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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2004

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A N A C T

RELATING TO HOUSING

Introduced By: Senators Tassoni, F Caprio, Polisena, P Fogarty, and Connors

Date Introduced: May 27, 2004

Referred To: Senate Commerce, Housing & Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 42-11-10 of the General Laws in Chapter 42-11 entitled
2 "Department of Administration" is hereby amended to read as follows:

3 **42-11-10. Statewide planning program.** -- (a) Findings. - The general assembly finds
4 that the people of this state have a fundamental interest in the orderly development of the state;
5 the state has a positive interest and demonstrated need for establishment of a comprehensive
6 strategic state planning process and the preparation, maintenance, and implementation of plans
7 for the physical, economic, and social development of the state; the continued growth and
8 development of the state presents problems that cannot be met by the cities and towns
9 individually and that require effective planning by the state; and state and local plans and
10 programs must be properly coordinated with the planning requirements and programs of the
11 federal government.

12 (b) Establishment of statewide planning program. - (1) A statewide planning program is
13 hereby established to prepare, adopt, and amend strategic plans for the physical, economic, and
14 social development of the state and to recommend these to the governor, the general assembly,
15 and all others concerned.

16 (2) All strategic planning, as defined in subsection (c) of this section, undertaken by the
17 executive branch for those departments and other agencies enumerated in subsection (g) of this
18 section, shall be conducted by or under the supervision of the statewide planning program. The
19 statewide planning program shall consist of a state planning council, and the office of strategic

1 planning and the office of systems planning of the division of planning, which shall be a division
2 within the department of administration.

3 (c) Strategic planning. - Strategic planning includes the following activities:

4 (1) Establishing or identifying general goals.

5 (2) Refining or detailing these goals and identifying relationships between them.

6 (3) Formulating, testing, and selecting policies and standards that will achieve desired
7 objectives.

8 (4) Preparing long-range or system plans or comprehensive programs that carry out the
9 policies and set time schedules, performance measures, and targets.

10 (5) Preparing functional short-range plans or programs that are consistent with
11 established or desired goals, objectives, and policies, and with long-range or system plans or
12 comprehensive programs where applicable, and that ~~define~~ establish measurable intermediate
13 steps toward their accomplishment of the goals, objectives, policies, and/or long-range system
14 plans.

15 (6) Monitoring the planning of specific projects and designing of specific programs of
16 short duration by the operating departments, ~~and~~ other agencies of the executive branch, and
17 political subdivisions of the state to insure that these are consistent with and carry out the intent
18 of applicable strategic plans.

19 (7) Reviewing the execution of strategic plans and the results obtained and making
20 revisions necessary to achieve established goals.

21 (d) State guide plan. - Components of strategic plans prepared and adopted in accordance
22 with this section may be designated as elements of the state guide plan. The state guide plan shall
23 be comprised of functional elements or plans dealing with land use; physical development and
24 environmental concerns; economic development; housing production; energy supply, access, use,
25 and conservation; human services; and other factors necessary to accomplish the objective of this
26 section. The state guide plan shall be a means for centralizing, ~~and~~ integrating, and monitoring
27 long-range goals, policies, ~~and~~ plans, and implementation activities related thereto. State agencies
28 concerned with specific subject areas, local governments, and the public shall participate in the
29 state guide planning process, which shall be closely coordinated with the budgeting process.

30 (e) Membership of state planning council. - The state planning council shall consist of:

31 (1) The director of the department of administration as chairperson;

32 (2) The director, policy office, in the office of the governor, as vice-chairperson;

33 (3) The governor, or his or her designee;

34 (4) The budget officer;

1 (5) The ~~director of the office~~ chairperson of the housing ~~energy and intergovernmental~~
2 ~~relations~~ resources commission;

3 (6) The chief of statewide planning, as secretary;

4 (7) The president of the league of cities and towns or his or her designee and one official
5 of local government, who shall be appointed by the governor from a list of not less than three (3)
6 submitted by the Rhode Island league of cities and towns; and

7 (8) The executive director of the league of cities and towns;

8 (9) ~~The speaker of the house or his or her designee~~; One representative of a nonprofit
9 community development or housing organization;

10 ~~(10) The president of the senate or his or her designee~~;

11 ~~(11)~~ (10) Four (4) public members, ~~three (3) of whom shall be~~ appointed by the
12 governor, ~~and one of whom shall be appointed by the speaker of the house for terms of three (3)~~
13 ~~years~~;

14 ~~(12)~~ (11) Two (2) representatives of a private, nonprofit environmental advocacy
15 organization, ~~one both~~ to be appointed by the ~~speaker of the house and one to be appointed by the~~
16 ~~president of the senate~~ governor; and

17 ~~(13)~~ (12) The director of planning and development for the city of Providence.

18 (f) Powers and duties of state planning council. - The state planning council shall have
19 the following powers and duties:

20 (1) To adopt strategic plans as defined in this section and the long-range state guide plan,
21 and to modify and amend any of these, following the procedures for notification and public
22 hearing set forth in section 42-35-3, and to recommend and encourage implementation of these
23 goals to the general assembly, state and federal agencies, and other public and private bodies;
24 approval of strategic plans by the governor;

25 (2) To coordinate the planning and development activities of all state agencies, in
26 accordance with strategic plans prepared and adopted as provided for by this section;

27 (3) To review and comment on the proposed annual work program of the statewide
28 planning program;

29 (4) To adopt rules and standards and issue orders concerning any matters within its
30 jurisdiction as established by this section and amendments to it;

31 (5) To establish advisory committees and appoint members thereto representing diverse
32 interests and viewpoints as required in the state planning process and in the preparation or
33 implementation of strategic plans. The state planning council shall appoint a permanent
34 committee comprised of:

1 (i) Public members from different geographic areas of the state representing diverse
2 interests, and

3 (ii) Officials of state, local and federal government, which shall review all proposed
4 elements of the state guide plan, or amendment or repeal of any element of the plan, and shall
5 advise the state planning council thereon before the council acts on any such proposal. This
6 committee shall also advise the state planning council on any other matter referred to it by the
7 council; and

8 (6) To establish and appoint members to an executive committee consisting of major
9 participants of a Rhode Island geographic information system with oversight responsibility for its
10 activities.

11 (g) Division of planning. - (1) The division of planning shall be the principal staff
12 agency of the state planning council for preparing and/or coordinating strategic plans for the
13 comprehensive management of the state's human, economic, and physical resources. The division
14 of planning shall recommend to the state planning council specific guidelines, standards, and
15 programs to be adopted to implement strategic planning and the state guide plan and shall
16 undertake any other duties established by this section and amendments thereto.

17 (2) The division of planning shall maintain records (which shall consist of files of
18 complete copies) of all plans, recommendations, rules, and modifications or amendments thereto
19 adopted or issued by the state planning council under this section. The records shall be open to
20 the public.

21 (3) The division of planning shall manage and administer the Rhode Island geographic
22 information system of land-related resources, and shall coordinate these efforts with other state
23 departments and agencies, including the University of Rhode Island, which shall provide
24 technical support and assistance in the development and maintenance of the system and its
25 associated data base.

26 (4) The division of planning shall coordinate and oversee the provision of technical
27 assistance to political subdivisions of the state in preparing and implementing plans to accomplish
28 the purposes, goals, objectives, policies, and/or standards of applicable elements of the state guide
29 plan and shall make available to cities and towns data and guidelines that may be used in
30 preparing comprehensive plans and elements thereof and in evaluating comprehensive plans and
31 elements thereby.

32 (h) Transfer determinations. - (1) The director of administration, with the approval of the
33 governor, shall make the conclusive determination of the number of positions, personnel, physical
34 space, property, records, and appropriation balances, allocations and other funds of the

1 department of mental health, retardation, and hospitals, department of health, department of
2 human services, department of corrections, department of labor and training, department of
3 environmental management, department of business regulation, department of transportation,
4 department of state library services, Rhode Island Economic Development Corporation,
5 department of elderly affairs, department for children and their families, historical preservation
6 commission, water resources board, and the defense civil preparedness/emergency management
7 agency of the executive department to be transferred to the department of administration in
8 connection with the functions transferred there into by the provisions of this article.

9 (2) In order to ensure continuity of the strategic planning process of the department
10 specified heretofore, the actual transfer of functions or any part thereof to the department of
11 administration may be postponed after July 1, 1985 until such time as, by executive order of the
12 governor, the transfer herein provided can be put into force and effect but no later than December
13 31, 1985.

14 SECTION 2. Section 42-55-2 of the General Laws in Chapter 42-55 entitled "Rhode
15 Island Housing and Mortgage Finance Corporation" is hereby amended to read as follows:

16 **42-55-2. Legislative findings.** – (a) It is hereby found and declared as follows: there
17 exists a serious shortage of safe and sanitary residential housing and shelter in the state available
18 to and affordable by persons and families of low and moderate income, ~~and~~ the elderly and
19 workers, and their families; this condition is conducive to disease, crime, environmental decline,
20 and poverty, and impairs the economic development of the state and communities and the
21 economic value of large areas, which are characterized by depreciated value, impaired
22 investments, and reduced capacity to pay taxes and is a menace to the health, safety, morals, and
23 welfare of the citizens of the state; this condition results in a loss of population and further
24 deterioration accompanied by added costs to communities in the creation of new public facilities
25 and services elsewhere; it is difficult and uneconomical for individual owners independently to
26 remedy this condition; it is desirable to encourage joint efforts to clear, replan, rehabilitate, and
27 reconstruct these areas; it is necessary to create inducements and opportunities for private and
28 public investment in these activities in these areas with appropriate planning, land use, and
29 construction policies; it is also necessary to assist owners of residential housing to retain and
30 operate these units; these activities on a large scale are necessary for the public welfare and are
31 public uses and purposes for which private property may be acquired; one major cause of this
32 condition has been recurrent shortages of funds from private sources; these shortages have
33 contributed to reductions in construction of new residential units, have resulted in the sale of
34 existing housing owned by persons and families of low and moderate income, and have made the

1 purchase of existing residential units a virtual impossibility in certain parts of the state; hospital
2 and other health care services provided at reasonable cost are of vital concern to the health,
3 safety, and welfare of the people of the state, and existing hospitals and other health care facilities
4 are no longer adequate to meet the needs of modern medical care; the ordinary operations of
5 private enterprise have not in the past corrected these conditions; the reduction in residential and
6 health care facility construction has caused substantial unemployment and under-employment in
7 the construction industry which results in hardships, wastes human resources, increases the public
8 assistance burdens of the state, impairs the security of family life, impedes the economic and
9 physical development of the state, and adversely affects the welfare, health, and prosperity of all
10 the people of the state; a stable supply of adequate funds for residential and health care facility
11 financing is required to encourage new housing and health care facilities in an orderly and
12 sustained manner and thereby reduce these results; it is necessary to create a state housing and
13 mortgage finance corporation to encourage the investment of private capital and stimulate and
14 assist in the construction, rehabilitation, operation, retention, and maintenance of residential
15 housing and health care facilities through the use of public financing, to provide construction and
16 mortgage loans, to make grants to shelters for the homeless, and to make provision for the
17 purchase of mortgage loans and otherwise; it is further necessary that the corporation be provided
18 with the power to acquire and operate housing projects on an individual or partnership basis in
19 order to meet the housing demands of the state; and all of the foregoing are public purposes and
20 uses for which public moneys may be borrowed, expended, advanced, loaned, or granted.

21 (b) It is further found and declared as follows: Rhode Island has distinctive historical
22 development patterns and natural systems, which are critical to public health, welfare, community
23 and neighborhood identity and functionality, and quality of life, and which merit preservation,
24 protection, and enhancement; state and local government have planning and regulatory processes
25 that have as their purposes the accomplishment of this preservation, protection, and enhancement;
26 it is necessary that the corporation exercise its powers and administer its programs and
27 responsibilities in a manner that is consistent with and advances the purposes of duly adopted
28 state plans, including specifically the state guide plan, adopted pursuant to section 42-11-10, and
29 with local comprehensive plans, prepared and adopted pursuant to chapter 45-22.2, that have been
30 approved as consistent with the state guide plan.

31 SECTION 3. Chapter 42-55 of the General Laws in title 42 entitled "State Affairs and
32 Government" is hereby amended by adding thereto the following sections:

33 **42-55-5.2. Consistency with plans. -- The corporation shall exercise its powers under**
34 **this chapter in a manner that is consistent on a programmatic basis with the state guide plan,**

1 adopted pursuant to section 42-11-10 and with local comprehensive plans, prepared and adopted
2 pursuant to chapter 45-22.2, that have been approved as consistent with the state guide plan.

3 **42-55-5.3. Letters of eligibility.** -- The corporation shall issue all letters of eligibility for
4 low and moderate income housing for applications made pursuant to chapter 45-53.

5 (a) Evaluation of requests for letters of eligibility:

6 (1) The corporation shall establish for each application:

7 (i) the name and address of the applicant;

8 (ii) the address of the site and site description;

9 (iii) the number and type (homeownership or rental) of housing units proposed;

10 (iv) the name of the housing program under which project eligibility (site approval) is
11 sought;

12 (v) relevant details of the particular project if not mandated by the housing program
13 (including percentage of units for low or moderate income households, income eligibility
14 standards, the duration of restrictions requiring low or moderate income housing); and

15 (2) The corporation shall determine:

16 (i) that the proposed project appears generally eligible under the requirements of the
17 housing program, subject to final review of eligibility and to final approval;

18 (ii) that the subsidizing agency has performed an on-site inspection of the site and has
19 reviewed pertinent information submitted by the applicant;

20 (iii) that an initial pro forma has been reviewed and the project appears financially
21 feasible on the basis of estimated development costs;

22 (iv) that the developer meets the general eligibility standards of the housing program; and

23 (v) that the applicant controls the site.

24 (b) The corporation shall provide a copy of the letter of eligibility to the administrative
25 officer of the local review board of the city or town in which the project would be located.

26 (c) The corporation shall annually report to the governor, the speaker of the house and the
27 president of the senate, and the secretary of the state planning council, by February 15:

28 (1) The number of letters of eligibility issued, the federal and state subsidy programs
29 under which they were eligible, and the number of proposed subsidized units involved, by city
30 and town, during the preceding calendar year;

31 (2) The number of units of low and moderate income housing constructed under federal
32 and state subsidy programs, during the preceding calendar year;

33 (3) The average annual number of units of low and moderate income housing constructed
34 under federal and state subsidy programs for the three (3) preceding calendar years; and

1 (4) The number of units of low and moderate income housing likely to be constructed in
2 the current calendar year based on the three (3) year average of units constructed, adjusted for any
3 changes in law that either increased or decreased funding available for subsidizing the
4 construction of low and moderate income housing. The average annual number of units of
5 subsidized low and moderate income housing, adjusted for any changes in law, shall be a basis
6 for assessing whether low and moderate income housing goals within affordable housing plans
7 are being implemented.

8 SECTION 4. Chapter 42-113 of the General Laws, entitled “Rhode Island Housing and
9 Conservation Trust Fund Act” is hereby amended by adding thereto the following section:

10 **42-113-11. Commission. Housing and Conservation Trust Study Commission. --**

11 (a) There is hereby created a “Housing and Conservation Trust Study Commission” with
12 thirteen (13) members as follows: the presiding officer, or the designee of the presiding officer, of
13 the Audubon Society of Rhode Island, Church Community Housing Corporation, Grow Smart
14 Rhode Island, the Housing Network, the Rhode Island Association of Realtors, the Rhode Island
15 Association of Public Housing Authorities, the Rhode Island Builders Association, the Rhode
16 Island Chapter of the American Planning Association, the Rhode Island Council of Land Trusts,
17 the Rhode Island Housing and Mortgage Finance Corporation, the Rhode Island Housing
18 Resources Commission, the Rhode Island League of Cities and Towns, and The Nature
19 Conservancy. The representative of Grow Smart Rhode Island shall call the organizational
20 meeting of the commission, and the commission shall elect from its members a chairperson, a
21 vice chairperson and a secretary.

22 (b) The purposes of the commission shall be: (1) to study the potential contribution of
23 land trust mechanisms to the development of low and moderate income housing, to evaluate
24 appropriate organization structures and financing mechanisms for such land trusts in Rhode
25 Island, and assess the potential and viability of the housing and conservation trust fund
26 established by this chapter; and (2) to report its findings and recommendations to the governor,
27 the speaker of the house and the senate president by February 1, 2005.

28 (c) The commission shall terminate on June 30, 2005.

29 SECTION 5. Sections 42-128-1, 42-128-2, 42-128-4 and 42-128-5 of the General Laws
30 in Chapter 42-128 entitled "Rhode Island Housing Resources Act of 1998" are hereby amended to
31 read as follows:

32 **42-128-1. Findings. --** (a) Rhode Island has an older housing stock which contributes
33 invaluable to community character, and in order to maintain the stability of neighborhoods and to
34 sustain health communities, it is necessary to have programs for housing and community

1 development and revitalization.

2 (b) Rhode Island has an active private sector that is engaged in supplying housing.

3 (c) Rhode Island has an active non-profit housing sector, which can, if provided adequate
4 support, assist low and moderate income persons and works to improve conditions in
5 neighborhoods and communities.

6 (d) Housing that is not adequately maintained is a source of blight in communities and a
7 cause of public health problems. Public health and safety are impaired by poor housing
8 conditions; poisoning from lead paint and respiratory disease (asthma) are significant housing
9 related health problems in Rhode Island.

10 (e) There is an increasing need for supported living arrangements for the elderly and a
11 continuing need for supported living arrangements for persons who are disabled and/or homeless.

12 (f) Fair housing, and the potential of unequal treatment of individuals based on race,
13 ethnicity, age, disability, and family, must be given continuing attention.

14 (g) Housing costs consume a disproportionate share of income for many Rhode
15 Islanders; housing affordability is a continuing problem, especially for first time home buyers and
16 lower and moderate income renters; the high cost of housing adversely affects the expansion of
17 Rhode Island's economy. Housing affordability and availability affect conditions of
18 homelessness. The high cost of housing and the lack of affordable, decent housing for low
19 income households is a source of hardship for very low income persons and families in Rhode
20 Island.

21 (h) The Rhode Island Housing and Mortgage Finance Corporation, which has provided
22 more than two decades of assistance in addressing issues of both the affordability of home
23 ownership and rental housing and the preservation of the housing stock for low and moderate
24 income persons, is ~~faced with operating deficits in the year 2001~~ [facing future funding shortfalls](#)
25 and must either increase revenues or reduce programs in order to remain viable.

26 (i) The federal government has been reducing its commitment to housing since 1981, and
27 there is no indication that earlier levels of federal support for housing will be restored.

28 (j) Public housing authorities, which rely on federal support that is being reconsidered,
29 have been and continue to be an important housing resource for low income families and the
30 elderly.

31 (k) Rhode Island, unlike most other states, does not have an agency or department of
32 state government with comprehensive responsibility for housing.

33 (l) It is necessary and desirable in order to protect that public health and to promote the
34 public welfare, to establish a housing resources agency and a housing resources commission for

1 the purposes of improving housing conditions, promoting housing affordability, engaging in
2 community development activities, and assisting the urban, suburban, and rural communities of
3 the state.

4 **42-128-2. Rhode Island Housing Resources Agency created.** -- There is created within
5 the executive department a housing resources agency with the following purposes, organization,
6 and powers:

7 (1) Purposes:

8 (i) To provide coherence to the housing programs of the state of Rhode Island and its
9 departments, agencies, commissions, corporations, and subdivisions.

10 (ii) To provide for the integration and coordination of the activities of the Rhode Island
11 Housing and Mortgage Finance Corporation and the Rhode Island Housing Resources
12 Commission.

13 (2) Coordinating committee -- Created -- Purposes and powers:

14 (i) The coordinating committee of the Housing Resources Agency shall be comprised of
15 the chairperson of the Rhode Island Housing and Mortgage Finance Corporation, the chairperson
16 of the Rhode Island Housing Resources Commission, the director of the Department of
17 Administration, or the designee of the director, and the executive director of the Rhode Island
18 Housing and Mortgage Finance Corporation. The chairperson of the Rhode Island Housing
19 Resources Commission shall be chairperson of the coordinating committee. ~~The executive~~
20 ~~director of Rhode Island Housing and Mortgage Finance Corporation shall be the executive~~
21 ~~director and chief operating officer of the coordinating committee.~~

22 (ii) The coordinating committee shall develop and shall implement, with the approval of
23 the Rhode Island Housing and Mortgage Finance Corporation and the Rhode Island Housing
24 Resources Commission, a memorandum of agreement describing the fiscal and operational
25 relationship between the Rhode Island Housing and Mortgage Finance Corporation and the
26 Rhode Island Housing Resources Commission and shall define which programs of federal
27 assistance will be applied for on behalf of the state by the Rhode Island Housing and Mortgage
28 Finance Corporation and the Rhode Island Housing Resources Commission.

29 **42-128-4. Rhode Island Housing Resources Commission.** -- The Rhode Island Housing
30 Resources Commission shall be an agency within the executive department ~~and shall be the~~
31 ~~planning and policy,~~ with responsibility for developing plans, policies, standards and programs
32 ~~division of the Rhode Island Housing Resources Agency~~ and providing technical assistance.

33 **42-128-5. Purposes.** -- The purposes of the commission shall be:

34 (1) To develop and promulgate state policies, and plans; for housing and housing

1 [production](#) and performance measures for housing programs established pursuant to state law.

2 (2) To coordinate activities among state agencies and political subdivisions pertaining to
3 housing.

4 (3) To promote the stability of and quality of life in communities and neighborhoods.

5 (4) To provide opportunities for safe, sanitary, decent, adequate and affordable housing
6 in Rhode Island.

7 (5) To encourage public-private partnerships that foster the [production, rehabilitation,](#)
8 [development,](#) maintenance, and improvement of housing and housing conditions, especially for
9 low and moderate income people.

10 (6) To foster and support no-profit organizations, including community development
11 corporations, and their associations and intermediaries, that are engaged in providing and housing
12 related services.

13 (7) To encourage and support partnerships between institutions of higher education and
14 neighborhoods to develop and retain quality, healthy housing and sustainable communities.

15 [\(8\) To facilitate private for-profit production and rehabilitation of housing for diverse](#)
16 [populations and income groups.](#)

17 [\(9\) To provide, facilitate, and/or support the provisions of technical assistance.](#)

18 SECTION 6. Chapter 42-128 of the General Laws entitled “State Affairs and
19 Government” is hereby amended by adding thereto the following section:

20 **[42-128-8.1. Housing production and rehabilitation.](#)** -- (a) [Short title. This section shall](#)
21 [be known and may be cited as the”Comprehensive Housing Production and Rehabilitation Act of](#)
22 [2004.”](#)

23 [\(b\) Findings. The general assembly finds and declares that:](#)

24 [\(1\) The state must maintain a comprehensive housing strategy applicable to all cities and](#)
25 [towns that addresses the housing needs of different populations including, but not limited to,](#)
26 [workers and their families who earn less than one hundred twenty percent \(120%\) of median](#)
27 [income, older citizens, students attending institutions of higher education, low and very low](#)
28 [income individuals and families, and vulnerable populations including, but not limited to, persons](#)
29 [with disabilities, homeless individuals and families, and individuals released from correctional](#)
30 [institutions.](#)

31 [\(2\) Efforts and programs to increase the production of housing must be sensitive to the](#)
32 [distinctive characteristics of cities and towns, neighborhoods and areas and the need to manage](#)
33 [growth and to pace and phase development, especially in high growth areas.](#)

34 [\(3\) The state in partnership with local communities must remove barriers to housing](#)

1 development and update and maintain zoning and building regulations to facilitate the
2 construction, rehabilitation of properties and retrofitting of buildings for use as safe affordable
3 housing.

4 (4) Creative funding mechanisms are needed at the local and state levels that provide
5 additional resources for housing development, because there is an inadequate amount of federal
6 and state subsidies to support the affordable housing needs of Rhode Island's current and
7 projected population.

8 (5) Innovative community planning tools, including, but not limited to, density bonuses
9 and permitted accessory dwelling units, are needed to offset escalating land costs and project
10 financing costs that contribute to the overall cost of housing and tend to restrict the development
11 and preservation of housing affordable to very low income, low income and moderate income
12 persons.

13 (6) The gap between the annual increase in personal income and the annual increase in
14 the median sales price of a single-family home is growing, therefore, the construction,
15 rehabilitation and maintenance of affordable, multi-family housing needs to increase to provide
16 more rental housing options to individuals and families, especially those who are unable to afford
17 homeownership of a single-family home.

18 (7) The state needs to foster the formation of cooperative partnerships between
19 communities and institutions of higher education to significantly increase the amount of on-
20 campus, residential housing options for students.

21 (8) The production of housing for older citizens as well as urban populations must keep
22 pace with the next twenty-year projected increases in those populations of the state.

23 (9) Efforts must be made to balance the needs of Rhode Island residents with the ability
24 of the residents of surrounding states to enter into Rhode Island's housing market with much
25 higher annual incomes at their disposal.

26 (c) Strategic plan. The commission, in conjunction with the statewide planning program,
27 shall develop by July 1, 2006, a five (5) year strategic plan for housing, which plan shall be
28 adopted as an element of the state guide plan, and which shall include quantified goals,
29 measurable intermediate steps toward the accomplishment of the goals, implementation activities,
30 and standards for the production and/or rehabilitation of year-round housing to meet the housing
31 needs including, but not limited to, the following:

32 (1) Older Rhode Islanders, including senior citizens, appropriate, affordable housing
33 options;

34 (2) Workers, housing affordable at their income level;

- 1 (3) Students, dormitory and student housing;
- 2 (4) Low income and very low income households, rental housing;
- 3 (5) Persons with disabilities; and
- 4 (6) Vulnerable individuals and families, transitional, single room occupancy and shelters.

5 (d) As used in this section and for the purposes of the preparation of affordable housing
6 plans as specified in chapter 45-22.2, words and terms shall have the meaning set forth in chapter
7 45-22.2, chapter 45-53, and/or section 42-11-10, unless this section provides a different meaning
8 or unless the context indicates a different meaning or intent.

9 (1) “Affordable housing” means residential housing that has a sales price or rental
10 amount that is within the means of a household that is moderate income or less. In the case of
11 dwelling units for sale, housing that is affordable means housing in which mortgage,
12 amortization, taxes, insurance, heat and utilities other than telephone, and condominium or
13 association fees, if any, constitute no more than thirty percent (30%) of the gross household
14 income for a moderate income household. In the case of dwelling units for rent, housing that is
15 affordable means housing for which the rent, heat, and utilities other than telephone constitute no
16 more than thirty percent (30%) of the gross annual household income for a household with eighty
17 percent (80%) or less of median income for the area of residence, adjusted for family size.
18 Affordable housing shall include all types of year-round housing, including, but not limited to,
19 manufactured housing, housing originally constructed for workers and their families, accessory
20 dwelling units, housing accepting rental vouchers and/or tenant-based certificates under Section 8
21 of the United States Housing Act of 1937, as amended, and assisted living housing, where the
22 sales or rental amount of such housing, adjusted for any federal, state, or municipal government
23 subsidy, is less than or equal to thirty percent (30%) of the gross household income of the low
24 and/or moderate income occupants of the housing.

25 (2) “Affordable housing plan” means a plan prepared and adopted by a town or city either
26 to meet the requirements of chapter 45-53 or to meet the requirements subsection 45-22.2-10 (f),
27 which require that comprehensive plans and the elements thereof be revised to conform with
28 amendments to the state guide plan.

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

31 (4) “Moderate income household” means a single person, family, or unrelated persons
32 living together whose adjusted gross income is more than eighty percent (80%) but less than one
33 hundred twenty percent (120%) of the median income of the area of residence, adjusted for
34 family size.

1 (5) “Seasonal housing” means housing that is intended by the owner to be occupied
2 during only certain seasons of the year.

3 (6) “Year-round housing” means housing occupied by people as their usual residence
4 and/or vacant units that are intended by their owner for occupancy at all times of the year.

5 (e) The strategic plan shall be updated and/or amended as necessary, but not less than
6 once every five (5) years.

7 (f) Upon the adoption of the strategic plan as an element of the state guide plan, towns
8 and cities shall bring their comprehensive plans into conformity with its requirements, in
9 accordance with the timetable set forth in subsection 45-22.2-10(f), provided, however, that any
10 town adopted an affordable housing plan in order to comply the provisions of chapter 45-53,
11 which has been approved for consistency pursuant to section 45-22.2-9, shall be deemed to satisfy
12 the requirements of the strategic plan for low and moderate income housing until such time as the
13 town must complete its next required comprehensive community plan update.

14 (g) Guidelines. The commission with the state planning council shall promulgate and
15 adopt not later than July 1, 2006, guidelines for higher density development, including, but
16 limited to: (A) inclusionary zoning provisions for low and moderate income housing with
17 appropriate density bonuses and other subsidies that make the development financially feasible;
18 and (B) mixed-use development that includes residential development, which standards shall take
19 into account infrastructure availability; soil type and land capacity; environmental protection; and
20 agricultural, open space, historical preservation, and community development pattern constraints.

21 (h) The statewide planning program shall adopt and maintain a geographic information
22 system map to the extent feasible of areas throughout the state suitable for higher density
23 residential development consistent with the guidelines adopted pursuant to subsection (e) above.

24 SECTION 7. Sections 45-22.2-3, 45-22.2-4, 45-22.2-6 and 45-22.2-9 of the General
25 Laws in Chapter 45-22.2 entitled "Rhode Island Comprehensive Planning and Land Use Act" are
26 hereby amended to read as follows:

27 **45-22.2-3. Legislative findings and intent -- Statement of goals.** -- (a) Findings. - The
28 general assembly recognizes these findings, each with equal priority and numbered for reference
29 only, as representing the need to substantially revise present enabling legislation and, therefore,
30 declares that:

31 (1) The absence of accurate technical information and comprehensive planning by
32 municipal government as a rational basis for long-term physical development creates conflicting
33 requirements and reactive land use regulations and decisions.

34 (2) Municipal government is responsible for land use, but lacks the technical information

1 and financial resources to plan for orderly growth and development, and the protection and
2 management of our land and natural resources.

3 (3) Land, water, and air are finite natural resources. Comprehensive planning must
4 provide for protection, development, use, and management of our land and natural resources.

5 (4) Comprehensive planning and its implementation will promote the appropriate use of
6 land. The lack of comprehensive planning and its implementation has led to the misuse, underuse,
7 and overuse of our land and natural resources.

8 (5) The coordination of growth and the intensity of development with provisions for
9 services and facilities is a proper objective of comprehensive planning.

10 (6) Comprehensive planning is needed to provide a basis for municipal and state
11 initiatives to insure all citizens have access to a range of housing choices, including the
12 availability of affordable housing for all income levels and age groups.

13 (7) Municipal comprehensive planning must recognize and address land uses in
14 contiguous municipalities and encourage cooperative planning efforts by municipalities.

15 (8) Comprehensive planning will provide a basis for improved coordination so that local
16 plans reflect issues of local, regional, and statewide concern. Comprehensive planning will insure
17 that municipal government has a role in the formulation of state goals and policies.

18 (9) Improved coordination is necessary between state and municipal governments to
19 promote uniform standards and review procedures as well as consistency in land use regulations.

20 (b) Intent. - The general assembly declares it is the intent of this chapter to:

21 (1) Establish, in each municipality, a program of comprehensive planning that is
22 implemented according to the standards and schedule contained in this chapter.

23 (2) Provide financial assistance for the formulation and implementation of the
24 comprehensive plan.

25 (3) Provide financial assistance to establish a uniform data and technical information
26 base to be used by state and municipal governments and their agencies.

27 (4) Establish standards and a uniform procedure for the review and approval of
28 municipal comprehensive plans and state guide plans and their consistency with overall state
29 goals, [objectives, standards, applicable performance measures](#), and policies.

30 (5) Establish a procedure in comprehensive planning at state and municipal levels which
31 will accommodate future requirements.

32 (c) Goals. - The general assembly hereby establishes a series of goals to provide overall
33 direction and consistency for state and municipal agencies in the comprehensive planning process
34 established by this chapter. The goals have equal priority and are numbered for reference only.

1 (1) To promote orderly growth and development that recognizes the natural
2 characteristics of the land, its suitability for use, and the availability of existing and proposed
3 public and/or private services and facilities.

4 (2) To promote an economic climate which increases quality job opportunities and
5 overall economic well being of each municipality and the state.

6 (3) To promote [the production and rehabilitation of year-round housing that achieves](#) a
7 balance of housing choices, for all income levels and age groups, which recognizes the
8 affordability of housing as the responsibility of each municipality and the state [and which](#)
9 [facilitates economic growth in the state](#).

10 (4) To promote the protection of the natural, historic and cultural resources of each
11 municipality and the state.

12 (5) To promote the preservation of the open space and recreational resources of each
13 municipality and the state.

14 (6) To [provide for the use of performance-based standards for development and to](#)
15 encourage the use of innovative development regulations and techniques that promote the
16 development of land suitable for development while protecting our natural, cultural, historical,
17 and recreational resources, and achieving a balanced pattern of land uses.

18 (7) To promote consistency of state actions and programs with municipal comprehensive
19 plans, and provide for review procedures to ensure that state goals and policies are reflected in
20 municipal comprehensive plans and state guide plans.

21 (8) To ensure that adequate and uniform data are available to municipal and state
22 government as the basis for comprehensive planning and land use regulation.

23 (9) To ensure that municipal land use regulations and decisions are consistent with the
24 comprehensive plan of the municipality, and to insure state land use regulations and decisions are
25 consistent with state guide plans.

26 (10) To encourage the involvement of all citizens in the formulation, review, and
27 adoption of the comprehensive plan.

28 (11) To preserve existing government subsidized housing for persons and families of low
29 and moderate income [and to increase the overall ability of year-round housing, including low and](#)
30 [moderate income persons and families](#).

31 **45-22.2-4. Definitions.** -- As used in this chapter the following words have the meanings
32 stated herein:

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

1 that defined as prime farm land or additional farm land of statewide importance for Rhode Island
2 by the soil conservation service of the United States department of agriculture.

3 (2) "Board" means the state comprehensive plan appeals board as established by chapter
4 22.3 of this title.

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

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

12 (5) "Coastal features" means those coastal features defined in chapter 23 of title 46.

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

16 (7) "Council" means the state planning council as established by chapter 11 of title 42.

17 (8) "Days" means calendar days.

18 (9) "Director" means the director of administration.

19 (10) "Division of planning" means the office of state planning as established as a
20 division of the department of administration by section 42-11-10(b).

21 (11) "Federally insured or assisted housing" means:

22 (i) Low income housing units insured or assisted under sections 221(d)(3) and 236 of the
23 National Housing Act, 12 U.S.C. section 1701 et seq.;

24 (ii) Low income housing units produced with assistance under section 8 of the United
25 States Housing Act of 1937, 42 U.S.C. section 1401 et seq.; and

26 (iii) Rural low income housing financed under section 515 of the Housing Act of 1949,
27 12 U.S.C. section 1715z.

28 (12) "Floodplains" or "flood hazard area" means an area that has a one percent (1%) or
29 greater chance of inundation in any given year, as delineated by the federal emergency agency
30 pursuant to the National Flood Insurance Act of 1968, as amended (P.L. 90-448), 42 U.S.C. 4011
31 et seq.

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

34 (14) "Goals" means those goals stated in section 45-22.2-3.

1 (15) "Historic district" means one or more historic sites and intervening or surrounding
2 property significantly affecting or affected by the quality and character of the historic site or sites,
3 and has been registered, or is deemed eligible to be included, on the state register of historical
4 places pursuant to section 42-45-5.

5 (16) "Historic site" means any real property, man made structure, natural object, or
6 configuration or any portion or group of the preceding which has been registered, or is deemed
7 eligible to be included, on the state register of historic places pursuant to section 42-45-5.

8 (17) "Improvement" means any man made, immovable item which becomes part of,
9 placed upon, or is affixed to, real estate.

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

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

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

17 (21) "Municipal legislative body" means the town meeting in a town; the town council in
18 a town or the city council in a city; or that part of a municipal government that exercises
19 legislative powers under a statute or charter.

20 (22) "Municipal reviewing authority" means the municipal planning board, or
21 commission, or if none, the municipal officers.

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

27 (24) "Planning board" or "commission" means the body established by a municipality or
28 combination of municipalities which has the responsibility to prepare a comprehensive plan and
29 make recommendations concerning that plan to the municipal legislative body.

30 (25) "Program" means the statewide planning program established by chapter 11 of title
31 42.

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

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

5 (28) "Wetland, coastal" means a salt marsh bordering on the tidal waters of this state and
6 contiguous uplands extending no more than fifty (50) yards inland therefrom.

7 (29) "Wetland, freshwater" means a marsh, swamp, bog, pond, river, river or stream
8 flood plain or bank; area subject to flooding or storm flowage; emergent or submergent plant
9 community in any body of fresh water; or area within fifty feet (50') of the edge of a bog, marsh,
10 swamp, or pond, as defined in section 2-1-20.

11 (30) "Zoning" means the reservation of certain specified areas within a community or
12 city for building and structures, or use of land, for certain purposes with other limitations as
13 height, lot coverage, and other stipulated requirements.

14 (31) "Low and Moderate Income Housing" means housing as defined [in chapter 45-53 as](#)
15 [low and moderate income housing, or as necessary in the context of implementing the purposes of](#)
16 [the federal Low Income Preservation and Resident Home Ownership Act of 1999, housing as](#)
17 [defined](#) in the federal Low Income Preservation and Resident Home Ownership Act of 1990 and
18 as may be amended for both the purposes of this chapter and any reference to low and moderate
19 income housing in relation to a Comprehensive Plan prepared and adopted pursuant to this
20 chapter.

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

27 [\(33\) "Affordable housing plan" means a component of a housing element, prepared by a](#)
28 [town subject to planning expectations established by chapter 45-53, or a component of a housing](#)
29 [element, prepared for the purpose of conformity with the requirements of section 42-128-8.1.](#)

30 [\(34\) "Strategic plan for housing production and rehabilitation" means the state guide plan](#)
31 [element promulgated and adopted as set forth in section 42-128-8.1.](#)

32 **45-22.2-6. Required elements of comprehensive plan. --** The comprehensive plan is a
33 statement (in text, maps, illustrations, or other media of communication) that is designed to
34 provide a basis for rational decision making regarding the long term physical development of the

1 municipality. The definition of goals and policies relative to the distribution of future land uses,
2 both public and private, forms the basis for land use decisions to guide the overall physical,
3 economic, and social development of the municipality. The comprehensive plan must be
4 internally consistent in its policies, forecasts, and standards, and include the following elements:

5 (1) Goals and policies statement. - Identifies the goals and policies of the municipality
6 for its future growth and development. The statement enumerates how the plan is consistent with
7 the overall goals and policies of this chapter, the state guide plan, and related elements.

8 (2) Land use plan element. - Designates the proposed general distribution and general
9 location and interrelationship of land use for residential, commercial, industry, open space,
10 recreation facilities, and other categories of public and private uses of land. The land use element
11 is based upon the other elements contained in this section, and it relates the proposed standards of
12 population density and building intensity to the capacity of the land and available or planned
13 facilities and services. A land use plan map, illustrating the future strategy and land use policy of
14 the municipality, as defined by the comprehensive plan, is required. The land use plan must
15 contain an analysis of the inconsistency of existing zoning districts, if any, with the land use plan.
16 The land use plan should specify the process by which the zoning ordinance and zoning map shall
17 be amended to conform to the comprehensive plan.

18 (3) Housing element. - Consists of identification and analysis of existing and forecasted
19 housing needs and objectives including programs for the preservation, including, but not limited
20 to, the preservation of federally insured or assisted housing, improvement, and development of
21 housing for all citizens. The housing element enumerates local policies and implementation
22 techniques to ~~provide~~ promote the production and rehabilitation of housing that achieves a
23 balance of housing choices, recognizing local, regional, and statewide needs for all income levels
24 and for all age groups, including, but not limited to, the affordability of housing and the
25 preservation of federally insured or assisted housing. The element identifies specific programs
26 and policies for inclusion in the implementation program necessary to accomplish this purpose.
27 and takes into account growth management and the need to phase and pace development in areas
28 of rapid growth. The housing element includes an affordable housing plan that identifies housing
29 needs in the community, including, but not limited to, the needs for low and moderate income
30 housing, establishes goals and policies to address those needs, consistent with available resources
31 and the need to protect public health and safety and environmental quality. The affordable
32 housing plan includes an implementation program of actions to be taken to effectuate the policies
33 and goals of the affordable housing plan.

34 (4) Economic development element. - Includes the identification of economic

1 development policies and strategies, either existing or proposed by the municipality, in
2 coordination with the land use plan element. These policies should reflect local, regional, and
3 statewide concerns for the expansion and stabilization of the economic base and the promotion of
4 quality employment opportunities [and job growth](#). The policies and implementation techniques
5 must be identified for inclusion in the implementation program element.

6 (5) Natural and cultural resources element. - Provides an inventory of the significant
7 natural resource areas as water, soils, prime agricultural lands, natural vegetation systems,
8 wildlife, watersheds, wetlands, aquifers, coastal features, flood plains, and other natural
9 resources, and the policies for the protection and management of these areas. The element
10 includes policies for the protection of the historic and cultural resources of the municipality and
11 the state. The policies and implementation techniques must be identified for inclusion in the
12 implementation program element.

13 (6) Services and facilities element. - Provides an inventory of existing and forecasted
14 needs for facilities and services used by the public as, but not limited to, educational facilities,
15 public safety, water, sanitary sewers, libraries, and community facilities. The policies and
16 implementation techniques must be identified for inclusion in the implementation program
17 element.

18 (7) Open space and recreation element. - Includes an inventory of recreational resources,
19 open space areas, and recorded access to these resources and areas. The element must also
20 contain an analysis of forecasted needs and policies for the management and protection of these
21 resources and areas. The policies and implementation techniques must be identified for inclusion
22 in the implementation program element.

23 (8) Circulation element. - Consists of the inventory and analysis of existing and proposed
24 major circulation systems, street patterns, and any other modes of transportation in coordination
25 with the land use element. The policies and implementation techniques must be identified for
26 inclusion in the implementation program element.

27 (9) Implementation program.

28 (i) A statement which defines and schedules for a period of five (5) years or more the
29 specific public actions to be undertaken in order to achieve the goals and objectives of each
30 element of the comprehensive plan. Scheduled expansion or replacement of public facilities, and
31 the anticipated costs and revenue sources proposed to meet those costs reflected in a
32 municipality's capital improvement program, must be included in the implementation program.

33 (ii) The implementation program identifies the public actions necessary to implement the
34 objectives and standards of each element of the comprehensive plan that require the adoption or

1 amendment of codes and ordinances by the governing body of the municipality.

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

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

8 **45-22.2-9. State review of local comprehensive plans.** -- (a) There is established a
9 program of comprehensive planning review to promote the preparation and implementation of
10 local comprehensive plans, and to provide technical and financial assistance to accomplish this
11 purpose. The program also ensures that all local comprehensive plans and state guide plans are
12 consistent with the state goals, findings, and intent as established by this chapter.

13 (b) The director is designated as the reviewing agent, and the director is responsible for
14 carrying out the provisions of this chapter and ensuring that the findings, intent, and goals of this
15 chapter are achieved. The director shall publish guidelines for the preparation of comprehensive
16 plan elements required by section 45-22.2-6.

17 (c) The director shall review any comprehensive plan or amendments adopted under the
18 provisions of this chapter, submitted to the director, for consistency with the goals and intent
19 established in the chapter and in the state guide plan, and in accordance with the following
20 schedule:

21 (1) Comprehensive plans or amendments shall be submitted to the director within thirty
22 (30) days of adoption by the municipal legislative body, pursuant to section 45-22.2-8(c).

23 (2) Within fifteen (15) days of the receipt of a comprehensive plan the director shall give
24 public notice of the initiation of review, and shall solicit comments from regional and state
25 agencies, all municipalities contiguous to the municipality submitting the plan, update, or
26 amendment, and from interested parties. The comment period shall extend for thirty (30) days
27 after the public notice.

28 (3) Review of the plan, update, or amendment, and comments by the director shall be
29 completed and forwarded to the municipality as follows:

30 (i) Within one hundred twenty (120) days of the end of the comment period for new
31 plans, amended plans, or other amendments if any three (3) or more of the plan elements required
32 by section 45-22.2-6 are revised in any way, as compared to any plan or amendment previously
33 submitted under this chapter; or

34 (ii) Within thirty (30) days of the end of the comment period for amended plans or other

1 amendments that revise not more than two (2) of the plan elements required by section 45-22.2-6,
2 as compared to any plan or amendment previously submitted under this chapter.

3 (iii) The director and the division of planning are authorized to discuss and negotiate,
4 with the municipality, concerning any aspect of a plan or amendment being reviewed under
5 subdivision (3)(i) or (3)(ii) of this subsection.

6 (iv) The director and the municipality submitting a plan, amended plan, or other
7 amendment may mutually agree, in writing, to reduce or extend the review period established by
8 this section.

9 (4) Municipalities shall correct any deficiencies reported by the director within sixty (60)
10 days of the receipt of the director's review and comments provided that the director and the
11 municipality submitting a plan, amended plan, or other amendment may mutually agree, in
12 writing, to reduce or extend this period.

13 (5) The director shall review all corrections and related material submitted by the
14 municipality and render a final decision on the plan, update, or amendment or parts of the plan
15 within thirty (30) days of the end of the period for correction. In the event of disapproval, the
16 director shall issue findings specifically describing the deficiencies in the plan or amendment as it
17 relates to the goals and other provisions of this chapter.

18 (6) The review process stated in subdivisions (1) through (5) of this subsection shall be
19 carried out within a maximum time period of two hundred fifty-five (255) days under subdivision
20 (3)(i), one hundred sixty-five (165) days under subdivision (3)(ii), or the appropriate maximum
21 period determined under subdivision (3)(iv) or (4).

22 (7) The municipality may appeal the decision of the director to the comprehensive plan
23 appeals board. The appeal must be made within fifteen (15) days of the decision by the director.
24 The comprehensive plan appeals board shall hold a hearing on the appeal, make findings of fact,
25 and affirm, modify, or reverse the director's decision. The board shall render its decision within
26 sixty (60) days of receipt of the appeal. The municipality or director may appeal the decision of
27 the board to the supreme court. The appeal must be made within thirty (30) days of the board's
28 decision.

29 (8) Upon approval by the director, the municipality is eligible for all benefits and
30 incentives conditioned on adoption of an approved comprehensive plan pursuant to this chapter,
31 and the municipality is allowed to submit the approved comprehensive plan or element to any
32 state agency which requires the submission of a plan as part of its requirements, and the plan or
33 element shall satisfy that requirement.

34 (d) Comprehensive plans, updates, and amendments shall be reviewed by the director to

1 insure that the following requirements are complied with:

2 (1) The goals of this chapter have been met.

3 (2) All required elements as stated in section 45-22.2-6 are complete-: provided,
4 however, that the review of affordable housing plans submitted to conform with the provisions of
5 chapter 45-53 shall not be contingent on requirements for adopting and/or updating overall
6 comprehensive plans or the elements thereof.

7 (3) All plans are consistent with the state guide plan, and embody the goals and policies
8 of the state and its departments and agencies.

9 (4) All plans comply with rules and regulations adopted by the state planning council as
10 provided for by section 45-22.2-10(b).

11 (e) The director shall also review comprehensive plans and amendments and related
12 documents to insure that the following procedures have been complied with:

13 (1) The planning board or commission is designated to conduct comprehensive planning.

14 (2) If comprehensive planning is conducted jointly by two (2) or more municipalities,
15 that an agreement containing all required information has been executed by all parties and filed
16 with the division of planning.

17 (3) Each plan encompasses the entire land and water area within the jurisdiction of the
18 municipality or municipalities concerned.

19 (4) Adequate, uniform, and valid data have been used in preparing each plan.

20 (5) Each plan has been coordinated with contiguous municipalities.

21 (6) The public has been involved in preparation of the plan, and hearings have been
22 conducted by both the planning board or commission and the legislative body.

23 (7) The plan has been officially adopted in accordance with this chapter and other
24 applicable procedures.

25 (8) The plan has been submitted for review in accordance with statutory deadlines.

26 (9) Amendments are made no more frequently than permitted by section 45-22.2-12(c)
27 provided; however, that the initial adoption of amendments by a municipality in order to comply
28 with the requirements of an updated or new state guide plan element as provided for in subsection
29 45-22.2-10(f) shall not be included in determining the frequency of amendments by a
30 municipality.

31 SECTION 8. Sections 45-24-31 and 45-24-47 of the General Laws in Chapter 45-24
32 entitled "Zoning Ordinances" are hereby amended to read as follows:

33 **45-24-31. Definitions.** -- Where words or terms used in this chapter are defined in section
34 45-22.2-4, they have the meanings stated in that section. In addition, the following words have

1 the following meanings. Additional words and phrases may be used in developing local
2 ordinances under this chapter; however, the words and phrases defined in this section are
3 controlling in all local ordinances created under this chapter:

4 (1) Abutter. - One whose property abuts, that is, adjoins at a border, boundary, or point
5 with no intervening land.

6 (2) ~~Accessory Family Dwelling Unit. - An accessory dwelling unit for the sole use of~~
7 ~~one or more members of the family of the occupant or occupants of the principal residence, but~~
8 ~~not needing a separate means of ingress and egress.~~ Accessory Dwelling Unit.-- A dwelling unit:

9 (i) rented to and occupied either by one or more members of the family of the occupant or
10 occupants of the principal residence; or (ii) reserved for rental occupancy by a person or a family
11 who are low or moderate income where the principal residence is owner occupied, and which
12 meets the following provisions:

13 (a) Only one accessory dwelling unit shall be created on a single lot, and only where the
14 principal use of the property is as a single-family dwelling.

15 (b) An accessory dwelling unit shall include separate cooking and sanitary facilities, with
16 its own legal means of ingress and egress and is a complete, separate dwelling unit. The accessory
17 dwelling unit shall be within or attached to the principal dwelling unit structure or within an
18 existing structure, such as a garage or barn, and designed so that the appearance of the principal
19 structure remains that of a one-family residence. If additional exterior entrances are required, they
20 shall be located in the rear or side of the structure.

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

25 (4) Aggrieved Party. - An aggrieved party, for purposes of this chapter, shall be:

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

29 (ii) Anyone requiring notice pursuant to this chapter.

30 (5) Agricultural Land. - "Agricultural land", as defined in section 45-22.2-4.

31 (6) Airport Hazard Area. - "Airport hazard area", as defined in section 1-3-2.

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

34 (8) Application. - The completed form or forms and all accompanying documents,

1 exhibits, and fees required of an applicant by an approving authority for development review,
2 approval, or permitting purposes.

3 (9) Buffer. - Land which is maintained in either a natural or landscaped state, and is used
4 to screen and/or mitigate the impacts of development on surrounding areas, properties, or rights-
5 of-way.

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

8 (11) Building Envelope. - The three-dimensional space within which a structure is
9 permitted to be built on a lot and which is defined by regulations governing building setbacks,
10 maximum height, and bulk; by other regulations; and/or by any combination thereof.

11 (12) Building Height. - The vertical distance from grade, as determined by the
12 municipality, to the top of the highest point of the roof or structure. The distance may exclude
13 spires, chimneys, flag poles, and the like.

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

23 (14) Common Ownership. - Either:

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

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

28 (15) Community Residence. - A home or residential facility where children and/or adults
29 reside in a family setting and may or may not receive supervised care. This does not include
30 halfway houses or substance abuse treatment facilities. This does include, but is not limited, to the
31 following:

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

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

3 (iii) A residence for children providing care or supervision, or both, to not more than
4 eight (8) children including those of the care giver and licensed by the state pursuant to chapter
5 72.1 of title 42;

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

13 (16) Comprehensive Plan. - The comprehensive plan adopted and approved pursuant to
14 chapter 22.2 of this title and to which any zoning adopted pursuant to this chapter shall be in
15 compliance.

16 (17) Day Care -- Day Care Center. - Any other day care center which is not a family day
17 care home.

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

22 (19) Density, Residential. - The number of dwelling units per unit of land.

23 (20) Development. - The construction, reconstruction, conversion, structural alteration,
24 relocation, or enlargement of any structure; any mining, excavation, landfill or land disturbance;
25 or any change in use, or alteration or extension of the use, of land.

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

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

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

34 (24) Dwelling Unit. - A structure or portion of a structure providing complete,

1 independent living facilities for one or more persons, including permanent provisions for living,
2 sleeping, eating, cooking, and sanitation, and containing a separate means of ingress and egress.

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

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

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

12 (28) Floodplains, or Flood Hazard Area. - As defined in section 45-22.2-4.

13 (29) Groundwater. - "Groundwater" and associated terms, as defined in section 46-13.1-
14 3.

15 (30) Halfway House. - A residential facility for adults or children who have been
16 institutionalized for criminal conduct and who require a group setting to facilitate the transition to
17 a functional member of society.

18 (31) Hardship. - See section 45-24-41.

19 (32) Historic District, or Historic Site. - As defined in section 45-22.2-4.

20 (33) Home Occupation. - Any activity customarily carried out for gain by a resident,
21 conducted as an accessory use in the resident's dwelling unit.

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

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

29 (ii) A person or group of unrelated persons living together. The maximum number may
30 be set by local ordinance, but this maximum shall not be less than three (3).

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

34 (36) Infrastructure. - Facilities and services needed to sustain residential, commercial,

1 industrial, institutional, and other activities.

2 (37) Land Development Project. - A project in which one or more lots, tracts, or parcels
3 of land are to be developed or redeveloped as a coordinated site for a complex of uses, units, or
4 structures, including, but not limited to, planned development and/or cluster development for
5 residential, commercial, institutional, recreational, open space, and/or mixed uses as may be
6 provided for in the zoning ordinance.

7 (38) Lot. - Either:

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

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

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

15 (40) Lot Building Coverage. - That portion of the lot that is or may be covered by
16 buildings and accessory buildings.

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

19 (42) Lot Frontage. - That portion of a lot abutting a street. A zoning ordinance shall
20 specify how noncontiguous frontage will be considered with regard to minimum frontage
21 requirements.

22 (43) Lot Line. - A line of record, bounding a lot, which divides one lot from another lot
23 or from a public or private street or any other public or private space and shall include:

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

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

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

32 (44) Lot, Through. - A lot which fronts upon two (2) parallel streets, or which fronts
33 upon two (2) streets which do not intersect at the boundaries of the lot.

34 (45) Lot Width. - The horizontal distance between the side lines of a lot measured at

1 right angles to its depth along a straight line parallel to the front lot line at the minimum front
2 setback line.

3 (46) Mere Inconvenience. - See section 45-24-41.

4 (47) Mixed Use. - A mixture of land uses within a single development, building, or tract.

5 (48) Modification. - Permission granted and administered by the zoning enforcement
6 officer of the city or town, and pursuant to the provisions of this chapter to grant a dimensional
7 variance other than lot area requirements from the zoning ordinance to a limited degree as
8 determined by the zoning ordinance of the city or town, but not to exceed twenty-five percent
9 (25%) of each of the applicable dimensional requirements.

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

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

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

24 (50) Overlay District. - A district established in a zoning ordinance that is superimposed
25 on one or more districts or parts of districts and that imposes specified requirements in addition
26 to, but not less, than those otherwise applicable for the underlying zone.

27 (51) Performance Standards. - A set of criteria or limits relating to elements which a
28 particular use or process must either meet or may not exceed.

29 (52) Permitted Use. - A use by right which is specifically authorized in a particular
30 zoning district.

31 (53) Planned Development. - A "land development project", as defined in section 45-24-
32 31(37), and developed according to plan as a single entity and containing one or more structures
33 and/or uses with appurtenant common areas.

34 (54) Preapplication Conference. - A review meeting of a proposed development held

1 between applicants and reviewing agencies as permitted by law and municipal ordinance, before
2 formal submission of an application for a permit or for development approval.

3 (55) Setback Line or Lines. - A line or lines parallel to a lot line at the minimum distance
4 of the required setback for the zoning district in which the lot is located that establishes the area
5 within which the principal structure must be erected or placed.

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

8 (57) Special Use. - A regulated use which is permitted pursuant to the special-use permit
9 issued by the authorized governmental entity, pursuant to section 45-24-42. Formerly referred to
10 as a special exception.

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

13 (59) Substandard Lot of Record. - Any lot lawfully existing at the time of adoption or
14 amendment of a zoning ordinance and not in conformance with the dimensional and/or area
15 provisions of that ordinance.

16 (60) Use. - The purpose or activity for which land or buildings are designed, arranged, or
17 intended, or for which land or buildings are occupied or maintained.

18 (61) Variance. - Permission to depart from the literal requirements of a zoning ordinance.
19 An authorization for the construction or maintenance of a building or structure, or for the
20 establishment or maintenance of a use of land, which is prohibited by a zoning ordinance. There
21 are only two (2) categories of variance, a use variance or a dimensional variance.

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

26 (ii) Dimensional Variance. - Permission to depart from the dimensional requirements of
27 a zoning ordinance, where the applicant for the requested relief has shown, by evidence upon the
28 record, that there is no other reasonable alternative way to enjoy a legally permitted beneficial use
29 of the subject property unless granted the requested relief from the dimensional regulations.
30 However, the fact that a use may be more profitable or that a structure may be more valuable after
31 the relief is granted are not grounds for relief.

32 (62) Waters. - As defined in section 46-12-1(23).

33 (63) Wetland, Coastal. - As defined in section 45-22.2-4.

34 (64) Wetland, Freshwater. - As defined in section 2-1-20.

1 (65) Zoning Certificate. - A document signed by the zoning enforcement officer, as
2 required in the zoning ordinance, which acknowledges that a use, structure, building, or lot either
3 complies with or is legally nonconforming to the provisions of the municipal zoning ordinance or
4 is an authorized variance or modification therefrom.

5 (66) Zoning Map. - The map or maps which are a part of the zoning ordinance and which
6 delineate the boundaries of all mapped zoning districts within the physical boundary of the city or
7 town.

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

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

19 **45-24-47. Special provisions -- Land development projects.** - (a) A zoning ordinance
20 may provide for land development projects which are projects in which one or more lots, tracts,
21 or parcels of land are to be developed or redeveloped as a coordinated site for a complex of uses,
22 units, or structures, including, but not limited to, planned development and/or cluster
23 development for residential, commercial, institutional, industrial, recreational, open space, and/or
24 mixed uses as may be provided for in the zoning ordinance.

25 (b) A zoning ordinance adopted pursuant to this chapter which permits or requires the
26 creation of land development projects in one or more zoning districts shall require that any land
27 development project is referred to the city or town planning board or commission for approval, in
28 accordance with the procedures established by chapter 23 of this title, including those for appeal
29 and judicial review, and with any ordinances or regulations adopted pursuant to the procedures,
30 whether or not the land development project constitutes a "subdivision", as defined in chapter 23
31 of this title. No land development project shall be initiated until a plan of the project has been
32 submitted to the planning board or commission and approval has been granted by the planning
33 board or commission. In reviewing, hearing, and deciding upon a land development project, the
34 city or town planning board or commission may be empowered to allow zoning incentives within

1 the project; provided, that standards for the adjustments are described in the zoning ordinance,
2 and may be empowered to apply any special conditions and stipulations to the approval that may,
3 in the opinion of the planning board or commission, be required to maintain harmony with
4 neighboring uses and promote the objectives and purposes of the comprehensive plan and zoning
5 ordinance.

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

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

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

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

11 (4) Maximum density per lot and maximum density for the entire development, with
12 provisions for adjustment of applicable lot density and dimensional standards where open space is
13 to be permanently set aside for public or common use, and/or where the physical characteristics,
14 location, or size of the site require an adjustment, and/or where the location, size, and type of
15 housing, commercial, industrial, or other use require an adjustment, and/or where housing for low
16 and moderate income families is to be provided, or where other amenities not ordinarily required
17 are provided, as stipulated in the zoning ordinance. Provision may be made for adjustment of
18 applicable lot density and dimensional standards for payment or donation of other land or
19 facilities in lieu of an on-site provision of an amenity that would, if provided on-site, enable an
20 adjustment;

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

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

25 (d) (1) A zoning ordinance ~~provides that~~ requiring open land ~~provided by~~ in a cluster
26 development or other land development project for public or common use, shall provide that such
27 open land either: (i) be conveyed to the city or town and accepted by it for park, open space,
28 agricultural, or other specified use or uses, or (ii) be conveyed to a nonprofit organization, the
29 principal purpose of which is the conservation of open space or resource protection, or (iii) be
30 conveyed to a corporation or trust owned or to be owned by the owners of lots or units within the
31 development, or owners of shares within a cooperative development. If such a corporation or trust
32 is used, ownership shall pass with conveyances of the lots or units, or (iv) remain in private
33 ownership if the use is limited to agriculture, habitat or forestry, and the city or town has set forth
34 in its community comprehensive plan and zoning ordinance that private ownership is necessary

1 for the preservation and management of the agricultural, habitat or forest resources.

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

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

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

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

13 (e) A zoning ordinance requiring the inclusion of affordable housing as part of a land
14 development project shall provide that the housing will be affordable housing, as defined in
15 section 42-128-8.1(c)(1), that the affordable housing will constitute not less than twenty-five
16 percent (25%) of the total units in the land development project, and that the units will remain
17 affordable for a period of not less than thirty (30) years from initial occupancy enforced through a
18 land lease and/or deed restriction enforceable by the municipality and the state of Rhode Island.

19 SECTION 9. Sections 45-53-3, 45-53-5 and 45-53-6 of the General Laws in Chapter 45-
20 53 entitled "Low and Moderate Income Housing" are hereby amended to read as follows:

21 **45-53-3. Definitions.** -- The following words, wherever used in this chapter, unless a
22 different meaning clearly appears from the context, have the following meanings:

23 (1) "Comprehensive plan" means a comprehensive plan adopted and approved by a city
24 or town pursuant to chapters 22.2 and 22.3 of this title.

25 (2) "Consistent with local needs" means local zoning or land use ordinances,
26 requirements, and regulations are considered consistent with local needs if they are reasonable in
27 view of the state need for low and moderate income housing, considered with the number of low
28 income persons in the city or town affected and the need to protect the health and safety of the
29 occupants of the proposed housing or of the residence of the city or town, to promote better site
30 and building design in relation to the surroundings, or to preserve open spaces, and if the local
31 zoning or land use ordinances, requirements, and regulations are applied as equally as possible to
32 both subsidized and unsubsidized housing. Local zoning and land use ordinances, requirements,
33 or regulations are consistent with local needs when imposed by a city or town council after
34 comprehensive hearing in a city or town where:

1 (i) Low or moderate income housing exists which is: (A) in the case of an urban city or
2 town which has at least 5,000 occupied year-round rental units and the units, as reported in the
3 latest decennial census of the city or town, comprise twenty-five percent (25%) or more of the
4 year-round housing units, is in excess of fifteen percent (15%) of the total occupied year-round
5 rental units; or (B) in the case of all other cities or towns, is in excess of ten percent (10%) of the
6 year-round housing units reported in the census.

7 (ii) The city or town has promulgated zoning or land use ordinances, requirements, and
8 regulations to implement a comprehensive plan which has been adopted and approved pursuant to
9 chapters 22.2 and 22.3 of this title, and the housing element of the comprehensive plan provides
10 for low and moderate income housing in excess of either ten percent (10%) of the year-round
11 housing units or fifteen percent (15%) of the occupied year-round rental housing units as
12 provided in subdivision (2) (i).

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

22 (4) "Local board" means any town or city official, zoning board of review, planning
23 board or commission, ~~platting board of review, or building inspector, or the officer or board of~~
24 appeal or zoning enforcement officer, local conservation commission, historic district
25 commission, or other municipal board having supervision of the construction of buildings or the
26 power of enforcing ~~municipal building,~~ land use regulations, such as subdivision, or zoning laws;
27 ~~or the city council or town council.~~

28 (5) "Low or moderate income housing" means any housing subsidized by the federal, ~~or~~
29 state, or municipal government under any program to assist the construction or rehabilitation of
30 housing as low or moderate income housing, as defined in the applicable federal or state statute,
31 whether built or operated by any public agency or any nonprofit organization, or by any limited
32 equity housing cooperative or any private developer, that will remain affordable for not less than
33 thirty (30) years from initial occupancy through a land lease and/or deed restriction.

34 (6) "Affordable housing plan" means a housing element, as defined in section 45-22.2-

1 4(33), to meet housing needs in a city or town that is prepared in accordance with guidelines
2 adopted by the state planning council.

3 (7) “Approved affordable housing plan” means an affordable housing plan that has been
4 approved by the director as meeting the guidelines for the local comprehensive plan as
5 promulgated by the state planning council; provided, however, that such approval shall not be
6 contingent on the city or town having completed, adopted, or amended its comprehensive plan as
7 provided for in sections 45-22.2-8, 45-22.2-9, or 45-22.2-12.

8 (8) “Letter of eligibility” means a letter issued by the Rhode Island Housing and
9 Mortgage Finance Corporation in accordance with subsection 42-55-5.3(a).

10 (9) “Local review board” means the planning board as defined by section 45-22.2-4(24),
11 or if designated by ordinance as the board to act on comprehensive permits for the town, the
12 zoning board of review established pursuant to section 45-24-56.

13 (9) “Meeting housing needs” means adoption of the implementation program of an
14 approved affordable housing plan and the absence of unreasonable denial of applications that are
15 made pursuant to an approved affordable housing plan in order to accomplish the purposes and
16 expectations of the approved affordable housing plan.

17 (10) “Municipal government subsidy” means assistance that is made available through a
18 city or town program to make housing affordable, as affordable housing is defined in subsection
19 42-128-8.1(d)(1); such assistance may include, but is not limited to, direct financial support,
20 waiver of fees and charges, and approval of density bonuses and/or internal subsidies, and any
21 combination of forms of assistance.

22 **45-53-5. Appeals to state housing appeals board -- Judicial review.** – (a) Whenever an
23 application filed under the provisions of section 45-53-4 is denied, or is granted with conditions
24 and requirements that make the building or operation of the housing infeasible, the applicant has
25 the right to appeal to the state housing appeals board established by section 45-53-7, for a review
26 of the application. The appeal shall be taken within twenty (20) days after the date of the notice of
27 the decision by the ~~zoning local review~~ board ~~of review~~ by filing with the appeals board a
28 statement of the prior proceedings and the reasons upon which the appeal is based.

29 (b) The appeals board shall immediately notify the ~~zoning local review~~ board ~~of review~~
30 of the filing of the petition for review and the latter shall, within ten (10) days of the receipt of the
31 notice, transmit a copy of its decision and the reasons for that decision to the appeals board.

32 (c) The appeal shall be heard by the appeals board within twenty (20) days after the
33 receipt of the applicant's statement. A stenographic record of the proceedings shall be kept and
34 the appeals board shall render a written decision and order, based upon a majority vote, stating its

1 findings of fact, and its conclusions and the reasons for those conclusions, within thirty (30) days
2 after the termination of the hearing, unless the time has been extended by mutual agreement
3 between the appeals board and the applicant. The decision and order may be appealed in the
4 supreme court.

5 **45-53-6. Power of state housing appeals board.** -- (a) In hearing the appeal, the state
6 housing appeals board shall determine whether: (i) in the case of the denial of an application, the
7 decision of the ~~zoning local review~~ board ~~of review~~ was consistent with an approved affordable
8 housing plan, or if the town does not have an approved affordable housing plan, was reasonable
9 and consistent with local needs; and, (ii) in the case of an approval of an application with
10 conditions and requirements imposed, whether those conditions and requirements make the
11 construction or operation of the housing infeasible and whether ~~they are~~ those conditions and
12 requirements are consistent with an approved affordable housing plan, or if the town does not
13 have an approved affordable housing plan, are consistent with local needs.

14 (b) The standards for reviewing the appeal include, but are not limited to:

15 (1) The consistency of the decision to deny or condition the permit with the approved
16 affordable housing plan and approved comprehensive plan;

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

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

21 (4) The consideration of environmental protection; and

22 (5) The extent to which the community applies local zoning ordinances and special
23 exception procedures evenly on subsidized and unsubsidized housing applications alike.

24 (c) If the appeals board finds, in the case of a denial, that the decision of the ~~zoning local~~
25 ~~review~~ board ~~of review~~ was unreasonable and not consistent with local plans and local needs, it
26 shall vacate the decision and issue a decision and order approving the application, denying the
27 application, or approving with various conditions consistent with local needs. If the appeals board
28 finds, in the case of an approval with conditions and requirements imposed, that the decision of
29 the ~~zoning local review~~ board ~~of review~~ makes the building or operation of the housing infeasible,
30 and is not consistent with local needs, it shall issue a decision and order, modifying or removing
31 any condition or requirement so as to make the proposal no longer infeasible, and approving the
32 application; provided, that the appeals board shall not issue any decision and order that would
33 permit the building or operation of the housing in accordance with standards less safe than the
34 applicable building and site plan requirements of the federal department of housing and urban

1 development or the Rhode Island housing and mortgage finance corporation, whichever agency is
2 financially assisting the housing. Decisions or conditions and requirements imposed by a ~~zoning~~
3 local review board ~~of review~~ that are consistent with approved affordable housing plans and/or
4 with local needs shall not be vacated, modified, or removed by the appeals board notwithstanding
5 that the decision or conditions and requirements have the effect of denying or making the
6 applicant's proposal infeasible.

7 (d) The appeals board or the applicant has the power to enforce the orders of the appeals
8 board by an action brought in the supreme court. The ~~zoning local review~~ board ~~of review~~ shall
9 carry out the decision and order of the appeals board within thirty (30) days of its entry and, upon
10 failure to do so, the decision and order of the appeals board is, for all purposes, deemed to be the
11 action of the ~~zoning local review~~ board ~~of review~~, unless the applicant consents to a different
12 decision or order by the ~~zoning local review~~ board ~~of review~~. The decision and order of the
13 appeals board is binding on the city or town, which shall immediately issue any and all necessary
14 permits and approvals to allow the construction and operation of the housing as approved by the
15 appeals board.

16 (e) The state housing appeals board shall:

17 (1) Upon an appeal of the applicant prior to August 1, 2004, rule on December 1, 2004,
18 on the substantial completeness of applications as of February 13, 2004, that were affected by the
19 moratorium established by subsection 4 (b) of this chapter. The determination of substantial
20 completeness shall be based on whether there was:

21 (i) a written request to the zoning board of review to submit a single application to build
22 or rehabilitate low or moderate income housing in lieu of separate applications to the application
23 local boards;

24 (ii) a written list of variances, special use permits and waivers requested to local
25 requirements and regulations, including local codes, ordinances, by-laws or regulations, including
26 any requested waivers from the land development or subdivisions regulations, and a proposed
27 timetable for completion of the project;

28 (iii) evidence of site control;

29 (iv) evidence of eligibility for a state or federal government subsidy, including a letter
30 from the funding agency indicating the applicant and the project;

31 (v) evidence of incorporation;

32 (vi) site development plans showing the locations and outlines of proposed buildings; the
33 proposed location, general dimensions and materials for street, drives, parking areas, walks and
34 paved areas; proposed landscaping improvements and open areas within the site; and the

1 proposed location and types of sewage, drainage and water facilities;

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

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

8 (ix) a master plan, if the development proposal is for a major or minor land development
9 plan or a major or minor subdivision;

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

12 (xi) the list of all persons entitled to notice in accordance with R.I.G.L. section 45-24-53.

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

21 (3) Hear and decide appeals, other than those covered by subsection (1) above, for which
22 it took jurisdiction on or before May 1, 2004.

23 (4) Conduct such other business as may be reasonable and appropriate in order to
24 facilitate an orderly transfer of activities to the State Housing Appeals Board as it shall be
25 constituted after January 1, 2005.

26 SECTION 10. Section 1 of Chapters 003 and 004 of the 2004 Public Laws are hereby
27 amended to read as follows:

28 **45-53-4. Procedure for approval of construction of low or moderate income housing.**

29 ~~—(a) Any public agency, nonprofit organization, or limited equity housing cooperative proposing~~
30 ~~to build low or moderate income housing may submit to the zoning board of review, established~~
31 ~~under § 45-24-56, a single application for a comprehensive permit to build that housing in lieu of~~
32 ~~separate applications to the applicable local boards. In the case of a private developer, this~~
33 ~~procedure is only available for low or moderate income housing proposals which remain as low~~
34 ~~or moderate income housing for a period of not less than thirty (30) years from initial occupancy.~~

1 ~~The zoning board of review shall immediately notify each local board, as applicable, of the filing~~
2 ~~of the application, by sending a copy to the local boards and to other parties entitled to notice of~~
3 ~~hearings on applications under the zoning ordinance and shall, within thirty (30) days of the~~
4 ~~receipt of the application, hold a public hearing on the application. The chair of the state housing~~
5 ~~appeals board shall, by regulation, provide for review by planning boards in cases of applications~~
6 ~~involving land development projects or subdivisions. The zoning board of review has the same~~
7 ~~power to issue permits or approvals that any local board or official who would otherwise act with~~
8 ~~respect to the application, including, but not limited to, the power to attach to the permit or~~
9 ~~approval, conditions, and requirements with respect to height, site plan, size, or shape, or building~~
10 ~~materials, as are consistent with the terms of this section. In reviewing the comprehensive permit~~
11 ~~request, the zoning board may deny the request for any of the following reasons: if the proposal is~~
12 ~~inconsistent with local needs, including, but not limited to, the needs identified in an approved~~
13 ~~comprehensive plan, and local zoning ordinances and procedures promulgated in conformance~~
14 ~~with the comprehensive plan; if the proposal is not in conformance with the comprehensive plan;~~
15 ~~if the community has met or has plans to meet the standard of ten percent (10%) of the units or, in~~
16 ~~the case of an urban town or city, fifteen percent (15%) of the occupied rental housing units as~~
17 ~~defined in § 45-53-3(2)(i) being low and moderate income housing; or if concerns for the~~
18 ~~environment and the health and safety of current residents have not been adequately addressed.~~
19 ~~The zoning board shall render a decision, based upon a majority vote of the board, within forty~~
20 ~~(40) days after the termination of the public hearing and, if favorable to the applicant, shall~~
21 ~~immediately issue a decision approving the application. If the hearing is not convened or a~~
22 ~~decision is not rendered within the time allowed, unless the time has been extended by mutual~~
23 ~~agreement between the zoning board and the applicant, the application is deemed to have been~~
24 ~~allowed and the approval shall issue immediately. Any person aggrieved by the issuance of an~~
25 ~~approval may appeal to the supreme court.~~

26 (a) Any applicant proposing to build low or moderate income housing may submit to the
27 local review board a single application for a comprehensive permit to build that housing in lieu of
28 separate applications to the applicable local boards. This procedure is only available for proposals
29 in which at least twenty-five percent (25%) of the housing is low or moderate income housing
30 that shall remain as low or moderate income housing for a period of at least thirty (30) years from
31 initial occupancy. The application and review process for a comprehensive permit shall be as
32 follows:

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

34 (i) a letter of eligibility issued by the Rhode Island Housing Mortgage Finance

1 Corporation, or in the case of projects primarily funded by the U.S. Department of Housing and
2 Urban Development, an award letter indicating the subsidy, or application in such form as may be
3 prescribed for a municipal government subsidy; and

4 (ii) a written request to the local review board to submit a single application to build or
5 rehabilitate low or moderate income housing in lieu of separate applications to the applicable
6 local boards. The written request shall identify the specific sections and provisions of applicable
7 local ordinances and regulations from which the applicant is seeking relief; and

8 (iii) a proposed timetable for the commencement of construction and completion of the
9 project; and

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

14 (v) identification of an approved entity that will monitor the long-term affordability of the
15 low and moderate income units; and

16 (vi) a financial pro-forma for the proposed development; and

17 (vii) for comprehensive permit applications (A) not involving major land developments
18 or major subdivisions including, but not limited to, applications seeking relief from specific
19 provisions of a local zoning ordinance, or involving administrative subdivisions, minor land
20 developments or minor subdivisions, or other local ordinances and regulations; those items
21 required by local regulations promulgated pursuant to applicable state law, with the exception of
22 evidence of state or federal permits; and for comprehensive permit applications (B) involving
23 major land developments and major subdivisions: those items included in the checklist for the
24 master plan in the local regulations promulgated pursuant to R.I.G.L. section 45-23-40.
25 Subsequent to master plan approval, the applicant must submit those items included in the
26 checklist for a preliminary plan for a major land development or major subdivision project in the
27 local regulations promulgated pursuant to R.I.G.L. section 45-23-41, with the exception of
28 evidence of state or federal permits. All required state and federal permits must be obtained prior
29 to the final plan approval or the issuance of a building permit; and

30 (viii) municipalities may impose fees on comprehensive permit applications that are
31 consistent with but do not exceed fees that would otherwise be assessed for a project of the same
32 scope and type but not proceeding under this chapter, provided, however, that the imposition of
33 such fees shall not preclude a showing by a non-profit applicant that the fees make the project
34 financially infeasible; and

1 (ix) notwithstanding the submission requirements set forth above, the local review board
2 may request additional, reasonable documentation throughout the public hearing, including, but
3 not limited to, opinions of experts, statements and advice from other local boards and officials.

4 (2) Certification of completeness. The application must be certified complete or
5 incomplete by the administrative officer within thirty (30) days, according to the provisions of
6 subsection 45-23-36(b). The running of the time period set forth herein will be deemed stopped
7 upon the issuance of a certificate of incompleteness of the application by the administrative
8 officer and will recommence upon the resubmission of a corrected application by the applicant.
9 However, in no event will the administrative officer be required to certify a corrected submission
10 as complete or incomplete less than fourteen (14) days after its resubmission. If the
11 administrative officer certifies the application as incomplete, the officer shall set forth in writing
12 with specificity the missing or incomplete items.

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

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

30 (i) Notification: Upon issuance of a certificate of completeness for a comprehensive
31 permit, the local review board shall immediately notify each local board, as applicable, of the
32 filing of the application, by sending a copy to the local boards and to other parties entitled to
33 notice of hearings on applications under the zoning ordinance and/or land development and
34 subdivision regulations as applicable.

1 (ii) Public Notice. Public notice for all public hearings will be the same notice required
2 under local regulations for a public hearing for a preliminary plan promulgated in accordance
3 with R.I.G.L. section 45-23-42. The cost of notice shall be paid by the applicant.

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

13 (iv) Review of major projects. In the review of a comprehensive permit application
14 involving a major land development and/or major subdivision, the local review board shall hold a
15 public hearing on the master plan and shall, within one hundred and twenty (120) days of
16 issuance of the certification of completeness, or within such further amount of time as may be
17 agreed to by the local review board and the applicant, render a decision. Preliminary and final
18 plan review shall be conducted according to local regulations promulgated pursuant to R.I.G.L.
19 Chapter 45-23 except as otherwise specified in this act.

20 (v) Required findings. In taking final action on an application, the local review board
21 shall make positive findings, supported by legally competent evidence on the record which
22 discloses the nature and character of the observations upon which the fact finders acted, on each
23 of the following standard provisions, where applicable.

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

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

31 (3) All low and moderate income housing units proposed are integrated throughout the
32 development; are similar in scale and architectural style to the market rate units within the
33 project; and will be built and occupied prior to, or simultaneous with the construction and
34 occupancy of any market rate units.

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

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

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

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

17 (vii) In reviewing the comprehensive permit request, the local review board may deny the
18 request for any of the following reasons: (A) if city or town has an approved affordable housing
19 plan and is meeting housing needs, and the proposal is inconsistent with the affordable housing
20 plan; (B) the proposal is not consistent with local needs, including, but not limited to, the needs
21 identified in an approved comprehensive plan, and/or local zoning ordinances and procedures
22 promulgated in conformance with the comprehensive plan; (C) the proposal is not in
23 conformance with the comprehensive plan; (D) the community has met or has plans to meet the
24 goal of ten percent (10%) of the year-round units or, in the case of an urban town or city, fifteen
25 percent (15%) of the occupied rental housing units as defined in section 45-53-3(2)(i) being low
26 and moderate income housing; or (E) concerns for the environment and the health and safety of
27 current residents have not been adequately addressed.

28 (viii) All local review board decisions on comprehensive permits shall be by simple
29 majority vote and may be appealed by the applicant to the state housing appeals board.

30 (ix) If the public hearing is not convened or a decision is not rendered within the time
31 allowed in subsection (d)(ii) and (d)(iii), the application is deemed to have been allowed and the
32 relevant approval shall issue immediately provided, however, that this provision shall not apply to
33 any application remanded for hearing in any town where more than one application has been
34 remanded for hearing provided for in subsection 45-53-6(e)(2).

1 (x) Any person aggrieved by the issuance of an approval may appeal to the supreme
2 court.

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

8 (xii) A town with an approved affordable housing plan and that is meeting local housing
9 needs may limit the annual total number of dwelling units in comprehensive permit applications
10 from for-profit developers to an aggregate of one percent (1%) of the total number of year-round
11 housing units in the town, as recognized in the affordable housing plans and notwithstanding the
12 timetables set forth elsewhere in this section, the local review board shall have the authority to
13 consider comprehensive permit applications from for-profit developers, which are made pursuant
14 to this paragraph, sequentially in the order in which they are submitted.

15 (xiii) The local review board of a town with an approved affordable housing plan shall
16 report the status of implementation, including the disposition of any applications made under the
17 plan, as of June 30, 2006, by September 1, 2006 and for each June 30 thereafter by September 1
18 through 2010. The Housing Resources Commission shall prepare by October 15 and adopt by
19 December 31, a report on the status of implementation, which shall be submitted to the governor,
20 the speaker, the president of the senate and the chairperson of the State Housing Appeals Board,
21 and shall find which towns are not in compliance with implementation requirements.

22 (xiv) The timetable for hearing applications set forth in subsections (iii) and (iv) above
23 shall not apply to applications remanded by the State Housing Appeals Board pursuant to
24 subsection 45-53-6(e)(2); in any town with more than one remanded application, applications
25 may be scheduled for hearing in the order in which they were received, and may be taken up
26 sequentially, with the thirty (30) day requirement for the initiation of hearings, commencing upon
27 the decision of the earlier filed application.

28 (b) (1) The general assembly finds and declares that in January 2004 towns throughout
29 Rhode Island have been confronted by an unprecedented volume and complexity of development
30 applications as a result of private for-profit developers using the provisions of this chapter and
31 that in order to protect the public health and welfare in communities and to provide sufficient
32 time to establish a reasonable and orderly process for the consideration of applications made
33 under the provisions of this chapter, and to have communities prepare plans to meet low and
34 moderate income housing goals, that it is necessary to impose a moratorium on the use of

1 comprehensive permit applications as herein provided by private for-profit developers; a
2 moratorium is hereby imposed on the use of the provisions of this chapter by private for-profit
3 developers, which moratorium shall be effective on passage and shall expire on January 31, 2005
4 and may be revisited prior to expiration and extended to such other date as may be established by
5 law. Notwithstanding the provisions of subsection (a) of this section, private for-profit developers
6 may not utilize the procedure of this chapter until the expiration of the moratorium.

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

9 (c) Towns and cities that are not in conformity with the provisions of section 45-53-
10 3(2)(i) shall prepare by December 31, 2004, a comprehensive plan housing element for low and
11 moderate income housing as specified by section 45-53-3(2)(ii), consistent with applicable law
12 and regulation. That the secretary of the planning board or commission of each city or town
13 subject to the requirements of this paragraph shall report in writing the status of the preparation of
14 the housing element for low and moderate income housing on or before June 30, 2004, and on or
15 before December 31, 2004, to the secretary of the state planning council, to the chair of the house
16 committee on corporations and to the chair of the senate committee on commerce, housing and
17 municipal government. The state housing appeals board shall use said plan elements in making
18 determinations provided for in subsection 45-53-6(b)(2).

19 (d) If any provision of this act or the application thereof shall for any reason be judged
20 invalid, such judgment shall not affect, impair, or invalidate the remainder of this act or of any
21 other provision of chapter 45-53 of the general laws, but shall be confined in its effect to the
22 provision or application directly involved in the controversy giving rise to the judgment, and a
23 moratorium on the applications of for-profit developers pursuant to chapter 45-53 of the general
24 laws shall remain and continue to be in effect for the period commencing on the day this act
25 becomes law and continue until it shall expire on January 31, 2005 or until amended further.

26 (e) In planning for, awarding and otherwise administering programs and funds for
27 housing and for community development, state departments, agencies, boards and commissions,
28 public corporations, as defined in chapter 35-18, shall among the towns subject to the provision
29 of subsection 45-53-2(ii) give priority to the maximum extent allowable by law, to towns with an
30 approved affordable housing plan. The director of administration shall adopt not later than
31 January 31, 2005, regulations to implement the provisions of this section.

32 SECTION 11. Section 45-53-7 of the General Laws in Chapter 45-53 entitled "Low and
33 Moderate Income Housing" is hereby amended to read as follows:

34 **45-53-7. Housing appeals board.** -- ~~(a) There shall be within the state a housing appeals~~

1 ~~board consisting of nine (9) members:~~

2 ~~Housing Appeals Board~~

3 Represent:-	4 Appointed by:
4 1 district court judge (chair)	Chief of district court
5 1 local zoning board member	Speaker of the house
6 1 local planning board member	President of the senate
7 2 city and town council members	Speaker of the house
8 (plus an alternate) representing	President of the senate
9 municipalities of various sizes	(Governor)
10 1 affordable housing developer	Governor
11 1 affordable housing advocate	Governor
12 1 director of statewide planning	
13 or designee	Self-appointed
14 1 director of Rhode Island housing	
15 or designee	Self-appointed

16 (a)(i) There shall be within the state a housing appeals board consisting of seven (7)
 17 voting members to be appointed by the governor, who shall include four (4) local officials, who
 18 shall not be from the same city or town, including one local zoning board member, one local
 19 planning board member, one city council member and one town council member, one of the local
 20 official members shall be designated by the governor as the alternative local official member who
 21 shall be a voting member of the board only in the event that one or more of the other three (3)
 22 local officials is unable to serve at a hearing; one affordable housing developer; one affordable
 23 housing advocate; one representative of the business community; and one attorney
 24 knowledgeable in land use regulation, who should be chairperson of the board.

25 (ii) Those members of the board as of the effective date of this act who were appointed to
 26 the board by members of the general assembly shall cease to be members of the board on the
 27 effective date of this act, and the governor shall thereupon nominate four (4) new members each
 28 of whom shall serve for the balance of the current term of his or her predecessor.

29 (iii) All other members of the commission as of the effective date of this act shall
 30 continue to serve for the duration of their current terms.

31 (iv) All gubernatorial appointments made under this section after the effective date of this
 32 act shall be subject to the advice and consent of the senate.

33 (b) All appointments are for two (2) year terms; ~~provided, that the initial terms of~~
 34 ~~members appointed by the speaker of the house and president of the senate are for a period of one~~

1 ~~year~~ except as otherwise provided in subsection (a)(ii) of this section, the terms of members
2 appointed after December 31, 2004, shall be for three (3) years. Each member who is duly
3 appointed or continued in office after January 1, 2005, shall hold office for the term for which the
4 member is appointed and until the member's successor shall have been appointed and qualified,
5 or until the members earlier death, resignation, or removal. A member shall receive no
6 compensation for his or her services, but shall be reimbursed by the state for all reasonable
7 expenses actually and necessarily incurred in the performance of his or her official duties. The
8 board shall hear all petitions for review filed under section 45-53-5, and shall conduct all hearings
9 in accordance with the rules and regulations established by the chair. Rhode Island housing shall
10 provide space, and clerical and other assistance, as the board may require.

11 SECTION 12. Section 11 of this act shall take effect only upon the ratification and
12 effective date of a constitutional amendment entitled "Joint Resolution to Approve and Publish
13 and Submit to the Electors a Proposition of Amendment to the Constitution of the State
14 (Separation of Powers). Sections 1 through 10 inclusive shall take effect upon passage.

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LC03509
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HOUSING

1 This act would make various amendments relating to the implementation of a statewide
2 plan to provide safe and affordable housing to low and moderate income families, the elderly, and
3 workers and their families.

4 Section 11 of this act would take effect only upon the ratification and effective date of a
5 constitutional amendment entitled “Joint Resolution to Approve and Publish and Submit to the
6 Electors a Proposition of Amendment to the Constitution of the State (Separation of Powers).
7 Sections 1 through 10 inclusive would take effect upon passage.

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