A N A C T

RELATING TO TOWNS AND CITIES -- THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT--JURISDICTION

Introduced By: Representatives Serpa, Fellela, Nunes, Shekarchi, and Chippendale

Date Introduced: February 13, 2013

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

SECTION 1. Section 45-6-1 of the General Laws in Chapter 45-6 entitled "Ordinances" is hereby amended to read as follows:

45-6-1. Scope of ordinances permissible. -- (a) Town and city councils may, from time to time, make and ordain all ordinances and regulations for their respective towns and cities, not repugnant to law, which they deem necessary for the safety of their inhabitants from fire, firearms, and fireworks; to prevent persons standing on any footwalk, sidewalk, doorstep, or in any doorway, or riding, driving, fastening, or leaving any horse or other animal or any carriage, team, or other vehicle on any footwalk, sidewalk, doorstep, or doorway within the town or city, to the obstruction, hindrance, delay, disturbance, or annoyance of passersby or of persons residing or doing business in this vicinity; to regulate the putting up and maintenance of telegraph and other wires and their appurtenances; to prevent the indecent exposure of any one bathing in any of the waters within their respective towns and cities; against breakers of the Sabbath; against habitual drunkenness; respecting the purchase and sale of merchandise or commodities within their respective towns and cities; to protect burial grounds and the graves in these burial grounds from trespassers; and, generally, all other ordinances, regulations and bylaws for the well ordering, managing, and directing of the prudential affairs and police of their respective towns and cities, not repugnant to the constitution and laws of this state, or of the United States; provided, however, that local ordinances, regulations and bylaws shall not set forth any standards.
and/or requirements for the location, design, construction, or maintenance of on-site sewage
disposal systems and/or wetland setbacks or requirements which are inconsistent with or in
excess of the standards imposed: (1) By the director of the department of environmental
management ("director") under authority given to the director as set forth in section 42-17.1-2; or
(2) By the costal resources management council pursuant to its authority to regulate coastal
wetlands and freshwater wetlands in the vicinity of the coast pursuant to and in accordance with
paragraph 46-23-6(2)(iii)(E). Current state regulations governing septic systems and wetlands
shall be deemed exclusive and adequate for the protection of the state's water resources,
notwithstanding any local regulations to the contrary.

(b) Town and city councils shall furnish to their senators and representatives, upon
request and at no charge, copies and updates of all ordinances and regulations.

(c) In lieu of newspaper publication, advance notice of proposed adoption, amendment,
or repeal of any ordinance or regulation by a municipality may be provided via electronic media
on a website maintained by the office of the secretary of state.

SECTION 2. Section 45-23-30 of the General Laws in Chapter 45-23 entitled
"Subdivision of Land" is hereby amended to read as follows:

45-23-30. General purposes of land development and subdivision review ordinances,
regulations and rules. -- Land development and subdivision review ordinances, regulations and
rules shall be developed and maintained in accordance with this chapter and with a
comprehensive plan which complies with chapter 22.2 of this title and a zoning ordinance which
complies with section 45-24-27 et seq. Local regulations shall address the following purposes:

(1) Providing for the orderly, thorough and expeditious review and approval of land
developments and subdivisions;

(2) Promoting high quality and appropriate design and construction of land
developments and subdivisions;

(3) Promoting the protection of the existing natural and built environment and the
mitigation of all significant negative impacts of any proposed development on the existing
environment;

(4) Promoting design of land developments and subdivisions which are well-integrated
with the surrounding neighborhoods with regard to natural and built features, and which
concentrate development in areas which can best support intensive use by reason of natural
characteristics and existing infrastructure;

(5) Encouraging local design and improvement standards to reflect the intent of the
community comprehensive plans with regard to the physical character of the various
neighborhoods and districts of the municipality;

(6) Promoting thorough technical review of all proposed land developments and subdivisions by appropriate local officials;

(7) Encouraging local requirements for dedications of public land, impact mitigation, and payment-in-lieu thereof, to be based on clear documentation of needs and to be fairly applied and administered; and

(8) Encouraging the establishment and consistent application of procedures for local record-keeping on all matters of land development and subdivision review, approval and construction.

(9) Local regulations shall not set forth any standards and/or requirements for the location, design, construction, or maintenance of on-site sewage disposal systems and/or wetland setbacks or requirements, which are inconsistent with or in excess of the standards imposed: (i) By the director of the department of environmental management ("director"), under the authority given to the director as set forth in section 42-17.1-2; or (ii) By the costal resources management council pursuant to its authority to regulate coastal wetlands and freshwater wetlands in the vicinity of the coast pursuant to and in accordance with subparagraph 46-23-6(2)(iii)(E). Current state regulations governing septic systems and wetlands shall be deemed exclusive and adequate for the protection of the state's water resources, notwithstanding any local regulations to the contrary.

SECTION 3. Section 45-24-30 of the General Laws in Chapter 45-24 entitled "Zoning Ordinances" is hereby amended to read as follows:

45-24-30. General purposes of zoning ordinances. -- Zoning regulations shall be developed and maintained in accordance with a comprehensive plan prepared, adopted, and as may be amended, in accordance with chapter 22.2 of this title and shall be designed to address the following purposes. The general assembly recognizes these purposes, each with equal priority and numbered for reference purposes only.

(1) Promoting the public health, safety, and general welfare.

(2) Providing for a range of uses and intensities of use appropriate to the character of the city or town and reflecting current and expected future needs.

(3) Providing for orderly growth and development which recognizes:

(i) The goals and patterns of land use contained in the comprehensive plan of the city or town adopted pursuant to chapter 22.2 of this title;

(ii) The natural characteristics of the land, including its suitability for use based on soil characteristics, topography, and susceptibility to surface or groundwater pollution;
(iii) The values and dynamic nature of coastal and freshwater ponds, the shoreline, and freshwater and coastal wetlands;

(iv) The values of unique or valuable natural resources and features;

(v) The availability and capacity of existing and planned public and/or private services and facilities;

(vi) The need to shape and balance urban and rural development; and

(vii) The use of innovative development regulations and techniques.

(4) Providing for the control, protection, and/or abatement of air, water, groundwater, and noise pollution, and soil erosion and sedimentation.

(5) Providing for the protection of the natural, historic, cultural, and scenic character of the city or town or areas in the municipality.

(6) Providing for the preservation and promotion of agricultural production, forest, silviculture, aquaculture, timber resources, and open space.

(7) Providing for the protection of public investment in transportation, water, stormwater management systems, sewage treatment and disposal, solid waste treatment and disposal, schools, recreation, public facilities, open space, and other public requirements.

(8) Promoting a balance of housing choices, for all income levels and groups, to assure the health, safety and welfare of all citizens and their rights to affordable, accessible, safe, and sanitary housing.

(9) Providing opportunities for the establishment of low and moderate income housing.

(10) Promoting safety from fire, flood, and other natural or unnatural disasters.

(11) Promoting a high level of quality in design in the development of private and public facilities.

(12) Promoting implementation of the comprehensive plan of the city or town adopted pursuant to chapter 22.2 of this title.

(13) Providing for coordination of land uses with contiguous municipalities, other municipalities, the state, and other agencies, as appropriate, especially with regard to resources and facilities that extend beyond municipal boundaries or have a direct impact on that municipality.

(14) Providing for efficient review of development proposals, to clarify and expedite the zoning approval process.

(15) Providing for procedures for the administration of the zoning ordinance, including, but not limited to, variances, special-use permits, and, where adopted, procedures for modifications.
Providing opportunities for reasonable accommodations in order to comply with the Rhode Island Fair Housing Practices Act, chapter 37 of title 34, the United States Fair Housing Amendments Act of 1988 (FHAA), the Rhode Island Civil Rights of Persons with Disabilities Act, chapter 87 of title 42, and the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. section 12101 et seq.

Provided, however, that any zoning ordinance in which a community shall not set forth any standards and/or requirements for the location, design, construction, or maintenance of on-site sewage disposal systems and/or wetland setbacks or requirements, which are inconsistent with or in excess of the standards imposed: (i) By the director of the department of environmental management (“director”), under the authority given to the director as set forth in section 42-17.1-2; or (ii) By the costal resources management council pursuant to its authority to regulate coastal wetlands and freshwater wetlands in the vicinity of the coast pursuant to and in accordance with subparagraph 46-23-6(2)(ii)(E), shall first be submitted to the director of the department of environmental management and the department of health for approval as to the technical merits of the ordinance. In addition, any zoning ordinance in which a municipality sets forth standards regarding wetland setbacks or requirements, shall first be submitted to the director of the department of environmental management for approval as to the technical merits of the ordinance. Current state regulations governing septic systems and wetlands shall be deemed exclusive and adequate for the protection of the state's water resources, notwithstanding any local regulations to the contrary.

SECTION 4. This act shall take effect two (2) years following the date of its passage to allow the department of environmental management time to determine whether any of the standards set forth in its regulations pertaining to wetlands or on-site sewage disposal systems require modification and to allow the coastal resources management council time to determine whether any of the standards set forth in its regulations pertaining to wetlands require modification.

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This act would empower the department of environmental management as the central review agency for review of land development and subdivision proposals. This act would take effect two (2) years following the date of its passage to allow the department of environmental management time to determine whether any of the standards set forth in its regulations pertaining to wetlands or on-site sewage disposal systems require modification and to allow the coastal resources management council time to determine whether any of the standards set forth in its regulations pertaining to wetlands require modification. This act would take effect upon passage.