre-application meetings aim to encourage information sharing and discussion of
17 project concepts among the participants. Pre-application discussions are intended for the guidance
18 of the applicant and are not considered approval of a project or its elements.

19 ~~(e) Provided that at least one pre-application meeting has been held for major land~~
20 ~~development or subdivision application or sixty (60) days has elapsed from the filing of the pre-~~
21 ~~application submission and no pre-application meeting has been scheduled to occur within those~~
22 ~~sixty (60) days, nothing shall be deemed to preclude an applicant from thereafter filing and~~
23 ~~proceeding with an application for a land development or subdivision project in accordance with §~~
24 ~~45-23-36.~~

25 **45-23-37. General provisions — Administrative subdivision.**

26 (a) Any applicant requesting approval of a proposed administrative subdivision, as defined
27 in this chapter, shall submit to the administrative officer the items required by the local regulations
28 which are sufficient for the administrative officer to review the proposed application.

29 (b) The application shall be certified, in writing, as complete or incomplete by the
30 administrative officer within a fifteen (15) day period from the date of its submission according to
31 the provisions of § 45-23-36(c).

32 (c) A Class 1 survey may be required for administrative subdivisions which only result
33 in the merger of existing lots, except for where there is an existing survey or subdivision plan of record
34 available in the municipality's land evidence records for the subject lots of the proposed subdivision.

35 ~~(e)~~(d) Review process:

1 (1) Within ~~fifteen (15)~~ twenty (20) days of certification of completeness, the administrative
2 officer, ~~or the technical review committee~~, shall review the application and approve, deny or
3 refer it to the planning board with recommendations. The officer ~~or committee~~ shall report ~~its~~
4 ~~actions~~ such decisions to the planning board at its next regular meeting, to be made part of the record.

5 (2) ~~If no action is taken by the administrative officer or the technical review committee~~
6 ~~within the fifteen (15) days, the application shall be placed on the agenda of the next regular~~
7 ~~planning board meeting.~~ Failure of the administrative officer to act within the prescribed period
8 constitutes approval of the administrative subdivision plan and the resulting approval shall
9 be issued on request of the applicant, unless the application also requires relief from dimensional
10 zoning requirements. Such applications which require zoning relief shall instead be placed on the
11 agenda of the next regular planning board meeting.

12 (d) If referred to the planning board, the board shall consider the application and the
13 recommendations of the administrative officer and/or the technical review committee and either
14 approve, approve with conditions, or deny the application within sixty-five (65) days of
15 certification of completeness. Failure of the planning board to act within the prescribed period
16 constitutes approval of the administrative subdivision plan and a certificate of the administrative
17 officer as to the failure of the planning board or committee to act within the required time and the
18 resulting approval shall be issued on request of the applicant.

19 (e) Denial of an application by the administrative officer ~~and/or the technical review~~
20 ~~committee~~ is ~~not~~ appealable ~~and requires~~ pursuant to § 45-23-71 or the plan ~~to~~ may be submitted
21 as a minor subdivision application.

22 (f) Any approval or denial of an administrative subdivision shall be evidenced by a written
23 decision which shall be filed and posted in the office of the city or town clerk.

24 (g) Approval of an administrative subdivision expires ninety (90) days from the date of
25 approval unless within that period a plat in conformity with that approval is submitted for signature
26 and recording as specified in § 45-23-64.

27 **45-23-38. General provisions — Minor land development and minor subdivision**
28 **review.**

29 (a) **Application types and review stages.**

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

31 (i) Applications under this section that require zoning relief that qualifies only as a
32 modification under § 45-24-46 and local ordinances may proceed by filing an application
33 under this chapter and a request for a modification to the zoning enforcement officer. If
34 ~~such modification is~~ the required modifications are granted, the application shall then
35 proceed to be reviewed by the administrative

1 officer pursuant to the applicable requirements of this section. If the modification is denied or an
2 objection is received as set forth in § 45-24-46, such application shall proceed under unified
3 development review pursuant to § 45-23-50.1.

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

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

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

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

22 (b) **Submission requirements.** Any applicant requesting approval of a proposed, minor
23 subdivision or minor land development, as defined in this chapter, shall submit to the administrative
24 officer the items required by the local regulations. Upon submission of Preliminary Plan, an applicant
25 must submit all permits required by state or federal agencies, including permits related to freshwater
26 wetlands, the coastal zone, floodplains, preliminary suitability for onsite wastewater treatment
27 systems, public water systems, and connections to state roads. For a state permit from the department of
28 transportation, a letter evidencing the issuance of such a permit upon the submission of a bond and insurance
29 is sufficient, but such actual permit shall be required prior to the issuance of a building permit. Copies of all
30 legal documents describing the property, proposed easements, and rights-of-way shall not be required prior to
31 submission of Final Plan stage, however a list of such legal documents that are to be submitted at Final Plan may
32 be required at Preliminary Plan stage.

33 (c) **Certification.** For each applicable stage of review, the application shall be certified, in
34 writing, complete or incomplete by the administrative officer within twenty-five (25) days of the

1 submission so long as a completed checklist of the requirements for submission is provided as part
2 of the submission. If an applicant also submits for a modification to the zoning enforcement officer,
3 the running of the time period set forth herein will not begin until the decision on ~~the~~ any requested
4 modification is made as set forth in § 45-24-46. Such certification shall be made in accordance with
5 the provisions of § 45-23-36(c). If no street creation or extension is required, and/or unified
6 development review is not requested, and a completed checklist of the requirements for submission
7 is provided as part of the submission, such application shall be certified, in writing, complete or
8 incomplete by the administrative officer within fifteen (15) days according to the provisions of
9 §45-23-36(c). The running of the time period set forth in this section will be deemed stopped upon
10 the issuance of a certificate of incompleteness of the application by the administrative officer and
11 will recommence upon the resubmission of a corrected application by the applicant. However, in
12 no event will the administrative officer be required to certify a corrected submission as complete
13 or incomplete less than ten (10) days after ~~it's~~ a resubmission.

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

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

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

1 (g) **Final plan.** Final plans shall be reviewed and approved by either the administrative officer or
2 technical review committee. The officer or committee will report its actions, in writing
3 to the planning board at its next regular meeting, to be made part of the record. The administrative
4 officer or technical review committee shall approve, deny, approve with conditions, or refer the
5 application to the planning board based upon a finding that there is a major change within twenty-five
6 (25) days of the certificate of completeness.

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

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

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

19 (3) The administrative officer shall notify the applicant in writing within fourteen (14) days
20 of submission of the written request for a change if the administrative officer determines the change
21 to be a major change.

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

24 (j) **Expiration of approvals.** Approvals of a minor land development or subdivision plan
25 expire one year from the date of approval unless, within that period, a plat or plan, in conformity
26 with approval, and as defined in this act, is submitted for signature and recording as specified in §
27 45-23-64. Validity may be extended for a longer period, for cause shown, if requested by the
28 applicant in writing, and approved by the planning board.

29

30 **45-23-39. General provisions — Major land development and major subdivision review stages.**

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

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

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

6 (1) **Submission requirements.**

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

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

14 (iii) Initial comments will be solicited from:

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

17 (B) Adjacent communities;

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

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

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

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

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

33 (2) **Certification.** The application must be certified, in writing, complete or incomplete by the
34 administrative officer within twenty-five (25) days of the submission, according to the provisions of § 45-

1 23-36(c), so long as a completed checklist of requirements is provided with the submission. If an
2 applicant also submits for a modification to the zoning enforcement officer, the running of the time period
3 set forth herein will not begin until the decision on the modification is made as set forth in § 45-24-46.
4 The running of the time period set forth herein will be deemed stopped upon the issuance of a certificate
5 of incompleteness of the application by the administrative officer and will recommence upon the
6 resubmission of a corrected application by the applicant. However, in no event will the administrative
7 officer be required to certify a corrected submission as complete or incomplete less than ten (10) days
8 after its resubmission.

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

12 **(4) Public hearing.**

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

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

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

22 **(5) Decision.** The planning board shall, within ninety (90) days of certification of completeness, or within
23 a further amount of time that may be consented to by the applicant through the submission of a written
24 waiver, approve of the master plan as submitted, approve with changes and/or conditions, or deny the
25 application, according to the requirements of §§ 45-23-60 and 45-3 23-63.

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

29 **(7) Vesting.**

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

1 drawings and supporting materials.

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

4 **(d) Preliminary plan review.**

5 **(1) Submission requirements.**

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

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

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

14 (iv) Prior to submission of the Preliminary Plan, an applicant must submit all permits required by state or
15 federal agencies, including permits related to freshwater wetlands, the coastal zone, floodplains,
16 preliminary suitability for individual septic disposal systems, public water systems, and connections to
17 state roads. For a state permit from the Rhode Island department of transportation, a letter evidencing the
18 issuance of such a permit upon the submission of a bond and insurance is sufficient, but such actual
19 permit shall be required prior to the issuance of a building permit. Copies of all legal documents
20 describing the property, proposed easements, and rights-of-way shall not be required prior to submission
21 of Final Plan stage, however a list of such legal documents that are to be submitted at Final Plan may be
22 required at Preliminary Plan stage.

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

28 **(2) Certification.** The application will be certified as complete or incomplete by the administrative
29 officer within twenty-five (25) days, according to the provisions of § 45-23-36(c) so long as a completed
30 checklist of requirements is provided with the submission. The running of the time period set forth herein
31 will be deemed stopped upon the issuance of a certificate of incompleteness of the application by the
32 administrative officer and will recommence upon the resubmission of a corrected application by the
33 applicant. However, in no event shall the administrative officer be required to certify a corrected
34 submission as complete or incomplete less than ten (10) days after its resubmission.

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

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

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

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

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

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

25 (e) **Final plan.**

26 (1) **Submission requirements.**

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

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

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

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

1 (v) Prior to approval of the final plan, copies of all legal documents describing the property, proposed
2 easements, and rights-of-way.

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

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

19 (4) **Failure to act.** Failure of the administrative officer, or, if referred to it, the planning board to act
20 within the prescribed period constitutes approval of the final plan, and a certificate of the administrative
21 officer as to the failure of the planning board to act within the required time and the resulting approval
22 shall be issued on request of the applicant. (5) **Expiration of approval.** The final approval of a major

23 subdivision or land development project expires two (2) years from the date of approval with the
24 right to extend for one year upon written request by the applicant, who must appear before the planning
25 board for the annual review, unless, within that period, the plat or plan has been submitted for signature
26 and recording as specified in § 45-23-64. Thereafter, the planning board may, for good cause shown,
27 extend the period for recording. (6) **Acceptance of public improvements.** Signature and recording as

28 specified in § 45-23-64 constitute the acceptance by the municipality of any street or other public
29 improvement or other land intended for dedication. Final plan approval shall not impose any duty upon
30 the municipality to maintain or improve those dedicated areas until the governing legislative body of the
31 municipality accepts the completed public improvements as constructed in compliance with the final
32 plans.

33 (7) **Validity of recorded plans.** The approved final plan, once recorded, remains valid as the approved
34 plan for the site unless and until an amendment to the plan is approved under the procedure stated in § 45-

1 23-65, or a new plan is approved by the planning board

2 **(f) Modifications and changes to approved plans.**

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

9 (2) Major changes, as defined in the local regulations, to the plans approved at any stage may be approved
10 only by the planning board and must include a public hearing.

11 (3) The administrative officer shall notify the applicant in writing within fourteen (14) days of submission
12 of the written request for a change if the administrative officer determines the change to be a major
13 change of the approved plans.

14 (g) Appeal. Decisions under this section shall be considered an appealable decision pursuant to § 45-23-
15 71.

16 **45-23-60. Procedure — Required findings.**

17 (a) Except as set forth in this section, all local regulations shall require that for al
18 administrative, minor, and major development applications the approving authorities responsible
19 for land development and subdivision review and approval shall make positive findings on the
20 following standard provisions, as part of the proposed project's record prior to approval:

21 (1) The proposed development is consistent with the comprehensive community plan and/or
22 has satisfactorily addressed the issues where there may be inconsistencies;

23 (2) The proposed development is in compliance with the standards and provisions of the
24 municipality's zoning ordinance or has obtained relief from the same, or another provision of this
25 chapter that exempts compliance with a specific provision or standard;

26 (3) There will be no significant negative environmental impacts from the proposed
27 development as shown on the final plan, with all required conditions for approval;

28 (4) The subdivision, as proposed, will not result in the creation of individual lots with any physical
29 constraints to development that building on those lots according to pertinent regulations and
30 building standards would be impracticable. ~~(See definition of Buildable lot).~~ Lots with physical
31 constraints to development may be created only if identified as permanent open space o
32 permanently reserved for a public purpose on the approved, recorded plans; and

33 (5) All proposed land developments and all subdivision lots have adequate physical and

1 permanent physical access to a public street unless there are local zoning ordinance provisions
2 allowing exceptions to this requirement or the applicant has obtained the required relief from this
3 provision.

4 (b) Except for administrative subdivisions, findings of fact must be supported by legally
5 competent evidence on the record which discloses the nature and character of the observations upon
6 which the fact finders acted.

7 ~~(c) Minor subdivisions subject to administrative review and approval only, as set forth in~~
8 ~~§ 45-23-38(a)(2) shall only be subject to the standard provisions set forth in subsections (a)(1),~~
9 ~~(a)(2), (a)(4), and (a)(5) of this section.~~

10 **45-23-71. Appeals to the superior court.**

11 (a) An aggrieved party may appeal a decision of the board of appeal; a decision of an
12 administrative officer made pursuant to ~~§~~ §§ 45-23-37, 45-23-38 or ~~§~~ 45-23-50 where authorize
13 to approve or deny an application; a decision of the technical review committee where authorized
14 to approve or deny an application; or a decision of the planning board, to the superior court for the m
15 county in which the municipality is situated by filing a complaint stating the reasons for the appeal
16 within twenty (20) days after the decision has been recorded and posted in the office of the city or
17 town clerk. Recommendations by any public body or officer under this chapter are not appealable
18 under this section. The authorized permitting authority shall file the original documents acted upon
19 by it and constituting the record of the case appealed from, or certified copies of the original
20 documents, together with any other facts that may be pertinent, with the clerk of the court within
21 thirty (30) days after being served with a copy of the complaint. When the complaint is filed by
22 someone other than the original applicant or appellant, the original applicant or appellant and the
23 permitting authority shall be made parties to the proceedings. No responsive pleading is required
24 for an appeal filed pursuant to this section. The appeal does not stay proceedings upon the decision
25 appealed from, but the court may, in its discretion, grant a stay on appropriate terms and make any
26 other orders that it deems necessary for an equitable disposition of the appeal.

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

31 (c) The review shall be conducted by the superior court without a jury. The court shall consider the
32 record before the board of appeal or permitting authority, as applicable and, if it appears to the court
33 that additional evidence is necessary for the proper disposition of the matter, it may allow any party to the
34 appeal to present evidence in open court, which evidence, along with the report, shall constitute the

1 record upon which the determination of the court shall be made.

2 (d) The court shall not substitute its judgment for that of the board of appeal or permitting authority as
3 applicable as to the weight of the evidence on questions of fact. The court may affirm the decision of
4 the board of appeal or permitting authority, as applicable or remand the case for further proceedings,
5 or may reverse or modify the decision if substantial rights of the appellant have been prejudiced
6 because of findings, inferences, conclusions, or decisions that are:

7 (1) In violation of constitutional, statutory, ordinance, or planning board regulations provisions;
8 (2) In excess of the authority granted to the planning board by statute or ordinance;
9 (3) Made upon unlawful procedure;
10 (4) Affected by other error of law;
11 (5) Clearly erroneous in view of the reliable, probative, and substantial evidence of the whole record; or
12 (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of
13 discretion.

14 SECTION 3. Sections 45-24-31, 45-24-38, 45-24-41, 45-24-43, 45-24-46, 45-24-47 and 45-24-54 of the
15 General Laws in Chapter 45-24 entitled "Zoning Ordinances" are hereby amended to read as follows:

16 **45-24-31. Definitions.** ~~{Effective January 1, 2026}~~

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

21 (1) **Abutter.** One whose property abuts, that is, adjoins at a border, boundary, or point with no intervening land.
22 (2) **Accessory dwelling unit (ADU).** A residential living unit on the same lot where the principal use is a
23 legally established single-family dwelling unit or multi-family dwelling unit. An ADU provides complete
24 independent living facilities for one or more persons. It may take various forms including, but not limited to:
25 a detached unit; a unit that is part of an accessory structure, such as a detached garage;
26 or a unit that is part of an expanded or remodeled primary dwelling.

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

30 (4) **Adaptive reuse.** "Adaptive reuse," as defined in § 42-64.22-2.

31 (5) **Aggrieved party.** An aggrieved party, for purposes of this chapter, shall be:

32 (i) Any person, or persons, or entity, or entities, who or that can demonstrate that their property will be
33 injured by a decision of any officer or agency responsible for administering the zoning ordinance of a city or
34 town; or

- 1 (ii) Anyone requiring notice pursuant to this chapter.
- 2 (6) **Agricultural land.** "Agricultural land," as defined in § 45-22.2-4.
- 3 (7) **Airport hazard area.** "Airport hazard area," as defined in § 1-3-2.
- 4 (8) **Applicant.** An owner, or authorized agent of the owner, submitting an application or
5 appealing an action of any official, board, or agency.
- 6 (9) **Application.** The completed form, or forms, and all accompanying documents,
7 exhibits, and fees required of an applicant by an approving authority for development review,
8 approval, or permitting purposes.
- 9 (10) **Buffer.** Land that is maintained in either a natural or landscaped state, and is used to
10 screen or mitigate the impacts of development on surrounding areas, properties, or rights-of-way.
- 11 (11) **Building.** Any structure used or intended for supporting or sheltering any use or
12 occupancy.
- 13 (12) **Building envelope.** The three-dimensional space within which a structure is permitted
14 to be built on a lot and that is defined by regulations governing building setbacks, maximum height,
15 and bulk; by other regulations; or by any combination thereof.
- 16 (13) **Building height.** For a vacant parcel of land, building height shall be measured from the average,
17 existing-grade elevation where the foundation of the structure is proposed. For an existing structure,
18 building height shall be measured from average grade taken from the outermost four (4) corners of the
19 existing foundation. In all cases, building height shall be measured to the top of the highest point of the
20 existing or proposed roof or structure. This distance shall exclude spires, chimneys, flag poles, and the
21 like. For any property or structure located in a special flood hazard area, as shown on the official
22 FEMA Flood Insurance Rate Maps (FIRMs), or depicted on the Rhode Island coastal resources
23 management council (CRMC) suggested design elevation three foot (3') sea level rise (CRMC SDE 3
24 SLR) map as being inundated during a one-hundred-year (100) storm, the greater of the following
25 amounts, expressed in feet, shall be excluded from the building height calculation:
- 26 (i) The base flood elevation on the FEMA FIRM plus up to five feet (5') of any utilized or proposed
27 freeboard, less the average existing grade elevation; or (ii) The suggested design elevation as depicted
28 on the CRMC SDE 3 SLR map during a one-hundred-year (100) storm, less the average existing
29 grade elevation. CRMC shall reevaluate the appropriate suggested design elevation map for the
30 exclusion every ten (10) years, or as otherwise necessary.

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

10 (15) **Co-living housing.** A specific residential development with units which provide living
11 and sleeping space which are independently rented and lockable for the exclusive use of an
12 occupant, but require the occupant to share sanitary and/or food preparation facilities with the other
13 units in the occupancy. This section shall not be read to allow the conversion of existing dwelling
14 units into co-living housing unless authorized by a local zoning ordinance or allowed pursuant to §
15 45-24-37.

16 (16) **Common ownership.** Either:

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

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

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

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

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

29 (iii) A residence for children providing care or supervision, or both, to not more than eight (8)
30 children, including those of the caregiver, and licensed by the state pursuant to chapter 72.1 of title
31 42;

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

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

11 (19) **Day care — Daycare center.** Any other daycare center that is not a family daycare
12 home.

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

17 (21) **Density, residential.** The number of dwelling units per unit of land.

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

21 (23) **Development plan review.** See §§ 45-23-32 and 45-23-50.

22 (24) **District.** See "zoning use district."

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

27 (26) **Dwelling unit.** A structure, or portion of a structure, providing complete, independent living
28 facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking,
29 and sanitation, and containing a separate means of ingress and egress.

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

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

4 (29) **Floating zone.** An unmapped zoning district adopted within the ordinance that is
5 established on the zoning map is effective only when an application for development, meeting the
6 zone requirements, is approved and the approved plan is recorded.

7 (30) **Floodplains, or Flood hazard area.** As defined in § 45-22.2-4.

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

12 (32) **Groundwater.** “Groundwater” and associated terms, as defined in § 46-13.1-3.

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

16 (34) **Hardship.** See § 45-24-41.

17 (35) **Historic district or historic site.** As defined in § 45-22.2-4.

18 (36) **Home occupation.** Any activity customarily carried out for gain by a resident, conducted as an
19 accessory use in the resident’s dwelling unit. For the purposes of this chapter, home occupation does not
20 include remote work activities as defined in § 45-24-37.

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

- 26 (i) A family, which may also include servants and employees living with the family; or
27 (ii) A person or group of unrelated persons living together. The maximum number may be set by local
28 ordinance, but this maximum shall not be less than one person per bedroom and shall not exceed five (5)
29 unrelated persons per dwelling. The maximum number shall not apply to NARR-certified recovery
30 residences.

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

1 (39) **Infrastructure.** Facilities and services needed to sustain residential, commercial,
2 industrial, institutional, and other activities.

3 (40) **Land development project.** As defined in § 45-23-32.

4 (41) **Lot.** Either:

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

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

10 (42) **Lot area.** The total area within the boundaries of a lot, excluding any street right-of-
11 way, usually reported in acres or square feet.

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

14 (44) **Lot building coverage.** That portion of the lot that is, or may be, covered by buildings
15 and accessory buildings.

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

18 (46) **Lot frontage.** That portion of a lot abutting a street. A zoning ordinance shall specify
19 how noncontiguous frontage will be considered with regard to minimum frontage requirements.

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

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

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

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

30 (48) **Lot size, minimum.** Shall have the same meaning as "minimum lot area" defined herein.

31 (49) **Lot, through.** A lot that fronts upon two (2) parallel streets, or that fronts upon two (2) streets that do
32 not intersect at the boundaries of the lot.

1 (50) **Lot width.** The horizontal distance between the side lines of a lot measured at right angles to its depth
2 along a straight line parallel to the front lot line at the minimum front setback line.

3 (51) **Manufactured home.** As used in this section, a manufactured home shall have the same definition as
4 in 42 U.S.C. § 5402, meaning a structure, transportable in one or more sections, which, in the traveling mode,
5 is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is
6 three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to
7 be used as a dwelling with a permanent foundation connected to the required utilities, and includes the
8 plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall
9 include any structure that meets all the requirements of this definition except the size requirements and
10 with respect to which the manufacturer voluntarily files a certification required by the United States
11 Secretary of Housing and Urban Development and complies with the standards established under chapter 70
12 of Title 42 of the United States Code; and except that such term shall not include any self-propelled
13 recreational vehicle.

14 (52) **Mere inconvenience.** See § 45-24-41.

15 (53) **Mixed use.** A mixture of land uses within a single development, building, or tract.

16 (54) **Modification.** Permission granted and administered by the zoning enforcement officer of the city or town,
17 and pursuant to the provisions of this chapter to grant dimensional relief from the zoning ordinance to a
18 limited degree as determined by the zoning ordinance of the city or town but not to exceed twenty-five
19 percent (25%) of each of the applicable dimensional requirements, except as set forth in § 45-24-46(c).

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

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

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

- 1 (56) **Overlay district.** A district established in a zoning ordinance that is superimposed on
2 one or more districts or parts of districts. The standards and requirements associated with an overlay
3 district may be more or less restrictive than those in the underlying districts consistent with other
4 applicable state and federal laws.
- 5 (57) **Performance standards.** A set of criteria or limits relating to elements that a particular use or
6 process must either meet or may not exceed.
- 7 (58) **Permitted use.** A use by right that is specifically authorized in a particular zoning district.
- 8 (59) **Planned development.** A “land development project,” as defined in subsection (39), and developed
9 according to plan as a single entity and containing one or more structures or uses with appurtenant common
10 areas.
- 11 (60) **Plant agriculture.** The growing of plants for food or fiber, to sell or consume.
- 12 (61) **Preapplication conference.** A review meeting of a proposed development held between
13 applicants and reviewing agencies as permitted by law and municipal ordinance, before formal submission
14 of an application for a permit or for development approval.
- 15 (62) **Setback line or lines.** A line, or lines, parallel to a lot line at the minimum distance of the required
16 setback for the zoning district in which the lot is located that establishes the area
17 within which the principal structure must be erected or placed.
- 18 (63) **Site plan.** The development plan for one or more lots on which is shown the existing and/or the
19 proposed conditions of the lot.
- 20 (64) **Slope of land.** The grade, pitch, rise, or incline of the topographic landform or surface of the
21 ground.
- 22 (65) **Special use.** A regulated use that is permitted pursuant to the special-use permit issued by the
23 authorized governmental entity, pursuant to § 45-24-42. Formerly referred to as a special
24 exception.
- 25 (66) **Structure.** A combination of materials to form a construction for use, occupancy, or
26 ornamentation, whether installed on, above, or below the surface of land or water.
- 27 (67) **Substandard lot of record.** Any lot lawfully existing at the time of adoption or
28 amendment of a zoning ordinance, or at the time it was lawfully created, and not in conformance
29 with the dimensional or area provisions of that ordinance.
- 30 (68) **Use.** The purpose or activity for which land or buildings are designed, arranged, or intended,
31 or for which land or buildings are occupied or maintained.
- 32 (69) **Variance.** Permission to depart from the literal requirements of a zoning ordinance.
33 An authorization for the construction or maintenance of a building or structure, or for the
34 establishment or maintenance of a use of land, that is prohibited by a zoning ordinance. There are

1 only two (2) categories of variance, a use variance or a dimensional variance.

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

6 (ii) Dimensional variance. Permission to depart from the dimensional requirements of a
7 zoning ordinance under the applicable standards set forth in § 45-24-41.

8 (70) **Waters.** As defined in § 46-12-1(23).

9 (71) **Wetland, coastal.** As defined in § 45-22.2-4.

10 (72) **Wetland, freshwater.** As defined in § 2-1-20.

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

15 (74) **Zoning map.** The map, or maps, that are a part of the zoning ordinance and that delineate the
16 boundaries of all mapped zoning districts within the physical boundary of the city or town.

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

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

1 **45-24-38. General provisions — Substandard lots of record.**

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

5 (b) Notwithstanding the failure of that lot or those lots to meet the dimensional and/or
6 quantitative requirements, and/or road frontage or other access requirements, applicable in the
7 district as stated in the ordinance, a substandard lot of record shall not be required to seek any
8 zoning relief based solely on the failure to meet minimum requirements for lot size, lot frontage,
9 lot width, or lot depth of the district in which such lot is located. For any structure proposed under
10 this section on a substandard lot of record, the following dimensional regulations shall apply:

11 (1) Minimum building setbacks, lot frontage, and lot width requirements for a lot that is
12 nonconforming in area shall be reduced by the same proportion that the area of such substandard
13 lot meets the minimum lot area of the district in which the lot is located. By way of example, if the
14 lot area of a substandard lot only meets forty percent (40%) of the minimum lot area required in
15 the district in which it is located, the setbacks, lot frontage, and lot width shall each be reduced to
16 forty percent (40%) of the requirements for those dimensional standards in the same district.
17 However, to the extent the city or town has a zoning district in which the lot would be conforming
18 as to size, the city or town may require compliance with the building setback, lot frontage, and lot
19 width requirements for said zoning district if such requirement is in the local zoning ordinance.

20 (2) Maximum lot building coverage for lots that are nonconforming in area shall be
21 increased by the inverse proportion that the area of such substandard lot meets the minimum area
22 requirements in the district in which the lot is located. By way of example, if the lot area of a
23 substandard lot only meets forty percent (40%) of the required minimum lot area, the maximum lot
24 building coverage is allowed to increase by sixty percent (60%) over the maximum permitted lot
25 building coverage in that district.

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

4 (c) Except as set forth otherwise in this chapter and in chapter 23 of this title, provisions
5 may be made for the merger of contiguous unimproved, or improved and unimproved, substandard
6 lots of record in the same ownership to create dimensionally conforming lots or to reduce the extent
7 of dimensional nonconformance. The ordinance shall specify the standards, on a district by district
8 basis, which determine the mergers. The standards shall include, but are not to be limited to, the
9 availability of infrastructure, the character of the neighborhood, and the consistency with the
10 comprehensive plan. The merger of lots shall not be required when the substandard lot of record
11 has an area equal to or greater than the area of fifty percent (50%) of the lots of record located
12 within two hundred feet (200') of the subject lot, as confirmed by a compilation plan signed by a
13 professional land surveyor as such term is defined by the rules and regulations for professional
14 land surveying.

15 **45-24-41. General provisions — Variances.**

16 (a) An application for relief from the literal requirements of a zoning ordinance because of
17 hardship may be made by any person, group, agency, or corporation by filing with the zoning
18 enforcement officer or agency an application describing the request and supported by any data and
19 evidence as may be required by the zoning board of review or by the terms of the ordinance. The
20 zoning enforcement officer or agency shall immediately transmit each application received to the
21 zoning board of review and a copy of each application to the planning board or commission.

22 (b) A zoning ordinance shall provide that the zoning board of review, immediately upon
23 receipt of an application for a variance in the application of the literal terms of the zoning ordinance,
24 may request that the planning board or commission and/or staff report its findings and
25 recommendations, including a statement on the general consistency of the application with the
26 goals and purposes of the comprehensive plan of the city or town, in writing, to the zoning board
27 of review within thirty (30) days of receipt of the application from that board. The zoning board
28 shall hold a public hearing on any application for variance in an expeditious manner, after receipt,
29 in proper form, of an application, and shall give public notice at least fourteen (14) days prior to
30 the date of the hearing in a newspaper of local circulation in the city or town. Notice of hearing
31 shall be sent by first-class mail to the applicant, and to at least all those who would require notice
32 under § 45-24-53. The notice shall also include the street address of the subject property. A zoning
33 ordinance may require that a supplemental notice, that an application for a variance is under
34 consideration, be posted at the location in question. The posting is for information purposes only

1 and does not constitute required notice of a public hearing. The same notice shall be posted in the
2 town or city clerk's office and one other municipal building in the municipality and the municipality
3 must make the notice accessible on the municipal home page of its website at least fourteen (14)
4 days prior to the hearing. For any notice sent by first-class mail, the sender of the notice shall submit
5 a notarized affidavit to attest to such mailing. The cost of newspaper and mailing notification shall
6 be borne by the applicant.

7 (c) A zoning ordinance may provide for unified development review, pursuant to § 45-24-
8 46.4. Requests for dimensional and use variances submitted under a unified development review
9 provision of a zoning ordinance shall be submitted as part of the subdivision or land development
10 application to the administrative officer of the planning board or commission, pursuant to § 45-24-
11 46.4(a). All subdivision or land development applications submitted under the unified development
12 review provisions of a zoning ordinance shall have a public hearing, which shall meet the
13 requirements of § 45-23-50.1(d).

14 (d) In granting a variance, the zoning board of review, or, where unified development
15 review is enabled pursuant to § 45-24-46.4, the planning board or commission, shall require that
16 evidence to the satisfaction of the following standards is entered into the record of the proceedings:

17 (1) That the hardship from which the applicant seeks relief is due to the unique
18 characteristics of the subject land or structure and not to the general characteristics of the
19 surrounding area; and is not due to a physical or economic disability of the applicant, excepting
20 those physical disabilities addressed in § 45-24-30(a)(16);

21 (2) That the hardship is not the result of any prior action of the applicant; and

22 (3) That the granting of the relief requested ~~variance~~ will not alter the general character of
23 the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive
24 plan upon which the ordinance is based.

25 (4) [Deleted by P.L. 2023, ch. 304, § 1 and P.L. 2023, ch. 305, § 1.]

26 (e) The zoning board of review, or, where unified development review is enabled pursuant
27 to § 45-24-46.4, the planning board or commission, shall, in addition to the above standards, require
28 that evidence is entered into the record of the proceedings showing that:

29 (1) In granting a use variance, the subject land or structure cannot yield any beneficial use
30 if it is required to conform to the provisions of the zoning ordinance. Nonconforming use of
31 neighboring land or structures in the same district and permitted use of lands or structures in an
32 adjacent district shall not be considered in granting a use variance; and

33 (2) In granting a dimensional variance, that the hardship suffered by the owner of the
34 subject property if the dimensional variance is not granted amounts to more than a mere

1 inconvenience, meaning that relief sought is minimal to a reasonable enjoyment of the permitted
2 use to which the property is proposed to be devoted. The fact that a use may be more profitable or
3 that a structure may be more valuable after the relief is granted is not grounds for relief. The zoning
4 board of review, or, where unified development review is enabled pursuant to § 45-24-46.4, the
5 planning board or commission has the power to grant dimensional variances where the use is
6 permitted by special-use permit.

7 **45-24-43. General provisions — Special conditions.**

8 In granting a variance or in making any determination ~~upon which it is required to pass~~
9 ~~after a public hearing under a zoning ordinance~~ on appeal taken pursuant to § 45-24-64, the zoning
10 board of review or other zoning enforcement agency may apply the special conditions that may, in
11 the opinion of the board or agency, be required to promote the intent and purposes of the
12 comprehensive plan and the zoning ordinance of the city or town. Failure to abide by any special
13 conditions attached to a grant constitutes a zoning violation. Those special conditions shall be based
14 on competent credible evidence on the record, be incorporated into the decision, and may include,
15 but are not limited to, provisions for:

- 16 (1) For a use variance only: Minimizing the adverse impact of the development upon other
17 land, including the type, intensity, design, and performance of activities;
- 18 (2) Controlling the sequence of development, including when it must be commenced and
19 completed;
- 20 (3) Controlling the duration of use or development and the time within which any
21 temporary structure must be removed;
- 22 (4) Assuring satisfactory installation and maintenance of required public improvements;
- 23 and
- 24 (5) Designating the ~~exact~~ location and nature of development; and
- 25 (6) Establishing detailed records by submission of drawings, maps, plats, or
26 specifications.

27 **45-24-46. Special provisions — Modification.**

28 (a) A zoning ordinance shall provide for the issuance of modifications from the literal
29 dimensional requirements of the zoning ordinance in the instance of the construction, alteration, or
30 structural modification of a structure or lot of record. The zoning enforcement officer is authorized
31 to grant modification permits. The zoning ordinance shall permit modifications that are fifteen
32 percent (15%) or less of any dimensional requirements specified in the zoning ordinance but may
33 permit modification up to twenty-five percent (25%). Within ten (10) days of the receipt of a request
34 for a modification, the zoning enforcement officer shall make a decision as to the suitability of the

1 requested modification based on the following determinations:

2 (1) The modification requested is minimal to a reasonable enjoyment of the permitted use
3 to which the property is proposed to be devoted;

4 (2) If the modification is granted, neighboring property will neither be substantially injured
5 nor its appropriate use substantially impaired;

6 (3) The modification requested does not require a variance of a flood hazard requirement,
7 unless the building is built in accordance with applicable regulations, and

8 (4) The modification requested does not violate any rules or regulations with respect to
9 freshwater or coastal wetlands.

10 (b) Upon an affirmative determination, in the case of a modification of five percent (5%)
11 or less, the zoning enforcement officer shall have the authority to issue a permit approving the
12 modification, without any public notice requirements. In the case of a modification of greater than
13 five percent (5%), the zoning enforcement officer shall notify, by first class mail, all property
14 owners abutting the property which is the subject of the modification request, and shall indicate the
15 street address of the subject property in the notice, and shall publish in a newspaper of local
16 circulation within the city or town that the modification will be granted unless written objection by
17 anyone who is entitled to notice under this section is received within fourteen (14) days of the
18 public notice. If written objection is received within fourteen (14) days, the request for a
19 modification shall be scheduled for the next available hearing before the zoning board of review
20 on application for a dimensional variance following the standard procedures for such variances,
21 including notice requirements provided for under this chapter. If no written objections are received
22 within fourteen (14) days, the zoning enforcement officer shall grant the modification. The zoning
23 enforcement officer may apply any special conditions to the permit as may, in the opinion of the
24 officer, be required to conform to the intent and purposes of the zoning ordinance. The zoning
25 enforcement officer shall keep public records of all requests for modifications, and of findings,
26 determinations, special conditions, and any objections received. Costs of any notice required under
27 this subsection shall be borne by the applicant requesting the modification.

28 (c) **Neighborhood character-based modifications ("NCBM").** The zoning enforcement
29 officer is authorized to grant NCBM on any parcel with a public water and sewer connection, and
30 for purposes of residential use, from the literal dimensional requirements of the zoning ordinance
31 ~~in the instance of the construction, alteration, creation, or structural modification of a dwelling unit,~~
32 provided that:

33 (1) Such modifications shall only be granted for dimensional relief from frontage, lot width,
34 and lot depth, up to the average dimensions of the comparable existing built environment;

1 (2) The average dimensions of the comparable existing built environment shall be
2 calculated as follows:

3 (i) Comparable existing parcels shall mean all parcels that are:

4 (A) Within two hundred feet (200') of the subject property; and

5 (B) In the same base zone; and

6 (C) Used for residential purposes.

7 (ii) The average dimensions shall be confirmed by a professional land surveyor.

8 (iii) The average dimensions are to be determined without any additional review of zoning
9 or building code analysis of the legality of the existing dimensions of the comparable existing
10 parcels;

11 (3) Within ten (10) days of the receipt of a request for NCBM, the zoning enforcement
12 officer shall make a decision as to the suitability of the requested modification based on the
13 following determinations:

14 (i) The modification requested does not require a variance of a flood hazard requirement,
15 unless the building is built in accordance with applicable regulations; and

16 (ii) The modification requested does not violate any rules or regulations with respect to
17 freshwater or coastal wetlands; and

18 (iii) The NCBM does not violate any provisions regarding separation included in the state
19 building or fire code;

20 (4) Upon an affirmative determination, in the case of an NCBM modification of equal to
21 or less than thirty percent (30%) of the requirements of the zoning district, the zoning enforcement
22 officer shall have the authority to issue a permit approving the modification, without any public
23 notice requirements. In the case of an NCBM modification of greater than thirty percent (30%), the
24 zoning enforcement officer shall notify, by first class mail, all property owners abutting the
25 property which is the subject of the NCBM modification request, and shall indicate the street
26 address of the subject property in the notice, and shall publish in a newspaper of local circulation
27 within the city or town that the modification will be granted unless written objection is received
28 within fourteen (14) days of the public notice. If written objection is received from any party
29 entitled to notice under this section within fourteen (14) days, the request for a modification shall
30 be scheduled for the next available hearing before the zoning board of review on application for a
31 dimensional variance following the standard procedures for such variances, including notice
32 requirements provided for under this chapter. If no written objections are received within fourteen
33 (14) days, the zoning enforcement officer shall grant the modification. The zoning enforcement
34 officer may apply any special conditions to the permit as may, in the opinion of the officer, be

1 required to conform to the intent and purposes of the zoning ordinance. The zoning enforcement
2 officer shall keep public records of all requests for modifications, and of findings, determinations,
3 special conditions, and any objections received. Costs of any notice required under this subsection
4 shall be borne by the applicant requesting the modification.

5 **45-24-47. Special provisions — Land development projects.**

6 (a) A zoning ordinance shall provide for land development projects which are defined in §
7 45-23-32.

8 (b) A zoning ordinance adopted pursuant to this chapter that permits or requires the creation
9 of land development projects in one or more zoning districts shall require that any land development
10 project shall be reviewed, in accordance with the procedures established by chapter 23 of this title,
11 including those for appeal and judicial review, and with any ordinances or regulations adopted
12 pursuant to the procedures, whether or not the land development project constitutes a “subdivision,”
13 as defined in chapter 23 of this title. No land development project shall be initiated until a plan of
14 the project has been submitted and approval has been granted by the authorized permitting
15 authority. In reviewing, hearing, and deciding upon a land development project, the authorized
16 permitting authority may be empowered to allow zoning incentives within the project; provided,
17 that standards for the zoning incentives are described in the zoning ordinance, and may be
18 empowered to apply any special conditions and stipulations to the approval that may, in the opinion
19 of the authorized permitting authority, be required to maintain harmony with neighboring uses and
20 promote the objectives and purposes of the comprehensive plan and zoning ordinance.

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

23 (1) A minimum area or site size for a land development project;

24 (2) Uses to be permitted within the development;

25 (3) Ratios of residential to nonresidential uses where applicable;

26 (4) Unless otherwise set forth in this chapter, maximum ~~Maximum~~ density per lot and
27 maximum density for the entire development;

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

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

32 (d) In regulating land development projects, an ordinance adopted pursuant to this chapter
33 shall include provisions for zoning incentives that include the adjustment of applicable lot density
34 and dimensional standards where open space is to be permanently set aside for public or common

1 use, and/or where the physical characteristics, location, or size of the site require an adjustment,
2 and/or where the location, size, and type of housing, commercial, industrial, or other use require an
3 adjustment, and/or where housing for low and moderate income families is to be provided, or where
4 other amenities not ordinarily required are provided, as stipulated in the zoning ordinance.
5 Provision may be made for adjustment of applicable lot density and dimensional standards for
6 payment or donation of other land or facilities in lieu of an on-site provision of an amenity that
7 would, if provided on-site, enable an adjustment.

8 (e)(1) A zoning ordinance requiring open land in a cluster development or other land
9 development project for public or common use, shall provide that such open land either: (i) Be
10 conveyed to the city or town and accepted by it for park, open space, agricultural, or other specified
11 use or uses; or (ii) Be conveyed to a nonprofit organization, the principal purpose of which is the
12 conservation of open space or resource protection; or (iii) Be conveyed to a corporation or trust
13 owned or to be owned by the owners of lots or units within the development, or owners of shares
14 within a cooperative development. If such a corporation or trust is used, ownership shall pass with
15 conveyances of the lots or units; or (iv) Remain in private ownership if the use is limited to
16 agriculture, habitat or forestry, and the city or town has set forth in its community comprehensive
17 plan and zoning ordinance that private ownership is necessary for the preservation and management
18 of the agricultural, habitat or forest resources.

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

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

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

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

30 **45-24-54. Administration — Administration and enforcement of zoning ordinance.**

31 (a) A zoning ordinance adopted pursuant to this chapter must provide for the administration
32 and enforcement of its provisions pursuant to this chapter. The zoning ordinance must designate
33 the local official or agency and specify minimum qualifications for the person or persons charged
34 with its administration and enforcement, including: (1) The issuing of any required permits or

1 certificates; (2) Collection of required fees; (3) Keeping of records showing the compliance of uses
2 of land; (4) Authorizing commencement of uses or development under the provisions of the zoning
3 ordinance; (5) Inspection of suspected violations; (6) Issuance of violation notices with required
4 correction action; (7) Collection of fines for violations; (8) Upon written request [from the record](#)
5 [owner of a lot or other person with a bona fide legal or equitable interest in a lot](#), issue a zoning
6 certificate or provide information to the requesting party as to the determination by the official or
7 agency; and (9) Performing any other duties and taking any actions that may be assigned in the
8 ordinance. A zoning certificate shall be issued within twenty (20) days of the written request. In
9 the event that no written response is provided within that time, the requesting party has the right to
10 appeal to the zoning board of review for the determination pursuant to § 45-24-63.

11 (b) The requesting party has the right to appeal the determination made in the zoning
12 certificate pursuant to § 45-24-63.

13 SECTION 4. Sections 45-53-4 and 45-53-5.1 of the General Laws in Chapter 45-53 entitled
14 "Low and Moderate Income Housing" are hereby amended to read as follows:

15 **45-53-4. Procedure for approval of construction of low- or moderate-income housing.**

16 **Effective January 1, 2026, inclusive of existing language in § 45-53-4.1**

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

24 (b) Cities and towns that have low- or moderate-income housing in excess of ten percent
25 (10%) of its year-round housing units:

26 (1) May provide an applicant with more dwelling units than allowed by right under its
27 zoning ordinance in the form of a density bonus to allow an increase in the allowed dwelling units
28 per acre (DU/A), as well as other incentives and municipal government subsidies as defined in §
29 45-53-3;

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

1 subsection, sequentially in the order in which they are submitted.

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

4 (I) Shall make available to applications under this chapter municipal government
5 subsidies, including adjustments and zoning incentives, to offset the differential costs of the low-
6 or moderate-incoming housing units. At a minimum, the following zoning incentives shall be
7 allowed for in these cities or towns for projects submitted under this chapter:

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

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

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

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

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

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

1 income housing shall be at least five (5) units per acre;

2 (vi) For properties not connected to either public water or sewer or both, but which provide
3 competent evidence as to the availability of water to service the development and/or a permit for
4 on-site wastewater treatment facilities to service the dwelling units from the applicable state
5 agency, the density bonus for a project that provides one hundred percent (100%) low- and
6 moderate-income housing shall be at least eight (8) units per acre;

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

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

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

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

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

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

34 (2) Optional master plan. An applicant may elect to apply for and be heard on master plan

1 review prior to preliminary plan submission. If a master plan review is elected by the applicant the
2 following shall apply:

3 (i) Submission requirements. Submission requirements for master plan review shall be
4 limited to the following:

5 (A) An application form and fee;

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

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

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

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

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

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

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

33 (A) Timeframe for review. The local review board shall render a decision on the master
34 plan application within sixty (60) days of the date the application is certified complete, or within a

1 further amount of time that may be consented to by the applicant through the submission of a
2 written consent.

3 (B) Failure to act. Failure of the local review board to act within the prescribed period
4 constitutes approval of the master plan, and a certificate of the administrative officer as to the failure
5 of the local review board to act within the required time and the resulting approval shall be issued
6 on request of the applicant.

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

15 (iv) Vesting. The approved master plan is vested for a period of two (2) years ~~with the right~~
16 ~~to extend for two (2), one year extensions upon written request by the applicant, who must appear~~
17 ~~before the planning board for each annual review~~ from the date of recording of the decision.
18 Thereafter, vesting may be extended for a longer period, for good cause shown, if requested, in
19 writing by the applicant prior to the date of expiration of the approval, and approved by the local
20 review board. Demonstrated evidence that the applicant and its design team are in the process of
21 full engineering design and obtaining other items needed for preliminary plan submission shall meet
22 the definition of good cause, as well as any other circumstances that the local board determines to
23 constitutes good cause. The vesting for the master plan approval includes all ordinance provisions
24 and regulations at the time of the approval, general and specific conditions shown on the approved
25 master plan drawings and supporting material. The vesting period is tolled upon the filing of an
26 appeal and shall restart only upon the issuance of a decision affirming the approval.

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

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

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

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

4 (C) A proposed timetable for the commencement of construction and completion of the
5 project; and

6 (D) Those items required by local regulations promulgated pursuant to applicable state law,
7 with the exception of evidence of state or federal permits; and for comprehensive permit
8 applications included in the checklist for the preliminary plan review in the local regulations
9 promulgated pursuant to chapter 23 of this title; and

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

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

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

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

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

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

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

8 (E) Required findings. In voting on an application, the local review board shall make
9 findings, supported by legally competent evidence on the record that discloses the nature and
10 character of the observations upon which the fact finders acted, on each of the following standards,
11 where applicable:

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

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

25 (III) Whether the low- and moderate-income housing units proposed are integrated
26 throughout the development; are compatible in scale, meaning that: (1) The size of the low- and
27 moderate-income units shall not be less than seventy-five percent (75%) of the size of the market
28 rate units, unless otherwise allowed by the local board; (2) The affordable units are of similar
29 architectural style to the market rate units within the project so that the exterior of the units look
30 like an integrated neighborhood with similar rooflines, window patterns, materials and colors; and
31 (3) The affordable units will be built and occupied in a proportional manner with the construction
32 and occupancy of the market rate units. Except that for housing units that are intended to be
33 occupied by persons fifty-five (55) years of age or older, or sixty-two (62) years of age or older, as
34 permitted by the federal Fair Housing Act pursuant to 42 U.S.C. § 3607(b) and 24 C.F.R. §§

1 100.300-308 and the Rhode Island fair housing practices act pursuant to § 34-37-4.1, such units
2 need not be integrated in any building or phase within the development that contains housing units
3 that are not age-restricted, and neither age-restricted housing units nor any building or phase
4 containing age-restricted housing units must be compatible in scale and architectural style to other
5 housing unit types to the extent the age-restricted housing units are designed to meet the physical
6 or social needs of older persons or necessary to provide housing opportunities for older persons.

7 (IV) Whether there will be significant negative impacts on the health and safety of current
8 or future residents of the community, in areas including, but not limited to, safe circulation of
9 pedestrian and vehicular traffic, provision of emergency services, sewerage disposal, availability
10 of potable water, adequate surface water run-off, and the preservation of natural, historical, or
11 cultural features.

12 (V) Whether the proposed land developments or subdivisions lots will have adequate and
13 permanent physical access to a public street in accordance with the requirements of § 45-23-
14 60(a)(5), or the local review board has approved other access, such as a private road.

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

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

20 (iv) Vesting. The approved preliminary plan is vested for a period of two (2) years ~~with the~~
21 ~~right to extend for two (2) one-year extensions upon written request by the applicant, who must~~
22 ~~appear before the planning board for each annual review and provide proof of valid state or federal~~
23 ~~permits as applicable~~ from the date of the recording of the decision. Thereafter, vesting may be
24 extended for a longer period, for good cause shown, if requested, in writing by the applicant prior
25 to the date of expiration of the approval, and approved by the local review board. The vesting
26 for the preliminary plan approval includes all ordinance provisions and regulations at the time
27 of the approval, general and specific conditions shown on the approved preliminary plan drawings
28 and supporting material. Demonstrated evidence that all applicable state permits have been applied
29 for and are under review shall meet the definition of good cause, as well as any other circumstances
30 that the local board determines to constitute good cause. The vesting period is tolled upon the
31 filing of an appeal and shall restart only upon the issuance of a decision affirming the approval.

32 (4) Final plan review. The second and final stage of review for the comprehensive permit
33 project shall be done administratively, unless an applicant has requested and been granted any
34 waivers from the submission of checklist items for preliminary plan review, and then, at the local

1 review board's discretion, it may vote to require the applicant to return for final plan review and
2 approval.

3 (i) **Submission requirements.** Applications for final plan review under this chapter shall
4 include:

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

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

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

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

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

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

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

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

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

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

1 (B) Modifications and changes to plans:

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

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

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

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

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

23 (iv) Vesting. The approved final plan decision is vested for a period of two (2) years ~~with~~
24 ~~the right to extend for one one-year extension upon written request by the applicant, who must~~
25 ~~appear before the planning board for the extension request~~ from the date of the recording of the
26 decision, unless, within that period, the plat or plan has been submitted for signature and recording
27 as specified in § 45-23-64. Thereafter, vesting may be extended for a longer period, for good cause
28 shown, if requested, in writing by the applicant prior to the date of expiration of the
29 approval, and approved by the local review board. Demonstrated evidence that the project is
30 diligently seeking funding for construction shall meet the definition of good cause, as well as any
31 other circumstances that the local board determines to constitute good cause. The vesting period
32 is tolled upon the filing of an appeal and shall restart only upon the issuance of a decision affirming
33 the approval.

34 (5) Infeasibility of conditions of approval. The burden is on the applicant to show, by
35 competent evidence before the local review board, that proposed conditions of approval are

1 infeasible, as defined in § 45-53-3. Upon request, the applicant shall be provided a reasonable
2 opportunity to respond to such proposed conditions prior to a final vote on the application.

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

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

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

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

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

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

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

34 (13) Remanded applications. Notwithstanding the provisions of § 45-53-4 in effect on

1 February 13, 2004, a local review board shall commence hearings within thirty (30) days of
2 receiving an application remanded pursuant to § 45-53-5 or, effective January 1, 2024, § 45-53-
3 5.1. In any town with more than one remanded application, applications may be scheduled for
4 hearing in the order in which they were received, and may be taken up sequentially, with the thirty-
5 day (30) requirement for the initiation of hearings, commencing upon the decision of the earlier
6 filed application.

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

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

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

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

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

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

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

17 **45-53-5.1. Appeals — Judicial review.**

18 (a) Effective January 1, 2024, as a replacement to § 45-53-5. A decision of a local review
19 board may be appealed by the applicant or an aggrieved party, as defined by § 45-24-31, to the
20 superior court for the county in which the property is situated. The appeal shall be taken within
21 twenty (20) days after the date of the recording and posting of the decision by the local review
22 board, by filing with the superior court a complaint that contains a statement of the prior
23 proceedings and the reasons upon which the appeal is based. The complaint shall name the local
24 review board as the appellee and serve the local review board with the appeal within twenty (20)
25 days of filing of the appeal. If an aggrieved party ~~who or~~ that is not the applicant files an appeal,
26 the original applicant shall be named as a party and served in the same manner as the local review
27 board.

28 (b) The local review board shall not be required to answer the complaint, but it shall submit
29 the complete local review board record to superior court within thirty (30) days of receiving service
30 of the complaint. Should the local review board fail to file the record within thirty (30) days, the
31 applicant may move for default.

32-34

1 (c) The appeal shall be expedited and given priority on the court calendar as soon as
2 proof of service of the complaint on the local review board is filed. The appeal shall be decided as
3 soon as possible by the superior court, without delay.

4 (d) The review shall be conducted by the superior court without a jury. The court shall
5 consider the record of the hearing before the local review board and, if it appears to the court that
6 additional evidence is necessary for the proper disposition of the matter, it may allow, upon motion,
7 any party to the appeal to present that evidence in open court, which evidence, along with the
8 record, constitutes the record upon which the determination of the court is made.

9 (e) The court shall not substitute its judgment for that of the local review board as to the
10 weight of the evidence on questions of fact. The court may affirm the decision of the local review
11 board or remand the case for further proceedings, or may reverse or modify the decision if
12 substantial rights of the appellant have been prejudiced because of findings, inferences,
13 conclusions, or decision that were:

14 (1) In violation of constitutional or statutory provisions;

15 (2) In excess of the authority granted to the planning board by statute or ordinance;

16 (3) Made upon unlawful procedure;

17 (4) Affected by other error of law;

18 (5) Clearly erroneous in view of the reliable, probative, and substantial evidence of the
19 whole record; or

20 (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted
21 exercise of discretion.

22 ~~(e)~~ (1) The superior court shall ~~review the appeal under~~ take into account the following
23 ~~standards:~~

24 ~~(1) Whether the decision was arbitrary and capricious or clearly erroneous in light of~~
25 ~~considerations regarding:~~ in its review of a denial of an application under this chapter.

26 ~~(1)~~ (1) The consistency of the decision to deny or condition the permit with the approved
27 affordable housing plan;

28 ~~(2)~~ (2) The extent to which the community meets or plans to meet housing needs, as defined
29 in an affordable housing plan, including, but not limited to, the ten percent (10%) goal for existing
30 low- and moderate-income housing units as a proportion of year-round housing;

31 ~~(3)~~ (3) The consideration of environmental protection;

32 ~~(4)~~ (4) The state's need for low- and moderate-income housing;

33 ~~(5)~~ (5) The need to protect the health and safety of the occupants of the proposed housing
34 or the residents of the city or town; and

1 ~~(vi) The need to promote better site and building design in relation to the surroundings or~~
2 ~~to preserve open space; and~~

3 ~~(vii)~~(6) Whether the reasons for denial, local zoning or land use ordinances, requirements
4 and regulations are applied as equally as possible to both subsidized and unsubsidized housing.

5 ~~(f)~~(g) If the appeal is by an applicant for a decision approving an application with
6 conditions, the superior court shall, in addition to reviewing the standards and considerations set
7 forth in ~~subsection (e)~~ subsections (e) and (f) of this section, determine whether such conditions
8 and requirements imposed make the construction or operation of the housing infeasible.

9 ~~(g) The court shall not substitute its judgment for that of the local review board as to the~~
10 ~~weight of the evidence on questions of fact. The court may affirm the decision of the local review~~
11 ~~board or remand the case for further proceedings, or may reverse or modify the decision if~~
12 ~~substantial rights of the appellant have been prejudiced because of findings, inferences,~~
13 ~~conclusions, or decisions that were arbitrary, capricious or unreasonable.~~

14 (h) An aggrieved party may, within twenty (20) days from the date of entry of the
15 judgment of superior court, petition the supreme court of the state of Rhode Island for a writ of
16 certiorari to review any questions of law involved. The petition for a writ of certiorari shall set forth
17 the errors claimed. Upon the filing of such a petition with the clerk of the supreme court, the
18 supreme court may, if it sees fit, issue its writ of certiorari to the superior court to certify to the
19 supreme court the record of the record under review, or so much thereof as was submitted to the
20 superior court by the parties, together with any additional record of the proceedings in the superior
21 court.

22 ~~(i)~~(i) Effective January 1, 2024, all matters pending before the state housing appeals board
23 shall be transferred to superior court for the county in which the property is situated by the applicant
24 filing a complaint in superior court and providing a copy of the complaint to the attorney
25 representing the local review board within ten (10) days of filing. An applicant with an appeal
26 pending before the state housing appeals board shall have until March 1, 2024, to file the complaint
27 transferring the matter to superior court for the county in which the property is situated. The parties
28 shall be required to file the entire record before the state housing appeals board with superior court
29 within forty-five (45) days of the filing of the complaint.

30 (j) Effective January 1, 2024, this section shall replace the provisions of § 45-53-5 and
31 any reference in the general laws to § 45-53-5 shall mean § 45-53-5.1.

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

LC005900



EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO TOWNS AND CITIES – RHODE ISLAND COMPREHENSIVE PLANNING
AND LAND USE ACT

- 1 This act would provide technical amendments relating to comprehensive planning and land
- 2 use, subdivision of land, zoning ordinances and moderate-income housing.
- 3 This act would take effect upon passage.

LC005900

