AN ACT
RELATING TO AGRICULTURE AND FORESTRY - WOODLAND PRESERVATION AND STEWARDSHIP ACT

Introduced By: Representatives Handy, Barros, Alzate, and Bennett

Date Introduced: March 07, 2019

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

SECTION 1. Declaration of findings and intent.

(a) The general assembly finds and declares that:

(1) Woodland currently covers more than half of the land area of the state;

(2) Woodland is a major and vital component of the ecosystem that supports life as we know it in Rhode Island;

(3) Woodland is ecologically diverse and dynamic, it changes over time as species of trees and woody vegetation mature and undergo succession;

(4) Woodland is a natural resource component of green infrastructure and supplies important ecosystem services including, but not limited to, air quality improvement, shading and cooling, storm water retention and filtration, and soil erosion mitigation;

(5) Woodland contributes substantially to scenic, property, recreational and economic values in the state;

(6) Woodland will be affected by global warming and climate change and is an important means of mitigating global warming including, but not limited to, the provision of habitat diversity and cooling effects of tree cover; and

(7) Woodland requires:

(i) Stewardship as a dynamic system, needing management, which adapts to changing conditions, to maintain its health and diversity; and
(ii) Preservation in areas where it has exceptional natural resource value.

(b) It is the intent of the general assembly to establish a comprehensive program:

(1) Of guidance that is based on collective understanding of issues pertaining to woodland stewardship and woodland preservation as significant natural resource areas and is adopted by rules and regulations by the director of the department of environmental management;

and

(2) Of implementation, of woodland stewardship and preservation as significant natural areas, that is responsive to local conditions and is administered by towns and cities through local comprehensive planning and zoning.

SECTION 2. Title 2 of the General Laws entitled "AGRICULTURE AND FORESTRY" is hereby amended by adding thereto the following chapter:

CHAPTER 10.1

WOODLAND PRESERVATION STEWARDSHIP ACT

2-10.1-1. Short title.

This chapter shall be known and may be cited as the "Woodland Preservation and Stewardship Act".


(a) Purposes. This chapter shall have the following purposes:

(1) To secure, through broad-based stewardship, the benefits of woodland, urban forestry, and tree cover comprehensively within the state for the benefit of people, with a goal that the majority of the land area of the state shall continue to have tree cover through woodland and urban forestry;

(2) To provide for resource planning for the control and regulation and preservation of woodlands as significant natural areas in the state necessary to the preservation, regeneration and restoration of the natural environment of the state and to the protection from impairment of the natural resource functions of woodland as significant natural areas;

(3) To build public understanding of the ecological importance of woodland, urban forestry, and tree cover and of the ecosystem services supplied by woodland, urban forestry and tree cover, and to maintain and improve public access to woodland areas in the state, including as appropriate for purposes of passive recreation, wildlife watching, hunting and fishing; and

(4) To use, enhance, complement, and integrate existing programs, efforts, and commitments for woodland stewardship and preservation of state and local government and quasi-public corporations.

(b) Public policy on woodlands. It is the public policy of the state to preserve the integrity
and viability of the woodlands of this state. The health, welfare, and general well-being of the populace and the protection of life and property require that the state provide for:

(1) The stewardship of woodland throughout the state; and

(2) The exercise of the police power through local comprehensive planning and zoning to regulate activities in woodland significant natural areas, consistent with this chapter and its purposes.


(a) As used in this chapter these terms shall have the following meanings:

(1) "Council" means the community advisory council;

(2) "Department" means the department of environmental management;

(3) "Director" means the director of the department of environmental management;

(4) "Division" means the division of forest environment;

(5) "Forest or forest land" means forest land as defined in § 44-27-2.

(6) "Tree" means a woody perennial plant with:

(i) Erect stem or trunk, which at maturity, is at least three (3") inches in diameter at a height of four and one-half feet (4.5') and is at least thirteen (13') feet in height;

(ii) With branches; and

(iii) With a definitely formed crown of foliage;

(7) "Woodland" means a parcel of land of forty thousand (40,000) square feet or greater that is substantially covered by trees naturally occurring in Rhode Island and is characterized by its tree stock; and

(8) "Woodland significant natural area" means woodland identified, for its outstanding ecosystem values that contribute substantially to ecosystem diversity or to the provision of ecosystem services, which contributions could be impaired by development.

2-10.1-4. Resource planning, community advisory council, ecosystem-based stewardship, and woodland significant natural area preservation.

(a) It shall be a function of the department to provide for woodland resource planning, ecosystem-based stewardship and woodland significant natural area preservation as necessary to accomplish the purposes of this chapter and to control and regulate woodland as a natural resource of the state.

(b) Not later than September 1, 2019, the director shall appoint a community advisory council of not less than fifteen (15) nor more than twenty-three (23) members, not less than twenty-five percent (25%) of whom shall be representatives of towns and cities. A representative of the division shall be executive director of the council, and a representative of the division of
statewide planning shall be its secretary. The office of energy resources and the coastal resources
management council shall be ex officio members of the community advisory group. The membership of the community advisory council shall be drawn from conservation districts, nonprofit organizations, land trusts, business entities (including developers and builders), clubs and associations, and persons with scientific, professional, and personal knowledge of woodland science and issues. The director shall appoint a person who is a public member of the council to be its chairperson. The council may elect its vice chairperson. The council shall sunset December 31, 2020, unless upon its recommendation, its life is extended for a definite period of time by the director.

(c) The director shall:

(1) Recommend to the governor, the executive climate change coordinating council, and the state planning council, not later than April 24, 2020, a program of actions including, but not limited to, guidance for property-owners of woodlands for maintaining woodland ecosystem health and diversity, to provide for woodland stewardship and urban forestry comprehensively in Rhode Island; and

(2) Promulgate by rules and regulations not later than July 1, 2020, guidance, which shall be used by towns and cities, to designate specific areas in the community as woodland significant natural areas.

(d) Woodland stewardship guidance. The council shall recommend to the director by March 15, 2020, a program to provide for woodland stewardship and urban forestry throughout the state so that all people of the state can benefit from the ecosystem services of woodland and trees. The program shall specifically propose, but not be limited to, guidance for:

(1) Woodland stewardship for parcels of woodland that do not have a forestry management plan as required by chapter 27 of title 44 and for adjoining parcels of woodland that collectively provide significant ecosystem services or ecosystem diversity or constitute collectively an unfragmented area of woodlands that is two hundred fifty (250) acres or greater; and

(2) Urban forestry initiatives.

(e) Allowable development limitation. Within the woodland stewardship program, and consistent with local comprehensive plans, as defined in chapter 22.2 of title 45, and zoning, as defined in chapter 24 of title 44, woodland areas may include residential development provided that the area cleared is not more than twenty-five percent (25%) of the parcel or one acre, which ever amount is the lesser, and may include commercial uses provided that the area cleared is not more than twenty percent (20%) of the parcel or three-quarters (3/4) of an acre, which ever
amount is the lesser. These limitations shall not apply:

(1) To parcels subject to the provisions of chapter 27 of title 44; or

(2) Parcels being used for commercial forestry purposes or tree farming. The provisions of this subsection shall not supersede restrictions, limitations, or rights established by:

(i) The designation of a woodland significant natural area;

(ii) The fresh water wetlands act, §§ 2-1-18 through 2-1-24;

(iii) The right to farm act, chapter 23 of title 2;

(iv) The coastal resources management council; or

(v) Any land preservation agreement.

(f)(1) Preservation of woodland significant natural areas, restricted use and non-impairment of woodland viability and functionality. Guidance shall be developed in the manner set forth in this subsection for use by cities and towns in designating woodlands that meet the criteria set forth in the guidance as woodland significant natural areas and permitting, prohibiting, limiting, and restricting development in such designated woodlands. By February 1, 2020, the council shall recommend guidance which shall take into consideration, but not be limited to, the following factors:

(i) The contribution of the woodland to ecosystem diversity;

(ii) The level and necessity of ecosystem services provided by the woodland;

(iii) The level of contribution of the woodland to scenic, cultural, and natural resource values; and

(iv) The contribution of the woodland to maintaining unfragmented forest in Rhode Island.

The guidance shall include both criteria for designation of woodland significant natural areas and recommendations for stewardship measures appropriate to the maintenance of the character, quality, and viability of the woodland so designated.

(2) The director, in consultation with the community advisory council, the coastal resources management council, the division of state planning, and the state conservation committee, established pursuant to § 2-4-3, shall, by July 1, 2020, promulgate by rules and regulations guidance for the designation of woodland significant natural areas by cities and towns that addresses the factors set forth in this subsection and achieves the purposes of this chapter.

(g) Designations of woodland significant natural areas by towns and cities. For the purposes of controlling and regulating the use of natural resources in the community, consistent with the purposes of this chapter, and securing the preservation, regeneration and restoration of woodland natural resources in the community, towns and cities shall through their local
comprehensive plans and zoning ordinances implement the guidance promulgated pursuant to subsection (f) of this section in a manner that promotes and sustains the health and welfare of the community, conserves its character and economy.

2-10.1-5. Woodland and agriculture.
(a) The provisions of this chapter shall be effectuated in a manner that:
(1) Recognizes and conserves the integral relationship of woodland and agriculture in the state; and
(2) Except as necessary under §§ 2-1-18 through 2-1-28 inclusive and § 46-23-6 (2)(E), does not impair the ability of farmers to engage in agricultural operations, as defined in § 2-23-4(a). Silvopasture shall be recognized as an agricultural method that can maintain woodland ecosystem services and support agricultural production.

2-10.1-6. Woodland in the coastal zone.
The coastal resources management council shall adopt requirements, which are consistent, so far as feasible, with the guidance promulgated by the director pursuant to § 2-10.1-5(f)(2) and are appropriate for woodland in its area of jurisdiction, for the preservation, restoration, and regeneration of such woodlands as woodland significant natural areas.

2-10.1-7. Woodland stewardship and preservation in state plans.
The state planning council shall adopt by July 1, 2021, such amendments to elements of the state guide plan as are necessary to accomplish the purposes of this chapter. The executive climate change coordinating council shall incorporate the achievement of the purposes of this chapter in its updated plans for the reduction of greenhouse gas emissions necessary to achieving the targets set forth in § 42-6.2-2(a)(2)(i). The Rhode Island infrastructure bank and Rhode Island emergency management agency shall include measures to achieve the purposes of this chapter in their plans to build and maintain resilience, adapt to climate change, and mitigate hazards.

Nothing in this chapter shall be deemed to abrogate or impair the powers of the department to administer the freshwater wetlands act, §§ 2-1-18 through 2-1-28 inclusive or the powers of the coastal resources management council pursuant to chapter 23 of title 46.

The provisions of this act may be enforced by means of an action in the superior court seeking either injunctive relief or a writ of mandamus or both. Venue for such actions shall be proper in the superior court of Providence county. All persons shall have standing to commence any enforcement actions. Reasonable attorneys' fees shall be recoverable by all substantially prevailing plaintiffs who seek relief under this section.
2-10.1-10. **Liberal construction.**

This chapter, being necessary for the welfare of the state and its inhabitants, shall be
liberally construed in order to effectuate its purposes.

2-10.1-11. **Severability.**

If any clause, sentence, paragraph, section, or part of this chapter shall be adjudged by
any court of competent jurisdiction to be invalid, that judgment shall not affect, impair, or
invalidate the remainder of the chapter but shall be confined in its operation to the clause,
sentence, paragraph, or part directly involved in the controversy in which that judgment shall
have been rendered.

entitled "Department of Environmental Management" are hereby amended to read as follows:

42-17.1-2. **Powers and duties.**

The director of environmental management shall have the following powers and duties:

(1) To supervise and control the protection, development, planning, and utilization of the
natural resources of the state, such resources, including, but not limited to: water, plants, trees,
soil, clay, sand, gravel, rocks and other minerals, air, mammals, birds, reptiles, amphibians, fish,
shellfish, and other forms of aquatic, insect, and animal life;

(2) To exercise all functions, powers, and duties heretofore vested in the department of
agriculture and conservation, and in each of the divisions of the department, such as the
promotion of agriculture and animal husbandry in their several branches, including the inspection
and suppression of contagious diseases among animals; the regulation of the marketing of farm
products; the inspection of orchards and nurseries; the protection of trees and shrubs from
injurious insects and diseases; protection from forest fires; the inspection of apiaries and the
suppression of contagious diseases among bees; the prevention of the sale of adulterated or
misbranded agricultural seeds; promotion and encouragement of the work of farm bureaus, in
cooperation with the University of Rhode Island, farmers' institutes, and the various organizations
established for the purpose of developing an interest in agriculture; together with such other
agencies and activities as the governor and the general assembly may, from time to time, place
under the control of the department; and as heretofore vested by such of the following chapters
and sections of the general laws as are presently applicable to the department of environmental
management and that were previously applicable to the department of natural resources and the
department of agriculture and conservation or to any of its divisions: chapters 1 through 22,
inclusive, as amended, in title 2 entitled "Agriculture and Forestry"; chapters 1 through 17,
inclusive, as amended, in title 4 entitled "Animals and Animal Husbandry"; chapters 1 through
19, inclusive, as amended, in title 20 entitled “Fish and Wildlife”; chapters 1 through 32,
inclusive, as amended, in title 21 entitled "Food and Drugs”; chapter 7 of title 23, as amended,
titled "Mosquito Abatement”; and by any other general or public law relating to the department
of agriculture and conservation or to any of its divisions or bureaus;

(3) To exercise all the functions, powers, and duties heretofore vested in the division of
parks and recreation of the department of public works by chapters 1, 2, and 5 in title 32 entitled
"Parks and Recreational Areas”; by chapter 22.5 of title 23, as amended, entitled “Drowning
Prevention and Lifesaving”; and by any other general or public law relating to the division of
parks and recreation;

(4) To exercise all the functions, powers, and duties heretofore vested in the division of
harbors and rivers of the department of public works, or in the department itself by such as were
previously applicable to the division or the department, of chapters 1 through 22 and sections
thereof, as amended, in title 46 entitled “Waters and Navigation”; and by any other general or
public law relating to the division of harbors and rivers;

(5) To exercise all the functions, powers, and duties heretofore vested in the department
of health by chapters 25, 18.9, and 19.5 of title 23, as amended, entitled "Health and Safety”; and
by chapters 12 and 16 of title 46, as amended, entitled “Waters and Navigation”; by chapters 3, 4,
5, 6, 7, 9, 11, 13, 18, and 19 of title 4, as amended, entitled "Animals and Animal Husbandry”;
and those functions, powers, and duties specifically vested in the director of environmental
management by the provisions of § 21-2-22, as amended, entitled "Inspection of Animals and
Milk”; together with other powers and duties of the director of the department of health as are
incidental to, or necessary for, the performance of the functions transferred by this section;

(6) To cooperate with the Rhode Island commerce corporation in its planning and
promotional functions, particularly in regard to those resources relating to agriculture, fisheries,
and recreation;

(7) To cooperate with, advise, and guide conservation commissions of cities and towns
created under chapter 35 of title 45 entitled “Conservation Commissions”, as enacted by chapter
203 of the Public Laws, 1960;

(8) To assign or reassign, with the approval of the governor, any functions, duties, or
powers established by this chapter to any agency within the department, except as hereinafter
limited;

(9) To cooperate with the water resources board and to provide to the board facilities,
administrative support, staff services, and other services as the board shall reasonably require for
its operation and, in cooperation with the board and the statewide planning program, to formulate
and maintain a long-range guide plan and implementing program for development of major
water-sources transmission systems needed to furnish water to regional- and local-distribution
systems;

(10) To cooperate with the solid waste management corporation and to provide to the
corporation such facilities, administrative support, staff services, and other services within the
department as the corporation shall reasonably require for its operation;

(11) To provide for the maintenance of waterways and boating facilities, consistent with
chapter 6.1 of title 46, by: (i) Establishing minimum standards for upland beneficial use and
disposal of dredged material; (ii) Promulgating and enforcing rules for water quality, ground
water protection, and fish and wildlife protection pursuant to § 42-17.1-24; (iii) Planning for the
upland beneficial use and/or disposal of dredged material in areas not under the jurisdiction of the
council pursuant to § 46-23-6(2); and (iv) Cooperating with the coastal resources management
council in the development and implementation of comprehensive programs for dredging as
provided for in §§ 46-23-6(1)(ii)(H) and 46-23-18.3; and (v) Monitoring dredge material
management and disposal sites in accordance with the protocols established pursuant to § 46-6.1-
5(a)(3) and the comprehensive program provided for in § 46-23-6(1)(ii)(H); no powers or duties
granted herein shall be construed to abrogate the powers or duties granted to the coastal resources
management council under chapter 23 of title 46, as amended;

(12) To establish minimum standards, subject to the approval of the environmental
standards board, relating to the location, design, construction, and maintenance of all sewage-
disposal systems;

(13) To enforce, by such means as provided by law, the standards for the quality of air,
and water, and the design, construction, and operation of all sewage-disposal systems; any order
or notice issued by the director relating to the location, design, construction, or maintenance of a
sewage-disposal system shall be eligible for recordation under chapter 13 of title 34. The director
shall forward the order or notice to the city or town wherein the subject property is located and
the order or notice shall be recorded in the general index by the appropriate municipal official in
the land evidence records in the city or town wherein the subject property is located. Any
subsequent transferee of that property shall be responsible for complying with the requirements of
the order or notice. Upon satisfactory completion of the requirements of the order or notice, the
director shall provide written notice of the same, which notice shall be similarly eligible for
recordation. The original written notice shall be forwarded to the city or town wherein the subject
property is located and the notice of satisfactory completion shall be recorded in the general index
by the appropriate municipal official in the land evidence records in the city or town wherein the
subject property is located. A copy of the written notice shall be forwarded to the owner of the subject property within five (5) days of a request for it, and, in any event, shall be forwarded to the owner of the subject property within thirty (30) days after correction;

(14) To establish minimum standards for the establishment and maintenance of salutary environmental conditions, including standards and methods for the assessment and the consideration of the cumulative effects on the environment of regulatory actions and decisions, which standards for consideration of cumulative effects shall provide for: (i) Evaluation of potential cumulative effects that could adversely affect public health and/or impair ecological functioning; (ii) Analysis of other matters relative to cumulative effects as the department may deem appropriate in fulfilling its duties, functions, and powers; which standards and methods shall only be applicable to ISDS systems in the town of Jamestown in areas that are dependent for water supply on private and public wells, unless broader use is approved by the general assembly.

The department shall report to the general assembly not later than March 15, 2008, with regard to the development and application of the standards and methods in Jamestown;

(15) To establish and enforce minimum standards for permissible types of septage, industrial-waste disposal sites, and waste-oil disposal sites;

(16) To establish minimum standards, subject to the approval of the environmental standards board, for permissible types of refuse disposal facilities; the design, construction, operation, and maintenance of disposal facilities; and the location of various types of facilities;

(17) To exercise all functions, powers, and duties necessary for the administration of chapter 19.1 of title 23 entitled "Rhode Island Hazardous Waste Management Act";

(18) To designate, in writing, any person in any department of the state government or any official of a district, county, city, town, or other governmental unit, with that official's consent, to enforce any rule, regulation, or order promulgated and adopted by the director under any provision of law; provided, however, that enforcement of powers of the coastal resources management council shall be assigned only to employees of the department of environmental management, except by mutual agreement or as otherwise provided in chapter 23 of title 46;

(19) To issue and enforce the rules, regulations, and orders as may be necessary to carry out the duties assigned to the director and the department by any provision of law; and to conduct investigations and hearings and to issue, suspend, and revoke licenses as may be necessary to enforce those rules, regulations, and orders. Any license suspended under the rules, regulations, and/or orders shall be terminated and revoked if the conditions that led to the suspension are not corrected to the satisfaction of the director within two (2) years; provided that written notice is given by certified mail, return receipt requested, no less than sixty (60) days prior to the date of
Notwithstanding the provisions of § 42-35-9 to the contrary, no informal disposition of a contested licensing matter shall occur where resolution substantially deviates from the original application unless all interested parties shall be notified of the proposed resolution and provided with opportunity to comment upon the resolution pursuant to applicable law and any rules and regulations established by the director;

(20) To enter, examine, or survey, at any reasonable time, places as the director deems necessary to carry out his or her responsibilities under any provision of law subject to the following provisions:

(i) For criminal investigations, the director shall, pursuant to chapter 5 of title 12, seek a search warrant from an official of a court authorized to issue warrants, unless a search without a warrant is otherwise allowed or provided by law;

(ii)(A) All administrative inspections shall be conducted pursuant to administrative guidelines promulgated by the department in accordance with chapter 35 of title 42;

(B) A warrant shall not be required for administrative inspections if conducted under the following circumstances, in accordance with the applicable constitutional standards:

(I) For closely regulated industries;

(II) In situations involving open fields or conditions that are in plain view;

(III) In emergency situations;

(IV) In situations presenting an imminent threat to the environment or public health, safety, or welfare;

(V) If the owner, operator, or agent in charge of the facility, property, site, or location consents; or

(VI) In other situations in which a warrant is not constitutionally required.

(C) Whenever it shall be constitutionally or otherwise required by law, or whenever the director in his or her discretion deems it advisable, an administrative search warrant, or its functional equivalent, may be obtained by the director from a neutral magistrate for the purpose of conducting an administrative inspection. The warrant shall be issued in accordance with the applicable constitutional standards for the issuance of administrative search warrants. The administrative standard of probable cause, not the criminal standard of probable cause, shall apply to applications for administrative search warrants;

(I) The need for, or reliance upon, an administrative warrant shall not be construed as requiring the department to forfeit the element of surprise in its inspection efforts;

(II) An administrative warrant issued pursuant to this subsection must be executed and
returned within ten (10) days of its issuance date unless, upon a showing of need for additional
time, the court orders otherwise;

(III) An administrative warrant may authorize the review and copying of documents that
are relevant to the purpose of the inspection. If documents must be seized for the purpose of
copying, and the warrant authorizes the seizure, the person executing the warrant shall prepare an
inventory of the documents taken. The time, place, and manner regarding the making of the
inventory shall be set forth in the terms of the warrant itself, as dictated by the court. A copy of
the inventory shall be delivered to the person from whose possession or facility the documents
were taken. The seized documents shall be copied as soon as feasible under circumstances
preserving their authenticity, then returned to the person from whose possession or facility the
documents were taken;

(IV) An administrative warrant may authorize the taking of samples of air, water, or soil
or of materials generated, stored, or treated at the facility, property, site, or location. Upon
request, the department shall make split samples available to the person whose facility, property,
site, or location is being inspected;

(V) Service of an administrative warrant may be required only to the extent provided for
in the terms of the warrant itself, by the issuing court.

(D) Penalties. Any willful and unjustified refusal of right of entry and inspection to
department personnel pursuant to an administrative warrant shall constitute a contempt of court
and shall subject the refusing party to sanctions, which in the court's discretion may result in up to
six (6) months imprisonment and/or a monetary fine of up to ten thousand dollars ($10,000) per
refusal.

(21) To give notice of an alleged violation of law to the person responsible therefor
whenever the director determines that there are reasonable grounds to believe that there is a
violation of any provision of law within his or her jurisdiction or of any rule or regulation adopted
pursuant to authority granted to him or her, unless other notice and hearing procedure is
specifically provided by that law. Nothing in this chapter shall limit the authority of the attorney
general to prosecute offenders as required by law;

(i) The notice shall provide for a time within which the alleged violation shall be
remedied, and shall inform the person to whom it is directed that a written request for a hearing
on the alleged violation may be filed with the director within ten (10) days after service of the
notice. The notice will be deemed properly served upon a person if a copy thereof is served him
or her personally; or sent by registered or certified mail to his or her last known address; or if he
or she is served with notice by any other method of service now or hereafter authorized in a civil
action under the laws of this state. If no written request for a hearing is made to the director within ten (10) days of the service of notice, the notice shall automatically become a compliance order;

(ii)(A) Whenever the director determines that there exists a violation of any law, rule, or regulation within his or her jurisdiction that requires immediate action to protect the environment, he or she may, without prior notice of violation or hearing, issue an immediate-compliance order stating the existence of the violation and the action he or she deems necessary. The compliance order shall become effective immediately upon service or within such time as is specified by the director in such order. No request for a hearing on an immediate-compliance order may be made;

(B) Any immediate-compliance order issued under this section without notice and prior hearing shall be effective for no longer than forty-five (45) days; provided, however, that for good cause shown, the order may be extended one additional period not exceeding forty-five (45) days.

(iii) The director may, at his or her discretion and for the purposes of timely and effective resolution and return to compliance, cite a person for alleged noncompliance through the issuance of an expedited citation in accordance with § 42-17.6-3(c);

(iv) If a person upon whom a notice of violation has been served under the provisions of this section or if a person aggrieved by any such notice of violation requests a hearing before the director within ten (10) days of the service of notice of violation, the director shall set a time and place for the hearing, and shall give the person requesting that hearing at least five (5) days written notice thereof. After the hearing, the director may make findings of fact and shall sustain, modify, or withdraw the notice of violation. If the director sustains or modifies the notice, that decision shall be deemed a compliance order and shall be served upon the person responsible in any manner provided for the service of the notice in this section;

(v) The compliance order shall state a time within which the violation shall be remedied, and the original time specified in the notice of violation shall be extended to the time set in the order;

(vi) Whenever a compliance order has become effective, whether automatically where no hearing has been requested, where an immediate compliance order has been issued, or upon decision following a hearing, the director may institute injunction proceedings in the superior court of the state for enforcement of the compliance order and for appropriate temporary relief, and in that proceeding, the correctness of a compliance order shall be presumed and the person attacking the order shall bear the burden of proving error in the compliance order, except that the director shall bear the burden of proving in the proceeding the correctness of an immediate
compliance order. The remedy provided for in this section shall be cumulative and not exclusive
and shall be in addition to remedies relating to the removal or abatement of nuisances or any
other remedies provided by law;

(vii) Any party aggrieved by a final judgment of the superior court may, within thirty (30)
days from the date of entry of such judgment, petition the supreme court for a writ of certiorari to
review any questions of law. The petition shall set forth the errors claimed. Upon the filing of the
petition with the clerk of the supreme court, the supreme court may, if it sees fit, issue its writ of
certiorari.

(22) To impose administrative penalties in accordance with the provisions of chapter 17.6
of this title and to direct that such penalties be paid into the account established by subdivision
(26);

(23) The following definitions shall apply in the interpretation of the provisions of this
chapter:

(i) Director: The term "director" shall mean the director of environmental management of
the state of Rhode Island or his or her duly authorized agent;

(ii) Person: The term "person" shall include any individual, group of individuals, firm,
corporation, association, partnership, or private or public entity, including a district, county, city,
town, or other governmental unit or agent thereof, and in the case of a corporation, any individual
having active and general supervision of the properties of the corporation;

(iii) Service: (A) Service upon a corporation under this section shall be deemed to include
service upon both the corporation and upon the person having active and general supervision of
the properties of the corporation;

(B) For purposes of calculating the time within which a claim for a hearing is made
pursuant to subdivision (21)(i), service shall be deemed to be the date of receipt of such notice or
three (3) days from the date of mailing of the notice, whichever shall first occur.

(24)(i) To conduct surveys of the present private and public camping and other
recreational areas available and to determine the need for and location of other camping and
recreational areas as may be deemed necessary and in the public interest of the state of Rhode
Island and to report back its findings on an annual basis to the general assembly on or before
March 1 of every year;

(ii) Additionally, the director of the department of environmental management shall take
additional steps, including, but not limited to, matters related to funding as may be necessary to
establish such other additional recreational facilities and areas as are deemed to be in the public
interest.
(25)(i) To apply for and accept grants and bequests of funds, with the approval of the director of administration, from other states, interstate agencies, and independent authorities, and private firms, individuals, and foundations, for the purpose of carrying out his or her lawful responsibilities. The funds shall be deposited with the general treasurer in a restricted receipt account created in the natural resources program for funds made available for that program's purposes or in a restricted receipt account created in the environmental protection program for funds made available for that program's purposes. All expenditures from the accounts shall be subject to appropriation by the general assembly, and shall be expended in accordance with the provisions of the grant or bequest. In the event that a donation or bequest is unspecified, or in the event that the trust account balance shows a surplus after the project as provided for in the grant or bequest has been completed, the director may utilize the appropriated unspecified or appropriated surplus funds for enhanced management of the department's forest and outdoor public recreation areas, or other projects or programs that promote the accessibility of recreational opportunities for Rhode Island residents and visitors;

(ii) The director shall submit to the house fiscal advisor and the senate fiscal advisor, by October 1 of each year, a detailed report on the amount of funds received and the uses made of such funds.

(26) To establish fee schedules by regulation, with the approval of the governor, for the processing of applications and the performing of related activities in connection with the department's responsibilities pursuant to subsection (12); chapter 19.1 of title 23, as it relates to inspections performed by the department to determine compliance with chapter 19.1 and rules and regulations promulgated in accordance therewith; chapter 18.9 of title 23, as it relates to inspections performed by the department to determine compliance with chapter 18.9 and the rules and regulations promulgated in accordance therewith; chapters 19.5 and 23 of title 23; chapter 12 of title 46, insofar as it relates to water-quality certifications and related reviews performed pursuant to provisions of the federal Clean Water Act, 33 U.S.C. § 1251 et seq.; the regulation and administration of underground storage tanks and all other programs administered under chapter 12 of title 46 and § 2-1-18 et seq., and chapter 13.1 of title 46 and chapter 13.2 of title 46, insofar as they relate to any reviews and related activities performed under the provisions of the Groundwater Protection Act; chapter 24.9 of title 23 as it relates to the regulation and administration of mercury-added products; and chapter 17.7 of this title, insofar as it relates to administrative appeals of all enforcement, permitting and licensing matters to the administrative adjudication division for environmental matters. Two (2) fee ranges shall be required: for "Appeal of enforcement actions", a range of fifty dollars ($50) to one hundred dollars ($100), and...
for "Appeal of application decisions", a range of five hundred dollars ($500) to ten thousand dollars ($10,000). The monies from the administrative adjudication fees will be deposited as general revenues and the amounts appropriated shall be used for the costs associated with operating the administrative adjudication division.

There is hereby established an account within the general fund to be called the water and air protection program. The account shall consist of sums appropriated for water and air pollution control and waste-monitoring programs and the state controller is hereby authorized and directed to draw his or her orders upon the general treasurer for the payment of the sums, or portions thereof, as may be required, from time to time, upon receipt by him or her of properly authenticated vouchers. All amounts collected under the authority of this subdivision for the sewage-disposal-system program and freshwaters wetlands program will be deposited as general revenues and the amounts appropriated shall be used for the purposes of administering and operating the programs. The director shall submit to the house fiscal advisor and the senate fiscal advisor by January 15 of each year a detailed report on the amount of funds obtained from fines and fees and the uses made of the funds.

(27) To establish and maintain a list or inventory of areas within the state worthy of special designation as "scenic" to include, but not be limited to, certain state roads or highways, scenic vistas, and scenic areas, and to make the list available to the public;

(28) To establish and maintain an inventory of all interests in land held by public and private land trust and to exercise all powers vested herein to ensure the preservation of all identified lands;

(i) The director may promulgate and enforce rules and regulations to provide for the orderly and consistent protection, management, continuity of ownership and purpose, and centralized records-keeping for lands, water, and open spaces owned in fee or controlled in full or in part through other interests, rights, or devices such as conservation easements or restrictions, by private and public land trusts in Rhode Island. The director may charge a reasonable fee for filing of each document submitted by a land trust;

(ii) The term "public land trust" means any public instrumentality created by a Rhode Island municipality for the purposes stated herein and financed by means of public funds collected and appropriated by the municipality. The term "private land trust" means any group of five (5) or more private citizens of Rhode Island who shall incorporate under the laws of Rhode Island as a nonbusiness corporation for the purposes stated herein, or a national organization such as the nature conservancy. The main purpose of either a public or a private land trust shall be the protection, acquisition, or control of land, water, wildlife, wildlife habitat, plants, and/or other
natural features, areas, or open space for the purpose of managing or maintaining, or causing to be managed or maintained by others, the land, water, and other natural amenities in any undeveloped and relatively natural state in perpetuity. A private land trust must be granted exemption from federal income tax under Internal Revenue Code 501(c)(3) [26 U.S.C. § 501(c)(3)] within two (2) years of its incorporation in Rhode Island or it may not continue to function as a land trust in Rhode Island. A private land trust may not be incorporated for the exclusive purpose of acquiring or accepting property or rights in property from a single individual, family, corporation, business, partnership, or other entity. Membership in any private land trust must be open to any individual subscribing to the purposes of the land trust and agreeing to abide by its rules and regulations including payment of reasonable dues;

(iii)(A) Private land trusts will, in their articles of association or their bylaws, as appropriate, provide for the transfer to an organization, created for the same or similar purposes, of the assets, lands and land rights, and interests held by the land trust in the event of termination or dissolution of the land trust.

(B) All land trusts, public and private, will record in the public records, of the appropriate towns and cities in Rhode Island, all deeds, conservation easements, or restrictions or other interests and rights acquired in land and will also file copies of all such documents and current copies of their articles of association, their bylaws, and their annual reports with the secretary of state and with the director of the Rhode Island department of environmental management. The director is hereby directed to establish and maintain permanently a system for keeping records of all private and public land trust land holdings in Rhode Island.

(29) The director will contact in writing, not less often than once every two (2) years, each public or private land trust to ascertain: that all lands held by the land trust are recorded with the director; the current status and condition of each land holding; that any funds or other assets of the land trust held as endowment for specific lands have been properly audited at least once within the two-year (2) period; the name of the successor organization named in the public or private land trust's bylaws or articles of association; and any other information the director deems essential to the proper and continuous protection and management of land and interests or rights in land held by the land trust. In the event that the director determines that a public or private land trust holding land or interest in land appears to have become inactive, he or she shall initiate proceedings to effect the termination of the land trust and the transfer of its lands, assets, land rights, and land interests to the successor organization named in the defaulting trust's bylaws or articles of association or to another organization created for the same or similar purposes. Should such a transfer not be possible, then the land trust, assets, and interest and rights in land will be
held in trust by the state of Rhode Island and managed by the director for the purposes stated at
the time of original acquisition by the trust. Any trust assets or interests other than land or rights
in land accruing to the state under such circumstances will be held and managed as a separate
fund for the benefit of the designated trust lands;

(30) Consistent with federal standards, issue and enforce such rules, regulations, and
orders as may be necessary to establish requirements for maintaining evidence of financial
responsibility for taking corrective action and compensating third parties for bodily injury and
property damage caused by sudden and non-sudden accidental releases arising from operating
underground storage tanks;

(31) To enforce, by such means as provided by law, the standards for the quality of air,
and water, and the location, design, construction, and operation of all underground storage
facilities used for storing petroleum products or hazardous materials; any order or notice issued
by the director relating to the location, design, construction, operation, or maintenance of an
underground storage facility used for storing petroleum products or hazardous materials shall be
eligible for recordation under chapter 13 of title 34. The director shall forward the order or notice
to the city or town wherein the subject facility is located, and the order or notice shall be recorded
in the general index by the appropriate municipal officer in the land-evidence records in the city
or town wherein the subject facility is located. Any subsequent transferee of that facility shall be
responsible for complying with the requirements of the order or notice. Upon satisfactory
completion of the requirements of the order or notice, the director shall provide written notice of
the same, which notice shall be eligible for recordation. The original, written notice shall be
forwarded to the city or town wherein the subject facility is located, and the notice of satisfactory
completion shall be recorded in the general index by the appropriate municipal official in the
land-evidence records in the city or town wherein the subject facility is located. A copy of the
written notice shall be forwarded to the owner of the subject facility within five (5) days of a
request for it, and, in any event, shall be forwarded to the owner of the subject facility within
thirty (30) days after correction;

(32) To manage and disburse any and all funds collected pursuant to § 46-12.9-4, in
accordance with § 46-12.9-5, and other provisions of the Rhode Island Underground Storage
Tank Financial Responsibility Act, as amended;

(33) To support, facilitate, and assist the Rhode Island Natural History Survey, as
appropriate and/or as necessary, in order to accomplish the important public purposes of the
survey in gathering and maintaining data on Rhode Island natural history; making public
presentations and reports on natural history topics; ranking species and natural communities;
monitoring rare species and communities; consulting on open-space acquisitions and management plans; reviewing proposed federal and state actions and regulations with regard to their potential impact on natural communities; and seeking outside funding for wildlife management, land management, and research;

(34) To promote the effective stewardship of: (i) lakes, ponds, rivers, and streams including, but not limited to, collaboration with watershed organizations and associations of lakefront property owners on planning and management actions that will prevent and mitigate water quality degradation, reduce the loss of native habitat due to infestation of non-native species, abate nuisance conditions that result from excessive growth of algal or non-native plant species as well as promote healthy freshwater riverine ecosystems; and (ii) woodlands and forests, including, but not limited to, collaboration with nonprofit conservation organizations, conservation districts, land trusts, woodland and forestry associations, woodland property owners associations, and towns and cities, on planning and management actions that will prevent and mitigate the impairment of woodland ecology, maintain habitat diversity, reduce loss due to disease and pests, and promote healthy woodland ecosystems;

(35) In implementing the programs established pursuant to this chapter, to identify critical areas for improving service to customers doing business with the department, and to develop and implement strategies to improve performance and effectiveness in those areas. Key aspects of a customer-service program shall include, but not necessarily be limited to, the following components:

(a) Maintenance of an organizational unit within the department with the express purpose of providing technical assistance to customers and helping customers comply with environmental regulations and requirements;

(b) Maintenance of an employee-training program to promote customer service across the department;

(c) Implementation of a continuous business process evaluation and improvement effort, including process reviews to encourage development of quality proposals; ensure timely and predictable reviews; and result in effective decisions and consistent follow up and implementation throughout the department; and publish an annual report on such efforts;

(d) Creation of a centralized location for the acceptance of permit applications and other submissions to the department;

(e) Maintenance of a process to promote, organize, and facilitate meetings prior to the submission of applications or other proposals in order to inform the applicant on options and opportunities to minimize environmental impact; improve the potential for sustainable
environmental compliance; and support an effective and efficient review and decision-making process on permit applications related to the proposed project;

(f) Development of single permits under multiple authorities otherwise provided in state law to support comprehensive and coordinated reviews of proposed projects. The director may address and resolve conflicting or redundant process requirements in order to achieve an effective and efficient review process that meets environmental objectives; and

(g) Exploration of the use of performance-based regulations coupled with adequate inspection and oversight, as an alternative to requiring applications or submissions for approval prior to initiation of projects. The department shall work with the office of regulatory reform to evaluate the potential for adopting alternative compliance approaches and provide a report to the governor and the general assembly by May 1, 2015;

(36) To formulate and promulgate regulations requiring any dock or pier longer than twenty feet (20') and located on a freshwater lake or pond to be equipped with reflective materials, on all sides facing the water, of an appropriate width and luminosity such that it can be seen by operators of watercraft; and

(37) To temporarily waive any control or prohibition respecting the use of a fuel or fuel additive required or regulated by the department if the director finds that:

(i) Extreme or unusual fuel or fuel additive supply circumstances exist in the state or the New England region that prevent the distribution of an adequate supply of the fuel or fuel additive to consumers;

(ii) Extreme or unusual fuel or fuel additive supply circumstances are the result of a natural disaster, an act of God, a pipeline or refinery equipment failure, or another event that could not reasonably have been foreseen; and

(iii) It is in the public interest to grant the waiver.

Any temporary waiver shall be made in writing and shall be effective for twenty (20) calendar days; provided, that the director may renew the temporary waiver, in writing, if it is deemed necessary.

42-17.1-4. Divisions within department.

Within the department of environmental management there are established the following divisions:

(1) A division of parks and recreation that shall carry out those functions of the department relating to the operation and maintenance of parks and recreation areas and the establishment and maintenance of such additional recreation areas as may from time to time be acquired and such other functions and duties as may, from time to time, be assigned by the
(2) A division of fish and wildlife management that shall carry out those functions of the
department relating to the administration and management of hunting and freshwater fishing; the
preservation of wetlands, marsh lands, freshwater lakes, streams, ponds, and wildlife; and such
other related functions and duties as may be assigned by the director;

(3) A division of agriculture that shall carry out those functions of the department relating
to agriculture, and such other functions and duties as may from time to time be assigned by the
director, including, but not limited to, plant industry, farm viability, marketing and promotion,
farmland ecology and protection, plant and animal health and quarantine, pesticides, mosquito
abatement, pest survey and response, food policy and security, and, in collaboration with the
department of health, public health as it relates to farm production and direct marketing of farm
products, and those agreed upon through memorandum of agreement with the department of
health or other state agencies. The department of health shall continue to act as the lead agency
for all public health issues in the state pursuant to chapter 1 of title 23. Nothing herein contained
shall limit the department of health's statutory authority, nor shall any provision herein be
construed as a limitation upon the statutory authority of the department of health granted to the
department under title 23 of the general laws, nor shall any provision herein be construed to limit
the authority of the department of environmental management to enter into memoranda of
agreement with any governmental agency. The chief of the division of agriculture shall report
directly to the director;

(4) A division of coastal resources that shall carry out those functions of the department
relating to harbors and harbor lines, pilotage, flood control, shore development, construction of
port facilities, and the registration of boats and such other functions and duties as may, from time
to time, be assigned by the director, except that the division shall not be responsible for the
functions of inspection of dams and reservoirs, approving plans for construction or improvement
of dams, reservoirs, and other structures in non-tidal waters, and the operation of stream-gauging
stations in cooperation with the United States Geological Survey, and provided, further, that the
division and its staff shall be responsible through the director of environmental management to
the coastal resources management council, and the chief and the staff of the division shall serve
as staff to the council;

(5) A division of planning and development that shall carry out those functions of the
department relating to planning, programming, acquisition of land, engineering studies, and such
other studies, as the director may direct, and that shall work with the Rhode Island board of
education, with educational institutions at all levels, and with the public in the dissemination of
information and education relating to natural resources, and shall perform the publication and
public relations functions of the department, the functions of inspection of dams and reservoirs,
approving plans for construction or improvement of dams, reservoirs, and other structures in non-
tidal waters, and the operation of stream-gauging stations in cooperation with the United States
Geological Survey;

(6) A division of enforcement that shall enforce all of the laws and regulations of the
department and the coastal resources management council, that shall cooperate with the other
enforcement agencies of the state and its municipalities, and that shall administer all of the
policing, enforcing, licensing, registration, and inspection functions of the department and such
other functions and duties as may, from time to time, be assigned by the director;

(7) A division of forest environment that shall carry out those functions of the department
relating to the administration of forests and natural areas, including programs for utilization,
conservation, forest fire protection, and improvements of these areas; assisting other agencies and
local governments in urban programs relating to trees, forests, green belts, and environment;
implementing the provisions and purposes of chapter 10.1 of this title and such other functions
and duties as may, from time to time, be assigned by the director;

(8)(i) A division of boating safety that shall carry out those functions of the department
relating to the development and administration of a coordinated, safe boating program in
accordance with the Model Safe Boating Act of 1971 as approved by the National Association of
State Boating Law Administrators.

(ii) Administration of the division of boating safety shall be the responsibility of the state
boating law administrator whose duties shall include:

(A) The enforcement of all laws relating to the act; and

(B) The powers vested in the state boating law administrator and boating safety
enforcement officer shall include the enforcement of laws, rules and regulations relating to
"Regulation of Boats," chapter 22 of title 46 and shall also include the power to:

(I) Execute all warrants and search warrants for the violation of laws, rules, and
regulations relating to the act.

(II) Serve subpoenas issued for the trial of all offenses hereunder.

(III) To carry firearms or other weapons, concealed or otherwise, in the course of, and in
performance of, their duties under this chapter.

(IV) To arrest without warrant and on view any person found violating any law, rule, or
regulation relating to the act; take that person before a court having jurisdiction for trial; detain
that person in custody at the expense of the state until arraignment; and to make and execute
complaints within any district to the justice or clerk of the court against any person for any of the offenses enumerated under the act committed within the district.

(V) Boating safety enforcement officers shall not be required to give surety for costs upon any complaint made by him or her.

(iii) The development and administration of a coordinated, safe boating program.

(iv) The establishment and enforcement of such rules and regulations as are deemed necessary to achieve the purposes of the Model Safe Boating Act as approved by the state boating law administrators.

(v) The state boating law administrator shall serve as the liaison to the United States Coast Guard; and

(9) A division of marine fisheries management that shall carry out those functions of the department relating to the administration, management, and harvest of marine animal and plant species found in Rhode Island marine waters, including, but not limited to: stock assessments of marine species; harvest of marine species regulated under a regional federal fisheries management plan; the review of aquaculture applications before the CRMC; a commercial fishing licensing program; fixing seasons, bag limits, size limits, possession limits, and methods of taking on any marine plant and animal species; and such other related functions and duties as may be assigned by the director.

SECTION 4. Sections 45-22.2-4 and 45-22.2-6 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:

45-22.2-4. Definitions.

As used in this chapter the following words have the meanings stated herein:

(1) "Agricultural land" means land suitable for agriculture by reason of suitability of soil or other natural characteristics or past use for agricultural purposes.

(2) "Capacity" or "land capacity" means the suitability of the land, as defined by geology, soil conditions, topography, and water resources, to support its development for uses such as residential, commercial, industrial, open space, or recreation. Land capacity may be modified by provision of facilities and services.

(3) "Capital improvements program" means a proposed schedule of all future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

(4) "Chief" means the highest-ranking administrative officer of the division of planning as established by subsection 42-11-10(g).
Coastal features" means any coastal beach, barrier island or spit, coastal wetland, coastal headland, bluff or cliff, rocky shore, manmade shoreline or dune as outlined and defined by the coastal resources management program, and as may be amended.

(6) "Comprehensive plan" or "comprehensive land use plan" means a document containing the components described in this chapter, including the implementation program which is consistent with the goals and guidelines established by this chapter.

(7) "Days" means calendar days.

(8) "Division of planning" means the office established as a division of the department of administration by subsection 42-11-10(g).

(9) "Floodplains" or "flood hazard area" means an area that is subject to a flood from a storm having a one percent (1%) chance of being equaled or exceeded in any given year, as delineated on a community's flood hazard map as approved by the federal emergency management agency pursuant to the National Flood Insurance Act of 1968, as amended (P.L. 90-448), 42 U.S.C. § 4011 et seq.

(10) "Forecast" means a description of the conditions, quantities, or values anticipated to occur at a designated future time.

(11) "Goals" means those goals stated in § 45-22.2-3.

(12) "Historic or cultural resource" means any real property, structure, natural object, place, landmark, landscape, archaeological site or configuration or any portion or group of the preceding which has been listed on the federal or state register of historic places or that is considered by the Rhode Island Historical Preservation & Heritage Commission to meet the eligibility criteria for listing on the state register of historic places pursuant to § 42-45-5 or is located in a historic district established by a municipality in accordance with chapter 45-24.1, Historic Area Zoning.

(13) "Land" means real property including improvements and fixtures on, above, or below the surface.

(14) "Land use regulation" means a rule or statute of general application adopted by the municipal legislative body which controls, directs, or delineates allowable uses of land and the standards for these uses.

(15) "Local government" means any governmental agency authorized by this chapter to exercise the power granted by this chapter.

(16) "Maintain" means to evaluate regularly and revise as needed or required in order to ensure that a comprehensive plan remains consistent with the goals and guidelines established by this chapter.
(17) “Municipal legislative body” means the town council in a town or the city council in a city; or that part of a municipal government that exercises legislative powers under a statute or charter.

(18) “Municipal reviewing authority” means the municipal planning board or commission.

(19) “Open space” means any parcel or area of land or water set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring the open space; provided that the area may be improved with only those buildings, structures, streets, and off-street parking, and other improvements that are designed to be incidental to the natural openness of the land.

(20) "Planning board" or "commission" means the body established by a municipality under chapter 45-22 or combination of municipalities which has the responsibility to prepare a comprehensive plan and make recommendations concerning that plan to the municipal legislative body.

(21) "State guide plan" means goals, policies, and plans or plan elements for the physical, economic, and social development of the state, adopted by the state planning council in accordance with § 42-11-10.

(22) "State or regional agency” means, for the purposes of this chapter, any state agency, department, public authority, public corporation, organization, commission, or other governing body with regulatory or other authority affecting the goals established either in this chapter or the state guide plan. Pursuant to § 45-22.2-2, the definition of state and regional agency shall not be construed to supersede or diminish any regulatory authority granted by state or federal statute.

(23) "State agency program or project" State agency program means any non-regulatory, coordinated group of activities implemented for the purpose of achieving a specific goal or objective. State agency project means a specific initiative or development on an identifiable parcel(s) of land.

(24) "Voluntary association of local governments” means two (2) or more municipalities that have joined together pursuant to a written agreement and pursuant to the authority granted under this chapter for the purpose of drafting a comprehensive land use plan and implementation program.

(25) "Wetland” a marsh, swamp, bog, pond, river, river or stream flood plain or bank; an area subject to flooding or storm flowage; an emergent or submergent plant community in any body of fresh water; or an area within fifty feet (50') of the edge of a bog, marsh, swamp, or pond, as defined in § 2-1-20; or any salt marsh bordering on the tidal waters of this state, whether or not
the tidal waters reach the littoral areas through natural or artificial watercourses, and those
uplands directly associated and contiguous thereto which are necessary to preserve the integrity
of that marsh, and as further defined by the RI coastal resources management program, as may be
amended.

(26) "Woodland" means an area of forty thousand (40,000) square feet or greater
predominantly covered and characterized by tree stock natural in Rhode Island.

(26)/(27) “Zoning” means the reservation of certain specified areas within a community or
city for building and structures, or use of land, for certain purposes with other limitations as
height, lot coverage, and other stipulated requirements.

45-22.2-6. Required content of a comprehensive plan.

(a) The comprehensive plan must utilize a minimum twenty (20) year planning timeframe
in considering forecasts, goals, and policies.

(b) The comprehensive plan must be internally consistent in its policies, forecasts, and
standards, and shall include the content described within this section. The content described in
subdivisions (1) through (10) may be organized and presented as deemed suitable and appropriate
by the municipality. The content described in subdivisions (11) and (12) must be included as
individual sections of the plan.

(1) Goals and policies. The plan must identify the goals and policies of the municipality
for its future growth and development and for the conservation of its natural and cultural
resources. The goals and policies of the plan shall be consistent with the goals and intent of this
chapter and embody the goals and policies of the state guide plan.

(2) Maps. The plan must contain maps illustrating the following as appropriate to the
municipality:

(i) Existing conditions:

(A) Land use, including the range of residential housing densities;

(B) Zoning;

(C) Key infrastructure such as, but not limited to, roads, public water, and sewer;

(D) Service areas for public water and sewer;

(E) Historical and cultural resource areas and sites;

(F) Open space and conservation areas (public and private); and

(G) Natural resources such as, but not limited to, surface water, wetlands, floodplains,
soils, woodland, and agricultural land;

(ii) Future land use illustrating the desired patterns of development, density, and
conservation as defined by the comprehensive plan; and
(iii) Identification of discrepancies between future land uses and existing zoning use categories.

(3) Natural resource identification and conservation. The plan must be based on an inventory of significant natural resource areas such as, but not limited to, water, soils, prime agricultural lands, woodland and forests, wildlife, wetlands, aquifers, coastal features, and floodplains. The plan must include goals, policies, and implementation techniques for the protection and management of these areas.

(4) Open space and outdoor recreation identification and protection. The plan must be based on an inventory of outdoor recreational resources, open space areas, and recorded access to these resources and areas. The plan must contain an analysis of forecasted needs, policies for the management and protection of these resources and areas, and identification of areas for potential expansion. The plan must include goals, policies, and implementation techniques for the protection and management of existing resources and acquisition of additional resources if appropriate.

(5) Historical and cultural resources identification and protection. The plan must be based on an inventory of significant historical and cultural resources such as historical buildings, sites, landmarks, and scenic views. The plan must include goals, policies, and implementation techniques for the protection of these resources.

(6) Housing. The plan must include the identification of existing housing patterns, an analysis of existing and forecasted housing needs, and identification of areas suitable for future housing development or rehabilitation. The plan shall include an affordable housing program that meets the requirements of § 42-128-8.1, the "Comprehensive Housing Production and Rehabilitation Act of 2004" and chapter 45-53, the "Rhode Island Low and Moderate Income Housing Act". The plan must include goals and policies that further the goal of subdivision 45-22.2-3(c)(3) and implementation techniques that identify specific programs to promote the preservation, production, and rehabilitation of housing.

(7) Economic development. The plan must include the identification of existing types and patterns of economic activities including, but not limited to, business, commercial, industrial, agricultural, and tourism. The plan must also identify areas suitable for future economic expansion or revitalization. The plan must include goals, policies, and implementation techniques reflecting local, regional, and statewide concerns for the expansion and stabilization of the economic base and the promotion of quality employment opportunities and job growth.

(8) Services and facilities. The plan must be based on an inventory of existing physical infrastructure such as, but not limited to, educational facilities, public safety facilities, libraries,
indoor recreation facilities, and community centers. The plan must describe services provided to
the community such as, but not limited to, water supply and the management of wastewater,
storm water, and solid waste. The plan must consider energy production and consumption. The
plan must analyze the needs for future types and levels of services and facilities, including, in
accordance with § 46-15.3-5.1, water supply system management planning, which includes
demand management goals as well as plans for water conservation and efficient use of water
concerning any water supplier providing service in the municipality, and contain goals, policies,
and implementation techniques for meeting future demands.

(9) Circulation/Transportation. The plan must be based on an inventory and analysis of
existing and proposed major circulation systems, including transit and bikeways; street patterns;
and any other modes of transportation, including pedestrian, in coordination with the land use
element. Goals, policies, and implementation techniques for the provision of fast, safe, efficient,
and convenient transportation that promotes conservation and environmental stewardship must be
identified.

(10) Natural hazards. The plan must include an identification of areas that could be
vulnerable to the effects of sea-level rise, flooding, storm damage, drought, or other natural
hazards. Goals, policies, and implementation techniques must be identified that would help to
avoid or minimize the effects that natural hazards pose to lives, infrastructure, and property.

(11) Land use. In conjunction with the future land use map as required in subdivision 45-
22.2-6(b)(2)(ii), the plan must contain a land use component that designates the proposed general
distribution and general location and interrelationships of land uses including, but not limited to,
residential, commercial, industrial, open space, agriculture, recreation facilities, and other
categories of public and private uses of land. The land use component shall be based upon the
required plan content as stated in this section. It shall relate the proposed standards of population
density and building intensity to the capacity of the land and available or planned facilities and
services. The land use component must contain an analysis of the inconsistency of existing
zoning districts, if any, with planned future land use. The land use component shall specify the
process and schedule by which the zoning ordinance and zoning map shall be amended to
conform to the comprehensive plan and shall be included as part of the implementation program.

(12) Implementation program.

(i) A statement which defines and schedules the specific public actions to be undertaken
in order to achieve the goals and objectives of each component of the comprehensive plan.
Scheduled expansion or replacement of public facilities, and the anticipated costs and revenue
sources proposed to meet those costs reflected in a municipality's capital improvement program,
must be included in the implementation program.

(ii) The implementation program identifies the public actions necessary to implement the objectives and standards of each component of the comprehensive plan that require the adoption or amendment of codes and ordinances by the governing body of the municipality.

(iii) The implementation program identifies other public authorities or agencies owning water supply facilities or providing water supply services to the municipality, and coordinates the goals and objectives of the comprehensive plan with the actions of public authorities or agencies with regard to the protection of watersheds as provided in § 46-15.3-1, et seq.

(iv) The implementation program must detail the timing and schedule of municipal actions required to amend the zoning ordinance and map to conform to the comprehensive plan.

SECTION 5. Sections 45-24-30, 45-24-31 and 45-24-33 of the General Laws in Chapter 45-24 entitled “Zoning Ordinances” are hereby amended to read as follows:

45-24-30. General purposes of zoning ordinances.

(a) 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 that 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 and woodland, 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.

(16) 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. § 12101 et seq.

Provided, however, that any zoning ordinance in which a community sets forth standards or requirements for the location, design, construction, or maintenance of on-site wastewater treatment systems shall first be submitted to the director of the department of environmental management for approval as to the technical merits of the ordinance. In addition, any zoning
ordinance in which a municipality sets forth standards regarding wetland requirements, shall first
be submitted to the director of the department of environmental management for approval as to
the technical merits of the ordinance.

(b) Upon the effective date of this section, a city or town shall no longer be authorized to
adopt as a provision of its zoning ordinance new requirements that specify buffers or setbacks in
relation to freshwater wetland, freshwater wetland in the vicinity of the coast, or coastal wetland
or that specify setback distances between an onsite wastewater treatment system and a freshwater
wetlands, freshwater wetland in the vicinity of the coast, or coastal wetland.

(c) Upon promulgation of state regulations to designate wetland buffers and setbacks
pursuant to §§ 2-1-18 through 2-1-28, cities and towns shall be prohibited from applying the
requirements in existing zoning ordinances pertaining to both wetland buffers and onsite
wastewater treatment system setbacks to development applications submitted to a municipality
after the effective date of said state regulations. All applications for development that were
submitted to a municipality prior to the effective date of state regulations designating wetland
buffers and setbacks, will remain subject to, as applicable, the zoning provisions pertaining to
wetland buffers or setbacks for onsite wastewater treatment systems that were in effect at the time
the application was originally filed or granted approval, subject to the discretion of the
municipality to waive such requirements. Nothing herein shall rescind the authority of a city or
town to enforce local zoning requirements.

(d) Cities and towns shall act to amend their ordinances and regulations to conform to
this section within twelve (12) months of the effective date of state regulations referenced herein.

45-24-31. Definitions. [Effective March 1, 2019.]

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. A dwelling unit: (i) Rented to and occupied either by one or
more members of the family of the occupant or occupants of the principal residence; or (ii)
Reserved for rental occupancy by a person or a family where the principal residence is owner
occupied and that meets the following provisions:

(A) In zoning districts that allow residential uses, no more than one accessory dwelling
unit may be an accessory to a single-family dwelling.

(B) An accessory dwelling unit shall include separate cooking and sanitary facilities, with its own legal means of ingress and egress, and is a complete, separate dwelling unit. The accessory dwelling unit shall be within, or attached to, the principal dwelling-unit structure or within an existing structure, such as a garage or barn, and designed so that the appearance of the principal structure remains that of a one-family residence.

(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) 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 his, her,
or its 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) Airport hazard area. "Airport hazard area", as defined in § 1-3-2.

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

(8) 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.

(9) 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.

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

(11) 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.

(12) 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), building height shall be measured from base flood elevation, and where freeboard, as defined in this section, is being utilized or proposed, such freeboard area, not to exceed five feet (5'), shall be excluded from the building height calculation; provided, however that the Rhode Island coastal resources management council design elevation maps may be used by an owner or applicant to establish a base flood elevation for a property that is higher than the official FEMA FIRMs.

(13) 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.

(14) 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.

(15) 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.

(16) 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.

(17) Day care -- Day-care center. Any other day-care center that is not a family day-care home.

(18) Day care -- Family day-care 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.

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

(20) 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.

(21) Development plan review. The process whereby authorized, local officials review the site plans, maps, and other documentation of a development to determine the compliance with the stated purposes and standards of the ordinance.

(22) District. See "zoning-use district".

(23) 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 groundwater; and the prevention and/or alleviation of flooding.

(24) 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.

(25) 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.

(26) Family. A person, or persons, related by blood, marriage, or other legal means. See
also "household".

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

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

(29) 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.


(31) 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.

(32) Hardship. See § 45-24-41.

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

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

(35) 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 three (3).

(36) 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.

(37) Infrastructure. Facilities and services needed to sustain residential, commercial,
industrial, institutional, and other activities.
(38) Land-development project. A project in which one or more lots, tracts, or parcels of land 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 as provided in the zoning ordinance.

(39) 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.

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

(41) 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.

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

(43) 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.

(44) 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.

(45) 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.

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

(47) 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.

(48) 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.

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

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

(51) 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 a dimensional variance other than lot area requirements 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.

(52) 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 permitted by the use regulations of a zoning ordinance. A building or structure containing more dwelling units than are permitted by the use regulations of a zoning ordinance is nonconforming 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.

(53) 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.

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

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

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

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

(58) 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.

(59) 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.

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

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

(62) 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.

(63) 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.

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

(65) 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.

(66) 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, where the applicant for the requested relief has shown, by evidence upon the record, that there is no other reasonable alternative way to enjoy a legally permitted beneficial use of the subject property unless granted the requested relief from the dimensional regulations.
However, the fact that a use may be more profitable or that a structure may be more valuable after
the relief is granted are not grounds for relief.

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

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

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

(70) 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.

(71) 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.

(72) 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.

(73) 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.

(74) Woodland. As defined in § 2-10.1-3.

**45-24-33. Standard provisions.**

(a) A zoning ordinance addresses each of the purposes stated in § 45-24-30 and
addresses, through reasonable objective standards and criteria, the following general provisions
which are numbered for reference purposes only except as prohibited by §§ 45-24-30(b), 45-24-
30(c), or 45-24-30(d):

1. Permitting, prohibiting, limiting, and restricting the development of land and
structures in zoning districts, and regulating those land and structures according to their type and
the nature and extent of their use;

2. Regulating the nature and extent of the use of land for residential, commercial,
industrial, institutional, recreational, agricultural, open space, or other use or combination of uses,
as the need for land for those purposes is determined by the city or town's comprehensive plan;
(3) Permitting, prohibiting, limiting, and restricting buildings, structures, land uses, and other development by performance standards, or other requirements, related to air and water and groundwater quality, noise and glare, energy consumption, soil erosion and sedimentation, and/or the availability and capacity of existing and planned public or private services;

(4) Regulating within each district and designating requirements for:

(i) The height, number of stories, and size of buildings;

(ii) The dimensions, size, lot coverage, floor area ratios, and layout of lots or development areas;

(iii) The density and intensity of use;

(iv) Access to air and light, views, and solar access;

(v) Open space, yards, courts, and buffers;

(vi) Parking areas, road design, and, where appropriate, pedestrian, bicycle, and other circulator systems;

(vii) Landscaping, fencing, and lighting;

(viii) Appropriate drainage requirements and methods to manage stormwater runoff;

(ix) Public access to waterbodies, rivers, and streams; and

(x) Other requirements in connection with any use of land or structure;

(5) Permitting, prohibiting, limiting, and restricting development in flood plains or flood hazard areas and designated significant natural areas, including woodland;

(6) Promoting the conservation of energy and promoting energy-efficient patterns of development;

(7) Providing for the protection of existing and planned public drinking water supplies, their tributaries and watersheds, and the protection of Narragansett Bay, its tributaries and watershed;

(8) Providing for adequate, safe, and efficient transportation systems; and avoiding congestion by relating types and levels of development to the capacity of the circulation system, and maintaining a safe level of service of the system;

(9) Providing for the preservation and enhancement of the recreational resources of the city or town;

(10) Promoting an economic climate that increases quality job opportunities and the overall economic well-being of the city or town and the state;

(11) Providing for pedestrian access to and between public and private facilities, including, but not limited to, schools, employment centers, shopping areas, recreation areas, and residences;
(12) Providing standards for, and requiring the provision of, adequate and properly
designed physical improvements, including plantings, and the proper maintenance of property;
(13) Permitting, prohibiting, limiting, and restricting land use in areas where development
is deemed to create a hazard to the public health or safety;
(14) Permitting, prohibiting, limiting, and restricting extractive industries and earth
removal and requiring restoration of land after these activities;
(15) Regulating sanitary landfill, except as otherwise provided by state statute;
(16) Permitting, prohibiting, limiting, and restricting signs and billboards and other
outdoor advertising devices;
(17) Designating airport hazard areas under the provisions of chapter 3 of title 1, and
enforcement of airport hazard area zoning regulations under the provisions established in that
chapter;
(18) Designating areas of historic, cultural, and/or archaeological value and regulating
development in those areas under the provisions of chapter 24.1 of this title;
(19) Providing standards and requirements for the regulation, review, and approval of any
proposed development in connection with those uses of land, buildings, or structures specifically
designated as subject to development plan review in a zoning ordinance;
(20) Designating special protection areas for water supply and limiting or prohibiting
development in these areas, except as otherwise provided by state statute;
(21) Specifying requirements for safe road access to developments from existing streets,
including limiting the number, design, and location of curb cuts, and provisions for internal
circulation systems for new developments, and provisions for pedestrian and bicycle ways; and
(22) Reducing unnecessary delay in approving or disapproving development applications
through provisions for preapplication conferences and other means.
(23) Providing for the application of 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 People with Disabilities Act, chapter 37 of title 42; and the Americans
(24) Regulating drive-through windows of varied intensity of use when associated with
land-use activities and providing standards and requirements for the regulation, review, and
approval of the drive-through windows, including, but not limited to:
(i) Identifying within which zoning districts drive-through windows may be permitted,
prohibited, or permitted by special-use permit;
(ii) Specifying requirements for adequate traffic circulation; and
(iii) Providing for adequate pedestrian safety and access, including issues concerning safety and access for those with disabilities.

(b) A zoning ordinance may include special provisions for any or all of the following:

(1) Authorizing development incentives, including, but not limited to, additional permitted uses, increased development and density, or additional design or dimensional flexibility in exchange for:

(i) Increased open space;

(ii) Increased housing choices;

(iii) Traffic and pedestrian improvements;

(iv) Public and/or private facilities; and/or

(v) Other amenities as desired by the city or town and consistent with its comprehensive plan. The provisions in the ordinance shall include maximum allowable densities of population and/or intensities of use and shall indicate the type of improvements, amenities, and/or conditions. Conditions may be made for donation in lieu of direct provisions for improvements or amenities;

(2) Establishing a system for transfer of development rights within or between zoning districts designated in the zoning ordinance; and

(3) Regulating the development adjacent to designated scenic highways, scenic waterways, major thoroughfares, public greenspaces, or other areas of special public investment or valuable natural resources.

(c) Slope of land shall not be excluded from the calculation of the buildable lot area or the minimum lot size, or in the calculation of the number of buildable lots or units.

(d) Nothing in this section shall be construed to restrict a municipality's right, within state and local regulations, to establish its own minimum lot size per zoning district in its town or city.

SECTION 6. Section 46-23-6 of the General Laws in Chapter 46-23 entitled "Coastal Resources Management Council" is hereby amended to read as follows:


In order to properly manage coastal resources the council has the following powers and duties:

(1) Planning and management.

(i) The primary responsibility of the council shall be the continuing planning for and management of the resources of the state's coastal region. The council shall be able to make any studies of conditions, activities, or problems of the state's coastal region needed to carry out its responsibilities.
(ii) The resources management process shall include the following basic phases:

(A) Identify all of the state's coastal resources, water, submerged land, air space, fin fish, shellfish, minerals, physiographic features, and so forth.

(B) Evaluate these resources in terms of their quantity, quality, capability for use, and other key characteristics.

(C) Determine the current and potential uses of each resource.

(D) Determine the current and potential problems of each resource.

(E) Formulate plans and programs for the management of each resource, identifying permitted uses, locations, protection measures, and so forth.

(F) Carry out these resources management programs through implementing authority and coordination of state, federal, local, and private activities.

(G) Formulation of standards where these do not exist, and reevaluation of existing standards.

(H) To develop comprehensive programs for dredging in tidal waters and related beneficial use, disposal, monitoring dewatering and transportation of dredge materials.

(I) To accept and administer loans and grants from the federal government and from other sources, public or private, for the carrying out of any of its functions, which loans or grants shall not be expended for other than the purposes for which provided.

(J) To encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to dredging, disposal of dredge materials and transportation thereof in the tidal waters of the state as the coastal resources management council may deem advisable and necessary for the discharge of its duties under this chapter.

(K) To collect and disseminate information relating to dredging, disposal of dredge materials and transportation thereof within the tidal waters of the state.

(L) To work with the appropriate federal and state agencies to develop as provided for in this chapter and in chapter 6.1 of this title, a comprehensive plan for dredging in tidal waters and related beneficial use, disposal, monitoring dewatering and transportation of dredge materials.

(M) To apply for, accept and expend grants and bequests of funds, for the purpose of carrying out the lawful responsibilities of the coastal resources management council.

(iii) An initial series of resources management activities shall be initiated through this basic process, then each phase shall continuously be recycled and used to modify the council's resources management programs and keep them current.

(iv) Planning and management programs shall be formulated in terms of the characteristics and needs of each resource or group of related resources. However, all plans and
programs shall be developed around basic standards and criteria, including:

(A) The need and demand for various activities and their impact upon ecological systems.
(B) The degree of compatibility of various activities.
(C) The capability of coastal resources to support various activities.
(D) Water quality standards set by the director of the department of environmental management.
(E) Consideration of plans, studies, surveys, inventories, and so forth prepared by other public and private sources.
(F) Consideration of contiguous land uses and transportation facilities.
(G) Whenever possible consistency with the state guide plan.

(v) The council shall prepare, adopt, administer, and cause to be implemented, including specifically through its powers of coordination as set forth in subdivision (3) of this section, a marine resources development plan and such special area management plans as the council may determine to be appropriate or desirable as follows:

(A) Marine resources development plan.

(I) The purpose of the marine resources development plan shall be to provide an integrated strategy for: (a) improving the health and functionality of Rhode Island's marine ecosystem; (b) providing for appropriate marine-related economic development; and (c) promoting the use and enjoyment of Rhode Island's marine resources by the people of the state.

(II) The marine resources development plan shall include specific goals and objectives necessary to accomplish its purposes, performance measures to determine progress toward achieving such goals and objectives, and an implementation program.

(III) The marine resources development plan shall be prepared in cooperation with the department of environmental management, the statewide planning program, and the commerce corporation, with the involvement of such other state agencies as may be appropriate, and with such technical support as may be necessary and appropriate from the Narragansett Bay Estuary Program, the Coastal Institute at the University of Rhode Island, and Rhode Island Sea Grant.

(IV) The plan shall be responsive to the requirements and principles of the federal coastal zone management act as amended, including, but not limited to, the expectations of the act for incorporating the federal Clean Water Act into coastal zone management programs.

(V) The marine resources development plan shall take into account local land use management responsibilities as provided for under title 45 and harbor management responsibilities, and the preparation of the plan shall include opportunities for involvement and/or comment by cities and towns.
(VI) The marine resources development plan shall be adopted by the council in accordance with the provisions of this subsection by July 1, 2005, shall as appropriate incorporate the recommendations of the Governor's Narragansett Bay and Watershed Planning Commission, and shall be made consistent with systems level plans as appropriate, in order to effectuate the purposes of systems level planning. The council shall update the marine resources development plan at least once every five (5) years.

(VII) The council shall administer its programs, regulations, and implementation activities in a manner consistent with the marine resources development plan.

(VIII) The marine resources development plan and any updates thereto shall be adopted as appropriate as elements of the state guide plan pursuant to § 42-11-10.

(B) Special area management plans.

(I) The council shall adopt such special area management plans as deemed necessary and desirable to provide for the integration and coordination of the protection of natural resources, the promotion of reasonable coastal-dependent economic growth, and the improved protection of life and property in the specific areas designated council as requiring such integrated planning and coordination.

(II) The integrated planning and coordination herein specified shall include, but not be limited to, federal agencies, state agencies, boards, commissions, and corporations, including specifically the commerce corporation, and cities and towns, shall utilize to the extent appropriate and feasible the capacities of entities of higher education, including Rhode Island Sea Grant, and shall provide for the participation of advocacy groups, community-based organizations, and private persons.

(III) The council shall administer its programs, regulations, and implementation activities in a manner consistent with special area management plans.

(IV) Special area management plans and any updates thereto shall be adopted as appropriate as elements of the state guide plan pursuant to § 42-11-10.

(2) Implementation.

(i) The council is authorized to formulate policies and plans and to adopt regulations necessary to implement its various management programs. With respect to such policies and plans which relate to matters where the coastal resources management council and the department of environmental management have concurrent jurisdiction and upon formulation of the plans and regulations, the council shall, prior to adoption, submit the proposed plans or regulations to the director of the department of environmental management for the director's review. The director shall review and submit comments to the council within thirty (30) days of submission to the
director by the council. The comments of the director shall include findings with regard to the
consistency of the policies, plans and/or regulations with the requirements of laws administered
by the department. The council shall consider the director's comments prior to adoption of any
such policies, plans or regulations and shall respond in writing to findings of the director with
regard to the consistency of said policies, plans and/or regulations with the requirements of laws
administered by the department.

(ii)(A) The council shall have exclusive jurisdiction below mean high water for all
development, operations, and dredging, consistent with the requirements of chapter 6.1 of this
title and except as necessary for the department of environmental management to exercise its
powers and duties and to fulfill its responsibilities pursuant to §§ 42-17.1-2 and 42-17.1-24, and
any person, firm, or governmental agency proposing any development or operation within, above,
or beneath the tidal water below the mean high water mark, extending out to the extent of the
state's jurisdiction in the territorial sea, shall be required to demonstrate that its proposal would
not:

(I) Conflict with any resources management plan or program;
(II) Make any area unsuitable for any uses or activities to which it is allocated by a
resources management plan or program adopted by the council; or
(III) Significantly damage the environment of the coastal region.
(B) The council shall be authorized to approve, modify, set conditions for, or reject any
such proposal.

(iii) The authority of the council over land areas (those areas above the mean high water
mark) shall be limited to two hundred feet (200') from the coastal physiographic feature or to that
necessary to carry out effective resources management programs. This shall be limited to the
authority to approve, modify, set conditions for, or reject the design, location, construction,
alteration, and operation of specified activities or land uses when these are related to a water area
under the agency's jurisdiction, regardless of their actual location. The council's authority over
these land uses and activities shall be limited to situations in which there is a reasonable
probability of conflict with a plan or program for resources management or damage to the coastal
environment. These uses and activities are:

(A) Power generating over forty (40) megawatts and desalination plants.
(B) Chemical or petroleum processing, transfer, or storage.
(C) Minerals extraction.
(D) Shoreline protection facilities and physiographical features, and all directly
associated contiguous areas, including woodland as defined in § 2-10.1-3, which are necessary to
preserve the integrity of the facility and/or features.

(E) Coastal wetlands and all directly associated contiguous areas, including tree areas and woodland, which are necessary to preserve the integrity of the wetlands including any freshwater wetlands located in the vicinity of the coast. The actual determination of freshwater wetlands located in coastal vicinities and under the jurisdiction of the coastal resources management council shall be designated on such maps that are agreed to in writing and made available for public use by the coastal resources management council and the director, department of environmental management, within three (3) months of [August 6, 1996]. The CRMC shall have exclusive jurisdiction over the wetlands areas described in this section notwithstanding any provision of chapter 1, title 2 or any other provision, except as provided in subsection (iv) of this section. Within six (6) months of [August 6, 1996] the council in cooperation with the director shall develop rules and regulations for the management and protection of freshwater wetlands, affected by an aquaculture project, outside of those freshwater wetlands located in the vicinity of the coast and under the exclusive jurisdiction of the director of the department of environmental management. For the purpose of this chapter, a “coastal wetland” means any salt marsh bordering on the tidal waters of this state, whether or not the tidal waters reach the littoral areas through natural or artificial watercourses, and those uplands directly associated and contiguous thereto which are necessary to preserve the integrity of that marsh. Marshes shall include those areas upon which grow one or more of the following: smooth cordgrass (spartina alterniflora), salt meadow grass (spartina patens), spike grass (distichlis spicata), black rush (juncus gerardi), saltworts (salicornia spp.), sea lavender (limonium carolinianum), saltmarsh bulrushes (scirpus spp.), hightide bush (iva frutescens), tall reed (phragmites communis), tall cordgrass (spartina pectinata), broadleaf cattail (typha latifolia), narrowleaf cattail (typha angustifolia), spike rush (eleocharis rostellata), chairmaker's rush (scirpus amercana), creeping bentgrass (agrostis palustris), sweet grass (hierochloe odorata), and wild rye (etlymus virginicus).

(F) Sewage treatment and disposal and solid waste disposal facilities.

(G) Beneficial use, dewatering, and disposal of dredged material of marine origins, where such activities take place within two hundred feet (200') of mean high water or a coastal physiographic feature, or where there is a reasonable probability of conflict with a plan or program for resources management or damage to the coastal environment.

(iv) Notwithstanding the provisions of subsections (ii) and (iii) above, the department of environmental management shall maintain jurisdiction over the administration of chapter 1, title 2, including permitting of freshwater wetlands alterations and enforcement, with respect to all agricultural activities undertaken by a farmer, as that term is defined in subsection 2-1-22(j),
wherever located; provided, however, that with respect to activities located partially or completely within two hundred feet (200') of the coastal physiographic feature, the department shall exercise jurisdiction in consultation with the council.

(3) Coordination. The council has the following coordinating powers and duties:

(i) Functioning as a binding arbitrator in any matter of dispute involving both the resources of the state's coastal region and the interests of two (2) or more municipalities or state agencies.

(ii) Consulting and coordinating actions with local, state, regional, and federal agencies and private interests.

(iii) Conducting or sponsoring coastal research.

(iv) Advising the governor, the general assembly, and the public on coastal matters.

(v) Serving as the lead state agency and initial and primary point of contact for dredging activities in tidal waters and in that capacity, integrating and coordinating the plans and policies of other state agencies as they pertain to dredging in order to develop comprehensive programs for dredging as required by subparagraph (1)(ii)(H) of this section and chapter 6.1 of this title. The Rhode Island resource recovery corporation prior to purchasing cover material for the state landfill shall first contact the CRMC to see if there is a source of suitable dredged material available which shall be used in place of the purchase cover material. Other state agencies engaged in the process of dump closures shall also contact the CRMC to see if there is a source of suitable dredged material available, which shall be used in place of the purchase cover material. In addition, cities and towns may contact the CRMC prior to closing city or town controlled dump sites to see if there is a source of suitable dredge material available, which may be used in place of the purchase cover material.

(vi) Acting as the state's representative to all bodies public and private on all coastal and aquaculture related matters.

(4) Operations. The council is authorized to exercise the following operating functions, which are essential to management of coastal resources:

(i) Issue, modify, or deny permits for any work in, above, or beneath the areas under its jurisdiction, including conduct of any form of aquaculture.

(ii) Issue, modify, or deny permits for dredging, filling, or any other physical alteration of coastal wetlands and all directly related contiguous areas which are necessary to preserve the integrity of the wetlands, including, but not limited to, the transportation and disposal of dredge materials in the tidal waters.

(iii) Grant licenses, permits, and easements for the use of coastal resources which are held
in trust by the state for all its citizens, and impose fees for private use of these resources.

(iv) Determining the need for and establishing pierhead, bulkhead, and harbor lines.

(v) Enforcing and implementing riparian rights in the tidal waters after judicial decisions.

(vi) The council may require an owner or operator of a commercial wharf or pier of a marine commercial facility, as defined in 300.3 of the Rhode Island coastal resources management program, but not including those facilities defined in 300.4 of the Rhode Island coastal resources management program, and which is capable of offloading cargo, and is or will be subject to a new use or a significant intensification of an existing use, to demonstrate that the commercial wharf or pier is fit for that purpose. For the purposes of this subsection, a "commercial wharf or pier" means a pier, bulkhead, wharf, docking facility, or underwater utilities. The council may order said owner or operator to provide an engineering certification to the council's satisfaction that the commercial wharf or pier is fit for the new use or intensification of an existing use. If the council determines that the commercial wharf or pier is not fit, it may order the owner or operator to undertake the necessary work to make the commercial wharf or pier safe, within a reasonable time frame. If the council determines that the commercial wharf or pier, because of its condition, is an immediate threat to public health and safety it may order the commercial wharf or pier closed until the necessary work to make the commercial wharf or pier safe has been performed and approved by the council. All work performed must conform to the council's management program. The council is also given the authority to develop regulations to carry out this provision and to impose administrative penalties of five thousand dollars ($5,000) per day up to a maximum of twenty thousand dollars ($20,000) consistent with § 46-7.1 where there has been a violation of the orders under this provision.

(5) Rights-of-way.

(i) The council is responsible for the designation of all public rights-of-way to the tidal water areas of the state, and shall carry on a continuing discovery of appropriate public rights-of-way to the tidal water areas of the state.

(ii) The council shall maintain a complete file of all official documents relating to the legal status of all public rights-of-way to the tidal water areas of the state.

(iii)(A) The council has the power to designate for acquisition and development, and posting, and all other functions of any other department for tidal rights-of-way and land for tidal rights-of-way, parking facilities, and other council related purposes.

(B) Further, the council has the power to develop and prescribe a standard sign to be used by the cities and towns to mark designated rights-of-way.

(iv) In conjunction with this subdivision, every state department controlling state-owned
land close to or adjacent to discovered rights-of-way is authorized to set out the land, or so much
of the land that may be deemed necessary for public parking.

(v) No use of land for public parking shall conflict with existing or intended use of the
land, and no improvement shall be undertaken by any state agency until detailed plans have been
submitted to and approved by the governing body of the local municipality.

(vi) In designating rights-of-way, the council shall consider the following matters in
making its designation:

(A) Land evidence records;
(B) The exercise of domain over the parcel such as maintenance, construction, or upkeep;
(C) The payment of taxes;
(D) The creation of a dedication;
(E) Public use;
(F) Any other public record or historical evidence such as maps and street indexes;
(G) Other evidence as set out in § 42-35-10.

(vii) A determination by the council that a parcel is a right-of-way shall be decided by
substantial evidence.

(viii) The council shall be notified whenever by the judgment of the governing body of a
coastal municipality, a public right-of-way to tidal water areas located in such municipality has
ceased to be useful to the public, and such governing body proposes an order of abandonment of
such public right-of-way. Said notice shall be given not less than sixty (60) days prior to the date
of such abandonment.

(6) Pre-existing residential boating facilities.

(i) The council is hereby authorized and empowered to issue assent for pre-existing
residential boating facilities constructed prior to January 1, 1985. These assents may be issued for
pre-existing residential boating facilities, even though such facilities do not meet current
standards and policies of the council; provided, however, that the council finds that such facilities
do not pose any significant risk to the coastal resources of the state of Rhode Island and do not
endanger human safety.

(ii) In addition to the above criteria, the applicant shall provide clear and convincing
evidence that:

(A) The facility existed in substantially the same configuration as it now exists prior to
January 1, 1985;
(B) The facility is presently intact and functional; and
(C) The facility presents no significant threat to the coastal resources of the state of
Rhode Island or human safety.

(iii) The applicant, to be eligible for this provision, shall apply no later than January 31, 1999.

(iv) The council is directed to develop rules and regulations necessary to implement this subdivision.

(v) It is the specific intent of this subsection to require that all pre-existing residential boating facilities constructed on January 1, 1985, or thereafter conform to this chapter and the plans, rules and regulations of the council.

(7) Lease of filled lands which were formerly tidal lands to riparian or littoral owners.

(i) Any littoral or riparian owner in this state who desires to obtain a lease from the state of Rhode Island of any filled lands adjacent to his or her upland shall apply to the council, which may make the lease. Any littoral or riparian owner who wishes to obtain a lease of filled lands must obtain pre-approval, in the form of an assent, from the council. Any lease granted by the council shall continue the public's interest in the filled lands including, but not limited to, the rights of navigation, fishery, and commerce. The public trust in the lands shall continue and run concurrently with the leasing of the lands by the state to private individuals, corporations, or municipalities. Upon the granting of a lease by the council, those rights consistent with the public trust and secured by the lease shall vest in the lessee. The council may approve a lease of filled lands for an initial term of up to fifty (50) years, with, or without, a single option to renew for an additional term of up to fifty (50) years.

(ii) The lessor of the lease, at any time, for cause, may by express act cancel and annul any lease previously made to the riparian owner when it determines that the use of the lands is violating the terms of the lease or is inconsistent with the public trust, and upon cancellation the lands, and rights in the land so leased, shall revert to the state.

(8) "Marinas" as defined in the coastal resources management program in effect as of June 1, 1997, are deemed to be one of the uses consistent with the public trust. Subdivision (7) is not applicable to:

(i) Any riparian owner on tidal waters in this state (and any successor in interest to the owner) which has an assent issued by the council to use any land under water in front of his or her lands as a marina, which assent was in effect on June 1, 1997;

(ii) Any alteration, expansion, or other activity at a marina (and any successor in interest) which has an assent issued by the council, which assent was in effect on June 1, 1997; and

(iii) Any renewal of assent to a marina (or successor in interest), which assent was issued by the council and in effect on June 1, 1997.
(9) "Recreational boating facilities" including marinas, launching ramps, and recreational mooring areas, as defined by and properly permitted by the council, are deemed to be one of the uses consistent with the public trust. Subdivision (7) is not applicable to:

(i) Any riparian owner on tidal waters in this state (and any successor in interest to the owner) which has an assent issued by the council to use any land under water in front of his or her lands as a recreational boating facility; any alteration, expansion or other activity at a recreational boating facility (and any successor in interest) which has an assent issued by the council, which assent was in effect as of June 1, 1997; and

(ii) Any renewal of assent to a recreational boating facility (or successor in interest), which assent was issued by the council and in effect on June 1, 1997.

SECTION 7. This act shall take effect upon passage.
This act would establish and implement a comprehensive program pertaining to woodland stewardship and preservation of significant natural resource areas managed by the department of environmental management (DEM) and administered by cities and towns through local comprehensive planning and zoning.

This act would take effect upon passage.