

CHAPTER 406
2026 -- H 8004 SUBSTITUTE A
Enacted 06/23/2026

A N A C T
RELATING TO COURTS AND CIVIL PROCEDURE--COURTS -- SUPERIOR COURT

Introduced By: Representative Robert E. Craven

Date Introduced: February 27, 2026

It is enacted by the General Assembly as follows:

SECTION 1. Section 8-2-40 of the General Laws in Chapter 8-2 entitled "Superior Court" is hereby amended to read as follows:

8-2-40. Land use calendar.

(a) **Findings and declarations.** The general assembly finds and declares that:

(1) There are significant delays in the development permitting process in the State of Rhode Island which results in lost opportunity for the needed development of housing units and commercial development to neighboring states.

(2) Contributing to the delay were lengthy administrative appeals to local and state boards prior to appeals to superior court.

(3) Previous legislation amended the appeal process in most cases to provide a direct right of appeal to superior court.

(4) Landowners, applicants, municipalities, and abutters are entitled to decisions with respect to ordinances, regulations, decisions regarding property rights and interests that do not require years of costly appeals and litigation.

(5) There is a need for uniform treatment of such matters, and related matters that are statutorily provided with priority on the judicial calendar and expedited for decision.

(b) **Establishment.** To accomplish this purpose in an effort to minimize delay in the processing of land use matters in superior court, effective January 1, 2024, there shall be established a separate calendar for the administration and determination of all land use matters.

(c) **Land use calendar.** The presiding judge of the superior court shall create a land use calendar in superior court and shall assign personnel to the extent warranted to exclusively hear and decide all eligible land use matters, and the calendar shall be referred to as the "land use calendar." Cases eligible for the land use calendar shall include appeals under §§ 45-22.2-9.1, 45-23-71, 45-23-72, 45-24-69, 45-24-71; 45-24.4-16, 45-24.6-9, 45-53-5; and 45-53-5.1. Any party may request a conference to seek assignment to the land use calendar, and acceptance of any matter in addition to the sections listed above shall be at the discretion of the judge(s) assigned to the calendar.

(d) **Timing.** All matters assigned to the land use calendar shall be expedited. ~~All An order establishing a briefing schedule shall enter which allows appellees a response to appellants memorandum, and may allow appellants a reply, but shall ensure, to the maximum extent possible, that all~~ memoranda from all interested parties in an appeal assigned to the calendar shall be ~~completed~~ filed within sixty (60) days of the filing of the certified record. No continuances or postponements shall be granted except for good cause shown. Such continuances as are necessary shall be granted for the shortest practicable time.

(e) **Use of section.** Under no circumstances shall any party be permitted to utilize this section as a basis for dismissal of an action, as this section is enacted for the benefit and convenience of the superior court.

SECTION 2. Sections 45-22.2-2, 45-22.2-5 and 45-22.2-13 of the General Laws in Chapter

45-22.2 entitled "Rhode Island Comprehensive Planning and Land Use Act" are hereby amended to read as follows:

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

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

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

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

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

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

(b) There is established a program of local comprehensive planning to address the findings and intent and accomplish the goals of this chapter. Rhode Island's cities and towns, through the exercise of their power and responsibility pursuant to the general laws, including this chapter and chapters 23 and 24 of this title, any applicable articles of the Rhode Island Constitution, and subject to the express limitations and requirements of this chapter, as well as chapters 23 and 24 of this title, shall prepare, adopt, amend, and maintain comprehensive plans, including implementation programs, that relate development to land capacity, protect our natural resources, promote a balance of housing choices, encourage economic development, preserve and protect our open space, recreational, historic and cultural resources, provide for orderly provision of facilities and services and are consistent with the goals, findings, intent, and other provisions of this chapter and the laws of the state.

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

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

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

45-22.2-13. Compliance and implementation.

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

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

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

and applicable content of the adopted comprehensive plan.

(d) Limitations on land use applications, review, and approvals may be imposed according to only the following provisions:

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

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

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

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

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

(3) The ordinance shall specify:

(i) The purpose of the moratorium;

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

(iii) The area covered by the moratorium; and

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

(4) The moratorium may be extended up to an additional ninety (90) days if necessary to complete a zoning ordinance and map change provided that: (i) The public hearing as required by § 45-24-53 has commenced; and (ii) The chief approves the extension based on a demonstration of good cause. Said extension shall not be deemed as non-conformance to the implementation schedule.

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

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

(1) Failure to comply with this provision within one hundred twenty (120) days of the date of the implementation schedule or the expiration of the moratorium period shall result in the denial

or rescission, in whole or in part, of state approval of the comprehensive plan and of all benefits and incentives conditioned on state approval.

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

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

SECTION 3. Sections 45-23-32, 45-23-35, 45-23-37, 45-23-38, 45-23-50.1, 45-23-60 and 45-23-71 of the General Laws in Chapter 45-23 entitled "Subdivision of Land" are hereby amended to read as follows:

45-23-32. Definitions.

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

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

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

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

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

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

(6) **Concept plan.** A drawing with accompanying information showing the basic elements

of a proposed land development plan or subdivision as used for pre-application meetings and early discussions, and classification of the project within the approval process.

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

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

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

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

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

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

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

(v) Institutional development for educational or hospital facilities.

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

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

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

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

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

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

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

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

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

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

(19) **Land development project.** A project in which one or more lots, tracts, or parcels of land or a portion thereof are developed or redeveloped as a coordinated site for one or more uses, units, or structures, including but not limited to, planned development or cluster development for

residential, commercial, institutional, recreational, open space, or mixed uses. The local regulations shall include all requirements, procedures, and standards necessary for proper review and approval of land development projects to ensure consistency with this chapter and the Rhode Island zoning enabling act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(26) **Permitting authority.** The local agency of government, meaning any board,

commission, or administrative officer specifically empowered by state enabling law and local regulation or ordinance to hear and decide on specific matters pertaining to local land use.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) A subdivision creating nine (9) or fewer buildable lots and a with or without a street extension or creation;

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

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

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

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

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

(1) For lots serviced by public water and sewer, the

~~(D)~~ The resulting lots are not less than three thousand square feet (3,000 ft²) in lot size for each;

(2) For lots serviced by private wells or on-site wastewater treatment systems, the resulting lots are not less than ten thousand square feet (10,000 ft²);

(3) For lots serviced by both private wells and on-site wastewater treatment systems, the resulting lots are not less than twenty thousand square feet (20,000 ft²).

Notwithstanding the lot sizes set forth above or as determined by the compilation plan, lot area requirements or limitations established by state regulations or state permit requirements remain applicable and not superseded by this provision. A lot, qualifying for this type of oversized lot subdivision shall be reviewed under the requirements and procedures set forth in § 45-23-38, but shall not require zoning relief solely based on the resulting reduced lot area of the newly created lots. The subdivision itself and the resulting subdivided lots shall have the benefit of reduced requirements as set forth in § 45-24-38, and/or are eligible for the processes set forth in § 45-24-46, as applicable.

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

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

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

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

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

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

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

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

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

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

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

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

(a) Any applicant requesting approval of a proposed administrative subdivision, as defined

in this chapter, shall submit to the administrative officer the items required by the local regulations, which are sufficient to confirm the moving or merger of lot lines.

(b) The application shall be certified, in writing, as complete or incomplete by the administrative officer within a fifteen (15) day period from the date of its submission according to the provisions of § 45-23-36(c). The running of the time period set forth in this section will be deemed stopped upon the issuance of a certificate of incompleteness of the application by the administrative officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event will the administrative officer be required to certify a corrected submission as complete or incomplete less than ten (10) days after its resubmission.

(c) A Class 1 survey shall not be required for administrative subdivisions which only result in the merger of existing lots.

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

(1) Applications requesting relief from the zoning ordinance.

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

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

(iii) If reviewed by the planning board pursuant to § 45-23-50.1, the board shall hold a public hearing and shall consider the application and the recommendations of the administrative officer and/or the technical review committee, if applicable, and either approve or deny the application within sixty-five (65) days of certification of completeness. Failure of the planning board to act within the prescribed period constitutes approval of the administrative subdivision plan and a certificate of the administrative officer as to the failure of the planning board or committee to act within the required time and the resulting approval shall be issued on request of the applicant.

(2) Other applications. The administrative officer shall review and grant, or deny all other applications under this section.

~~(1)~~(i) Within fifteen (15) twenty (20) days of certification of completeness, the administrative officer, or the technical review committee, shall review the application and approve, or deny or refer it to the planning board with recommendations. The officer or committee shall report its actions to the planning board at its next regular meeting, to be made part of the record. If an applicant also submits for a modification to the zoning enforcement officer, the running of the time period set forth herein will not begin until the decision on any modification is made as set forth in § 45-24-46.

~~(2)~~(ii) If no action is taken by the administrative officer or the technical review committee within the fifteen (15) days, the application shall be placed on the agenda of the next regular planning board meeting. Failure of the administrative officer to act within the prescribed period constitutes approval of the administrative subdivision plan and the resulting approval shall be issued on request of the applicant.

(d) If referred to the planning board, the board shall consider the application and the recommendations of the administrative officer and/or the technical review committee and either approve, approve with conditions, or deny the application within sixty-five (65) days of certification of completeness. Failure of the planning board to act within the prescribed period

~~constitutes approval of the administrative subdivision plan and a certificate of the administrative officer as to the failure of the planning board or committee to act within the required time and the resulting approval shall be issued on request of the applicant.~~

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

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

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

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

(a) Application types and review stages.

(1) Applications requesting relief from the zoning ordinance.

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

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

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

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

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

(b) Submission requirements. Any applicant requesting approval of a proposed, minor subdivision or minor land development, as defined in this chapter, shall submit to the administrative officer the items required by the local regulations, except that an applicant must provide at final plan submission, copies of all legal documents describing the property, proposed easements, and rights-of-way and all permits required by state or federal agencies, including permits related to freshwater wetlands, the coastal zone, floodplains, on-site wastewater treatment systems, public water systems, and connections to state roads. For a state permit from the department of transportation, a letter evidencing the issuance of such a permit upon the submission of a bond and insurance is sufficient, but such actual permit shall be required prior to the issuance of a building

permit.

(c) **Certification.** For each applicable stage of review, the application shall be certified, in writing, complete or incomplete by the administrative officer within twenty-five (25) days of the submission so long as a completed checklist of the requirements for submission is provided as part of the submission. If an applicant also submits for a modification to the zoning enforcement officer, the running of the time period set forth herein will not begin until the decision on ~~the~~ any modification is made as set forth in § 45-24-46. Such certification shall be made in accordance with the provisions of § 45-23-36(c). If no street creation or extension is required, and/or unified development review is not requested, and a completed checklist of the requirements for submission is provided as part of the submission, such application shall be certified, in writing, complete or incomplete by the administrative officer within fifteen (15) days according to the provisions of § 45-23-36(c). The running of the time period set forth in this section will be deemed stopped upon the issuance of a certificate of incompleteness of the application by the administrative officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event will the administrative officer be required to certify a corrected submission as complete or incomplete less than ten (10) days after its resubmission.

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

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

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

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

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

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

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

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

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

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

45-23-50.1. Special provisions — Unified development review.

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

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

(1) **Administrative subdivisions.** Except for dimensional relief granted by modification as set forth in §§ 45-23-38 and 45-24-46, requests for dimensional variances related to administrative subdivisions shall be submitted as part of the application materials. A public hearing on the application, including any dimensional variance that meets the requirements of subsection (d) of this section, shall be held prior to consideration of the administrative subdivision by the planning board or commission. The planning board or commission shall approve or deny the request(s) for the variance(s) before considering the administrative subdivision. Approval of the variance shall be conditioned on approval of the administrative subdivision.

~~(1)~~(2) **Minor subdivisions and land development projects.** Except for dimensional relief granted by modification as set forth in §§ 45-23-38 and 45-24-46, requests for variances and/or for the issuance of special-use permits related to minor subdivisions and land development projects shall be submitted as part of the application materials for the preliminary plan stage of review or if combined, for the first stage of reviews. A public hearing on the application, including any variance and special-use permit requests that meets the requirements of subsection (d) of this section shall be held prior to consideration of the preliminary plan by the planning board or commission. The planning board or commission shall conditionally approve or deny the request(s) for the variance(s) and/or special-use permit(s) before considering the preliminary plan application for the minor subdivision or land development project. Approval of the variance(s) and/or special-use permit(s) shall be conditioned on approval of the final plan of the minor subdivision or land development project.

~~(2)~~(3) **Development plan review.** Except for dimensional relief granted by modification as set forth in §§ 45-23-50 and 45-24-46, requests for relief from the literal requirements of the zoning ordinance and/or for the issuance of special-use permits shall be submitted as part of the application materials for the preliminary plan stage of review. A public hearing on the application, including any variance and special-use permit requests that meets the requirements of subsection (d) of this section shall be held prior to consideration of the preliminary plan by the relevant permitting authority. The authorized permitting authority shall conditionally approve or deny the request(s) for the variance(s) and/or special-use permit(s) before considering the preliminary plan

application. Approval of the variance(s) and/or special-use permit(s) shall be conditioned on approval of the final plan of the minor subdivision or land development project.

~~(3)~~**(4) Major subdivisions and land development projects — Master plan.** Except for dimensional relief granted by modification as set forth in § 45-23-39, requests for variances for relief from the literal requirements of the zoning ordinance and/or for the issuance of a special-use permit related to major subdivisions and land development projects shall be submitted as part of the application materials for the master plan stage of review, or if combined, the first stage of review. A public hearing on the application, including any variance and special-use permit requests, that meets the requirements of subsection (d) of this section, shall be held prior to consideration of the master plan by the planning board or commission. The planning board or commission shall conditionally approve or deny the requests for the variance(s) and/or special-use permit(s) before considering the master plan application for the major subdivision or land development project. Approval of the variance(s) and/or special-use permit(s) shall be conditioned on approval of the final plan of the major subdivision or land development project.

~~(4)~~**(5) Major subdivisions and land development projects — Preliminary plan.** During the preliminary plan stage of review, applicants shall have the ability to request alteration of any variance(s) and/or special-use permit(s) granted by the planning board or commission during the master plan stage of review, and/or to request new variance(s) and/or special-use permit(s), based on the outcomes of the more detailed planning and design necessary for the preliminary plan. If necessary, the applicant shall submit such requests and all supporting documentation along with the preliminary plan application materials. If the applicant requests new or additional zoning relief at this stage, a public hearing on the application, that meets the requirements of subsection (d) of this section, shall be held prior to consideration of the preliminary plan by the planning board or commission. The planning board or commission shall conditionally approve, amend, or deny the requests for alteration(s), new variance(s), and/or new special-use permit(s), before considering the preliminary plan application for the major subdivision or land development project. Approval of the alteration(s), new variance(s), and/or new special-use permit(s) shall be conditioned on approval of the final plan of the major subdivision or land development project. If the planning board or commission denies the request for alteration(s), new variance(s), and/or new special-use permit(s), the planning board shall have the option of remanding the application back to the master plan stage of review. Alternatively, if the planning board or commission denies the request for alteration(s), new variance(s), and/or new special-use permit(s), the applicant may consent to an extension of the decision period mandated by § 45-23-39 so that additional information can be provided and reviewed by the board or commission.

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

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

- (1)** Public hearing notice shall adhere to the requirements found in § 45-23-42(1);
- (2)** The notice area for notice of the public hearing shall be specified in the local regulations, and shall, at a minimum, include all property located in or within not less than two hundred feet (200') of the perimeter of the area included in the subdivision and/or land development project. Notice of the public hearing shall be sent by the administrative officer to the administrative officer of an adjacent municipality if: (i) The notice area extends into the adjacent municipality; or (ii) The development site extends into the adjacent municipality; or (iii) There is a potential for significant negative impact on the adjacent municipality. Additional notice within watersheds shall

also be sent as required in § 45-23-53(b) and (c);

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

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

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

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

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

45-23-60. Procedure — Required findings.

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

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

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

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

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

(5) All proposed land developments and all subdivision lots have adequate physical and permanent physical access to a public street unless there are local zoning ordinance provisions allowing exceptions to this requirement or the applicant has obtained the required relief from this provision.

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

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

(d) Administrative subdivisions shall only be subject to the following standard provisions:

(1) That the application does not create additional lots;

(2) Unless otherwise allowed by an approved modification or variance, that the moving of lot lines does not increase any pre-existing dimensional nonconformity or create a new nonconformity;

(3) That the application does not remove any pre-existing adequate physical or permanent access to a street, without sufficient replacement.

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

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

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

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

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

(1) In violation of constitutional, statutory, ordinance, or planning board regulations provisions;

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

(3) Made upon unlawful procedure;

(4) Affected by other error of law;

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

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

SECTION 4. 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 General Laws in Chapter 45-24 entitled "Zoning Ordinances" are hereby amended to read as follows:

45-24-31. Definitions. [Effective January 1, 2026.]

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

(1) **Abutter**. One whose property abuts, that is, adjoins at a border, boundary, or point with

no intervening land.

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

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

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

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

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

(ii) Anyone requiring notice pursuant to this chapter.

(6) **Agricultural land.** “Agricultural land,” as defined in § 45-22.2-4.

(7) **Airport hazard area.** “Airport hazard area,” as defined in § 1-3-2.

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

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

(10) **Buffer.** Land that is maintained in either a natural or landscaped state, and is used to screen or mitigate the impacts of development on surrounding areas, properties, or rights-of-way.

(11) **Building.** Any structure used or intended for supporting or sheltering any use or occupancy.

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

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

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

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

(14) **Cluster.** A site-planning technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space, and/or preservation

of environmentally, historically, culturally, or other sensitive features and/or structures. The techniques used to concentrate buildings shall be specified in the ordinance and may include, but are not limited to, reduction in lot areas, setback requirements, and/or bulk requirements, with the resultant open land being devoted by deed restrictions for one or more uses. Under cluster development, there is no increase in the number of lots that would be permitted under conventional development except where ordinance provisions include incentive bonuses for certain types or conditions of development.

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

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

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

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

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

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

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

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

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

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

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

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

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

(22) **Development.** The construction, reconstruction, conversion, structural alteration,

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

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

(24) **District.** See “zoning use district.”

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

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

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

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

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

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

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

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

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

(34) **Hardship.** See § 45-24-41.

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

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

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

(i) A family, which may also include servants and employees living with the family; or

(ii) A person or group of unrelated persons living together. The maximum number may be set by local ordinance, but this maximum shall not be less than one person per bedroom and shall not exceed five (5) unrelated persons per dwelling. The maximum number shall not apply to NARR-certified recovery residences.

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

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

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

(41) **Lot.** Either:

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

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

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

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

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

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

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

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

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

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

(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, depending on requirements of the local zoning ordinance.

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

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

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

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

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

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

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

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

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

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

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

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

(58) **Permitted use.** A use by right that is specifically authorized in a particular zoning district.

(59) **Planned development.** A “land development project,” as defined in subsection (39), and developed according to plan as a single entity and containing one or more structures or uses with appurtenant common areas.

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

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

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

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

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

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

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

(67) **Substandard lot of record.** Any lot lawfully existing at the time of adoption or amendment of a zoning ordinance, or at the time it was lawfully created, and not in conformance with the dimensional or area provisions of that ordinance.

(68) **Use.** The purpose or activity for which land or buildings are designed, arranged, or intended, or for which land or buildings are occupied or maintained.

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Minimum building setbacks, lot frontage, and lot width requirements for a lot that is nonconforming in area shall be reduced by the same proportion that the area of such substandard lot meets the minimum lot area of the district in which the lot is located. By way of example, if the lot area of a substandard lot only meets forty percent (40%) of the minimum lot area required in the district in which it is located, the setbacks, lot frontage, and lot width shall each be reduced to forty percent (40%) of the requirements for those dimensional standards in the same district. However, to the extent the city or town has a zoning district in which the lot would be conforming

as to size, the city or town may require compliance with the building setback, lot frontage, and lot width requirements for said zoning district if such requirement is in the local zoning ordinance.

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

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

(c) Except as set forth otherwise in this chapter and in chapter 23 of this title, provisions may be made for the merger of contiguous unimproved, or improved and unimproved, substandard lots of record in the same ownership to create dimensionally conforming lots or to reduce the extent of dimensional nonconformance. Contiguous substandard lots of record in the same ownership may be required to merge only to the extent necessary to create a lot that conforms to the dimensional requirements of the applicable zoning district. Once a conforming lot has been created through such merger, any remaining lot or lots shall not be deemed merged and shall retain their status as separate substandard lots of record, and shall be entitled to the protections set forth in subsection (b) of this section. No ordinance, regulation, or administrative practice shall require the merger of additional lots beyond that which is necessary to achieve conformity. An The ordinance shall specify the standards, on a district by district basis, which determine the mergers, consistent with this section. The standards shall include, but are not to be limited to, the availability of infrastructure, the character of the neighborhood, and the consistency with the comprehensive plan. The merger of lots shall not be required when the substandard lot of record has an area equal to or greater than the area of fifty percent (50%) of the lots of record located within two hundred feet (200') of the subject lot, unless such lots have been formally and legally merged by way of a recorded plan or plat, as confirmed by a compilation plan signed by a professional land surveyor as such term is defined by the rules and regulations for professional land surveying.

45-24-41. General provisions — Variances.

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

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

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

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

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

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

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

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

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

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

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

(2) In granting a dimensional variance, that the hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience, meaning that relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted is not grounds for relief. The zoning board of review, or, where unified development review is enabled pursuant to § 45-24-46.4, the planning board or commission has the power to grant dimensional variances where the use is permitted by special-use permit.

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

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

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

45-24-46. Special provisions — Modification.

(a) ~~A~~ As set forth in this section a zoning ordinance shall provide for the issuance of modifications from the literal dimensional requirements of the zoning ordinance in the instance of the construction, alteration, or structural modification of a structure or lot of record. The zoning enforcement officer is authorized to grant modification permits.

(1) Dimensional modifications. The zoning ordinance shall permit dimensional modifications that are fifteen percent (15%) or less of any dimensional requirements specified in the zoning ordinance but may permit ~~modification~~ dimensional modifications up to twenty-five percent (25%). Within ten (10) days of the receipt of a request for a dimensional modification, the zoning enforcement officer shall make a decision as to the suitability of the requested dimensional modification based on the following determinations:

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

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

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

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

~~(b)(2)~~ (2) Upon an affirmative determination, in the case of a dimensional modification of five percent (5%) or less, the zoning enforcement officer shall have the authority to issue a permit approving the modification, without any public notice requirements. In the case of a dimensional modification of greater than five percent (5%), the zoning enforcement officer shall notify, by first class mail, all property owners abutting the property which is the subject of the modification request, and shall indicate the street address of the subject property in the notice, and shall publish in a newspaper of local circulation within the city or town that the modification will be granted unless written objection by anyone who is entitled to notice under this section is received within fourteen (14) days of the public notice. If written objection is received within fourteen (14) days, the request for a modification shall be scheduled for the next available hearing before the ~~zoning board of review~~ authorized permitting authority on application for a dimensional variance following the standard procedures for such variances, including notice requirements provided for under ~~this chapter~~ the applicable provisions of chapter 23 or 24 of title 45. If no written objections are received within fourteen (14) days, the zoning enforcement officer shall grant the modification. The zoning enforcement officer may apply any special conditions to the permit as may, in the opinion of the officer, be required to conform to the intent and purposes of the zoning ordinance. The zoning enforcement officer shall keep public records of all requests for modifications, and of findings, determinations, special conditions, and any objections received. Costs of any notice required under this subsection shall be borne by the applicant requesting the modification.

~~(e)(3). Neighborhood character-based modifications (“NCBM”).~~ The zoning enforcement officer is authorized to grant NCBM ordinance shall permit NCBMs on any parcel with a public water and sewer connection, and for purposes of residential use, ~~from the literal dimensional requirements of the zoning ordinance in the instance of the construction, alteration, creation, or structural modification of a dwelling unit;~~ ; provided that:

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

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

~~(i)(A).~~ Comparable existing parcels shall mean all parcels that are:

~~(A)(I).~~ Within two hundred feet (200') of the subject property; and

~~(B)(II).~~ In the same base zone; and

~~(C)(III).~~ Used for residential purposes.

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

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

~~(3)(4).~~ Within ten (10) days of the receipt of a request for NCBM, the zoning enforcement officer shall make a decision as to the suitability of the requested modification based on the following determinations:

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

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

~~(iii) The NCBM does not violate any provisions regarding separation included in the state building or fire code; same determinations set forth in subsection (a)(1)(i) through (a)(1)(iv).~~

~~(4)(5).~~ Upon an affirmative determination, in the case of an NCBM modification of equal to or less than thirty percent (30%) of the requirements of the zoning district, the zoning enforcement officer shall have the authority to issue a permit approving the modification, without any public notice requirements. In the case of an NCBM modification of greater than thirty percent (30%), the zoning enforcement officer shall notify, by first class mail, all property owners abutting the property which is the subject of the NCBM modification request, and shall indicate the street address of the subject property in the notice, and shall publish in a newspaper of local circulation within the city or town that the modification will be granted unless written objection is received within fourteen (14) days of the public notice. If written objection is received from any party entitled to notice under this section within fourteen (14) days, the request for a modification shall be scheduled for the next available hearing before the ~~zoning board of review~~ authorized permitting authority on application for a dimensional variance following the standard procedures for such variances, including notice requirements provided for under ~~this chapter~~ the applicable provisions of chapter 23 or 24 of title 45. If no written objections are received within fourteen (14) days, the zoning enforcement officer shall grant the modification. The zoning enforcement officer may apply any special conditions to the permit as may, in the opinion of the officer, be required to conform to the intent and purposes of the zoning ordinance. The zoning enforcement officer shall keep public records of all requests for modifications, and of findings, determinations, special conditions, and any objections received. Costs of any notice required under this subsection shall be borne by the applicant requesting the modification.

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

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

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

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

- (1) A minimum area or site size for a land development project;
- (2) Uses to be permitted within the development;
- (3) Ratios of residential to nonresidential uses where applicable;
- (4) Unless otherwise set forth in this chapter, maximum ~~Maximum~~ density per lot and maximum density for the entire development;
- (5) Roads, driveways, utilities, parking, and other facilities; regulations may distinguish between those facilities intended to remain in private ownership or to be dedicated to the public; and
- (6) Buffer areas, landscaping, screening, and shading.

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

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

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

(i) A restriction, in perpetuity, enforceable by the city or town or by any owner of property in the cluster or other land development project in which the land is located shall be recorded providing that the land is kept in the authorized condition(s) and not built upon or developed for

accessory uses such as parking or roadway; and

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

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

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

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

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

SECTION 5. Sections 45-53-4, 45-53-5.1 and 45-53-11 of the General Laws in Chapter 45-53 entitled "Low and Moderate Income Housing" are hereby amended to read as follows:

45-53-4. Procedure for approval of construction of low- or moderate-income housing.
[Effective January 1, 2026, inclusive of existing language in § 45-53-4.]

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

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

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

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

(c) Beginning on January 1, 2027, a city or town which has issued building permits for low- and moderate- income housing units in the twelve-(12)month (12) period preceding their

application and approval for qualification under this section, which, if counted, cause the municipality to exceed the requirement that ten percent (10%) of its year round housing units are low-and moderate-income housing (“achieving communities”) may, upon approval of the executive office of housing, for one twelve-(12)month (12) period following said approval (“achieving communities term”), have the benefit of a city or town under subsection (b) of this section, the application of an additional finding as set forth in subsection (f)(3)(iii)(E)(II) of this section, and, for those achieving communities which also have an inclusionary zoning ordinance compliant with § 45-24-46.1, may refuse to accept new applications under this chapter for the achieving communities term; provided that:

(1) Building permits issued for market rate units which are part of the same development project as the low- and moderate-income housing building permits are utilized in the analysis to determine qualification for the benefits of this section; and

(2) Achieving communities are only eligible for a total of two (2) achieving communities terms, upon application and approval of each by the executive office of housing; and

(3) All projects under this chapter which have vested approvals at any stage of review as well as those applications which are substantially complete, continue to be reviewed in the normal course, without the application of subsection (b) of this section or subsection (f)(3)(iii)(E)(II) of this section; and

(4) The executive office of housing confirms that a city or town qualifies under this section based on application and documentation requirements established by the executive office of housing.

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

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

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

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

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

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

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

moderate-income housing shall be at least three (3) units per acre;

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

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

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

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

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

~~(d)~~(e) Except for approved achieving communities as set forth in subsection (b) of this section, a A municipality shall not restrict comprehensive permit applications and permits by any locally adopted ordinance or policy that places a limit or moratorium on the development of residential units.

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

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

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

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

(A) An application form and fee;

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

(C) Conceptual site plans showing infrastructure locations for roadways, preliminary

locations and design of conceptual stormwater facilities, location of sewer and water lines and/or wells and on-site wastewater treatment systems, locations of housing units, estimated locations of site constraints and wetlands;

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

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

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

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

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

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

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

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

(iv) Vesting. The approved master plan is vested for a period of two (2) years ~~with the right to extend for two (2), one-year extensions upon written request by the applicant, who must appear before the planning board for each annual review~~ from the date of recording of the decision. Thereafter, vesting may be extended for a longer period, for good cause shown, if requested, in writing by the applicant prior to the date the vested approval period ends, and approved by the local review board. Demonstrated evidence that the applicant and its design team are in the process of full engineering design and obtaining other items needed for preliminary plan submission shall meet the definition of good cause, as well as any other circumstances that the local board determines to constitutes good cause. The vesting for the master plan approval includes all ordinance provisions and regulations at the time of the approval, general and specific conditions shown on

the approved master plan drawings and supporting material. The vesting period is tolled upon the filing of an appeal and shall restart only upon the issuance of a decision affirming the approval.

(3) Preliminary plan review.

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

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

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

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

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

(E) Notwithstanding the submission requirements set forth above, the local review board may request additional, reasonable documentation throughout the public hearing, including, but not limited to, opinions of experts, credible evidence of application for necessary federal and/or state permits, statements, ~~and~~ advice from other local boards and officials, and in the case of developments proposed to be serviced by on-site wastewater treatment systems, evidence of soil suitability.

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

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

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

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

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

(D) Failure to act. Failure of the local review board to act within the prescribed period constitutes approval of the preliminary plan, and a certificate of the administrative officer as to the failure of the local review board to act within the required time and the resulting approval shall be

issued on request of the applicant. Further, if the public hearing is not convened or a decision is not rendered within the time allowed in subsections (e)(3)(iii)(A) and (e)(3)(iii)(C) of this section, the application is deemed to have been allowed and the preliminary plan approval shall be issued immediately.

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

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

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

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

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

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

(VI) Whether the proposed development will result in the creation of individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable, unless created only as permanent open

space or permanently reserved for a public purpose on the approved, recorded plans.

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

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

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

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

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

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

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

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

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

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

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

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

(iii) **Review of applications.**

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

(B) Modifications and changes to plans:

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

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

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

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

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

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

(5) Infeasibility of conditions of approval. The burden is on the applicant to show, by competent evidence before the local review board, that proposed conditions of approval are infeasible, as defined in § 45-53-3. Upon request, the applicant shall be provided a reasonable opportunity to respond to such proposed conditions prior to a final vote on the application.

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

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

administrative officer.

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

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

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

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

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

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

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

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

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

(g) Towns and cities that are not in conformity with the provisions of § 45-53-3(5)(i) shall prepare by December 31, 2004, a comprehensive plan housing element for low- and moderate-

income housing as specified by § 45-53-3(5)(ii), consistent with applicable law and regulation. That the secretary of the planning board or commission of each city or town subject to the requirements of this paragraph shall report in writing the status of the preparation of the housing element for low- and moderate-income housing on or before June 30, 2004, and on or before December 31, 2004, to the secretary of the state planning council, to the chair of the house committee on corporations and to the chair of the senate committee on commerce, housing and municipal government.

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

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

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

45-53-5.1. Appeals — Judicial review.

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

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

(c) Appeals from a decision granting approval of a final plan shall be limited to elements of the approval not contained in the decision reached by the local review board at the preliminary plan stage.

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

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

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

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

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

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

- ~~(i)~~(1) The consistency of the decision to deny or condition the permit with the approved affordable housing plan;
- ~~(ii)~~(2) The extent to which the community meets or plans to meet housing needs, as defined in an affordable housing plan, including, but not limited to, the ten percent (10%) goal for existing low- and moderate-income housing units as a proportion of year-round housing;
- ~~(iii)~~(3) The consideration of environmental protection;
- ~~(iv)~~(4) The state's need for low- and moderate-income housing;
- ~~(v)~~(5) The need to protect the health and safety of the occupants of the proposed housing or the residents of the city or town; and
- ~~(vi) The need to promote better site and building design in relation to the surroundings or to preserve open space; and~~
- ~~(vii)~~(6) Whether the reasons for denial, local zoning or land use ordinances, requirements and regulations are applied as equally as possible to both subsidized and unsubsidized housing.

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

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

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

~~(i)~~(j) Effective January 1, 2024, all matters pending before the state housing appeals board shall be transferred to superior court for the county in which the property is situated by the applicant

filing a complaint in superior court and providing a copy of the complaint to the attorney representing the local review board within ten (10) days of filing. An applicant with an appeal pending before the state housing appeals board shall have until March 1, 2024, to file the complaint transferring the matter to superior court for the county in which the property is situated. The parties shall be required to file the entire record before the state housing appeals board with superior court within forty-five (45) days of the filing of the complaint.

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

45-53-11. Annual comprehensive permit report.

(a) The executive office of housing (“executive office”) shall maintain records and shall prepare a report (“report”) on an annual basis to be submitted to the speaker of the house and the president of the senate. The report shall also be made available on the executive office’s website for a period of at least three (3) years, and shall also be deemed to be a public record. The report shall be due on or before March 15, of each year.

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

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

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

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

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

(c) Each municipality shall annually provide to the executive office the information on comprehensive permit activity described in subsection (b) of this section by February 1.

SECTION 6. This act shall take effect upon passage.

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