

2023 -- S 1034

LC002501

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO TOWNS AND CITIES -- SUBDIVISION OF LAND

Introduced By: Senators Pearson, and McKenney

Date Introduced: May 19, 2023

Referred To: Senate Housing & Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-23-32, 45-23-36, 45-23-39, 45-23-49, 45-23-50, 45-23-50.1, 45-
2 23-62 and 45-23-71 of the General Laws in Chapter 45-23 entitled "Subdivision of Land" are
3 hereby amended to read as follows:

4 **45-23-32. Definitions Definitions -- Effective January 1, 2024.**

5 Where words or phrases used in this chapter are defined in the definitions section of either
6 the Rhode Island Comprehensive Planning and Land Use Regulation Act, § 45-22.2-4, or the Rhode
7 Island Zoning Enabling Act of 1991, § 45-24-31, they have the meanings stated in those acts.
8 Additional words and phrases may be defined in local ordinances, regulations and rules under this
9 act. The words and phrases defined in this section, however, shall be controlling in all local
10 ordinances, regulations, and rules created under this chapter. See also § 45-23-34. In addition, the
11 following words and phrases have the following meanings:

12 (1) Administrative officer. The municipal official designated by the local regulations to
13 administer the land development and subdivision regulations and to coordinate with local boards
14 and commissions, municipal staff and state agencies. The administrative officer may be a member
15 of, or the chair, of the planning board, or an appointed official of the municipality. See § 45-23-55.

16 (2) Administrative subdivision. Re-subdivision of existing lots which yields no additional
17 lots for development, and involves no creation or extension of streets. The re-subdivision only
18 involves divisions, mergers, mergers and division, or adjustments of boundaries of existing lots.

19 ~~(3) Board of appeal. The local review authority for appeals of actions of the administrative~~

~~officer and the planning board on matters of land development or subdivision, which shall be the local zoning board of review constituted as the board of appeal. See § 45-23-57.~~

~~(4)~~(3) Bond. See improvement guarantee.

~~(5)~~(4) Buildable lot. A lot where construction for the use(s) permitted on the site under the local zoning ordinance is considered practicable by the planning board, considering the physical constraints to development of the site as well as the requirements of the pertinent federal, state and local regulations. See § 45-23-60(4).

~~(6)~~(5) Certificate of completeness. A notice issued by the administrative officer informing an applicant that the application is complete and meets the requirements of the municipality's regulations, and that the applicant may proceed with the approval process.

~~(7)~~(6) Concept plan. A drawing with accompanying information showing the basic elements of a proposed land development plan or subdivision as used for pre-application meetings and early discussions, and classification of the project within the approval process.

~~(8)~~(7) Consistency with the comprehensive plan. A requirement of all local land use regulations which means that all these regulations and subsequent actions are in accordance with the public policies arrived at through detailed study and analysis and adopted by the municipality as the comprehensive community plan as specified in § 45-22.2-3.

~~(9)~~(8) Dedication, fee-in-lieu-of. Payments of cash which are authorized in the local regulations when requirements for mandatory dedication of land are not met because of physical conditions of the site or other reasons. The conditions under which the payments will be allowed and all formulas for calculating the amount shall be specified in advance in the local regulations. See § 45-23-47.

(9) Development plan review. The process whereby authorized, local officials review the site plans, maps, and other documentation of a development qualifying for this review as set forth in § 45-23-50, to determine the compliance with the specific and objective standards of the ordinance and/or regulations.

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

(11) Division of land. A subdivision.

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

1 (13) Final plan. The final stage of land development and subdivision review. See § 45-23-
2 43.

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

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

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

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

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

16 (19) Land-development project. A project in which one or more lots, tracts, or parcels of
17 land are developed or redeveloped as a coordinated site for one or more uses, units, or structures,
18 including, but not limited to, planned development or cluster development for residential,
19 commercial, institutional, recreational, open space, or mixed uses.

20 ~~(19)~~(20) Local regulations. The land development and subdivision review regulations
21 adopted under the provisions of this act. For purposes of clarification, throughout this act, where
22 reference is made to local regulations, it is be understood as the land development and subdivision
23 review regulations and all related ordinances and rules properly adopted pursuant to this chapter.

24 ~~(20)~~(21) Maintenance guarantee. Any security instrument which may be required and
25 accepted by a municipality to ensure that necessary improvements will function as required for a
26 specific period of time. See improvement guarantee.

27 ~~(21)~~(22) Major land development ~~plan. Any~~ . The process by which a municipal planning
28 board or commission reviews a land development plan not classified as a minor land development
29 plan qualifying for this review under § 45-23-39.

30 ~~(22)~~(23) Major subdivision. ~~Any subdivision not classified as either an administrative~~
31 ~~subdivision or a minor subdivision~~ The process by which a municipal planning board or
32 commission reviews any subdivision qualifying for this review under § 45-23-39.

33 ~~(23)~~(24) Master plan. An overall plan for a proposed project site outlining general, rather
34 than detailed, development intentions. It describes the basic parameters of a major development

1 proposal, rather than giving full engineering details. Required in major land development or major
2 subdivision review [only](#). See § 45-23-40.

3 ~~(24) Minor land development plan. A development plan for a residential project as defined~~
4 ~~in local regulations, provided that the development does not require waivers or modifications as~~
5 ~~specified in this act. All nonresidential land development projects are considered major land~~
6 ~~development plans.~~

7 ~~(25) Minor subdivision. A plan for a subdivision of land consisting of five (5) or fewer~~
8 ~~units or lots, provided that the subdivision does not require waivers or modifications as specified~~
9 ~~in this chapter.~~

10 ~~(26)~~[\(25\)](#) Modification of requirements. See § 45-23-62.

11 ~~(27)~~[\(26\)](#) Parcel. A lot, or contiguous group of lots in single ownership or under single
12 control, and usually considered a unit for purposes of development. Also referred to as a tract.

13 ~~(28)~~[\(27\)](#) Parking area or lot. All that portion of a development that is used by vehicles, the
14 total area used for vehicular access, circulation, parking, loading and unloading.

15 ~~(29)~~[\(28\)](#) Permitting authority. The local agency of government specifically empowered by
16 state enabling law and local ordinance to hear and decide on specific matters pertaining to local
17 land use.

18 ~~(30)~~[\(29\)](#) Phased development. Development, usually for large-scale projects, where
19 construction of public and/or private improvements proceeds by sections subsequent to approval
20 of a master plan for the entire site. See § 45-23-48.

21 ~~(31)~~[\(30\)](#) Physical constraints to development. Characteristics of a site or area, either natural
22 or man-made, which present significant difficulties to construction of the uses permitted on that
23 site, or would require extraordinary construction methods. See also environmental constraints.

24 ~~(32)~~[\(31\)](#) Planning board. The official planning agency of a municipality, whether
25 designated as the plan commission, planning commission, plan board, or as otherwise known.

26 ~~(33)~~[\(32\)](#) Plat. A drawing or drawings of a land development or subdivision plan showing
27 the location, boundaries, and lot lines of individual properties, as well as other necessary
28 information as specified in the local regulations.

29 ~~(34)~~[\(33\)](#) Pre-application conference. An initial meeting between developers and municipal
30 representatives which affords developers the opportunity to present their proposals informally and
31 to receive comments and directions from the municipal officials and others. See § 45-23-35.

32 ~~(35)~~[\(34\)](#) Preliminary plan. ~~The~~ [A](#) required stage of land development and subdivision
33 review [for formal development plan review, major land development review, comprehensive](#)
34 [permits and major subdivisions](#) which [generally](#) requires detailed engineered drawings ~~and all~~

1 ~~required state and federal permits~~. See § 45-23-41.

2 ~~(36)~~(35) Public improvement. Any street or other roadway, sidewalk, pedestrian way, tree,
3 lawn, off-street parking area, drainage feature, or other facility for which the local government or
4 other governmental entity either is presently responsible, or will ultimately assume the
5 responsibility for maintenance and operation upon municipal acceptance.

6 ~~(37)~~(36) Public informational meeting. A meeting of the planning board or governing body
7 preceded by a notice, open to the public and at which the public is heard.

8 ~~(38)~~(37) Re-subdivision. Any change of an approved or recorded subdivision plat or in a
9 lot recorded in the municipal land evidence records, or that affects the lot lines of any areas reserved
10 for public use, or that affects any map or plan legally recorded prior to the adoption of the local
11 land development and subdivision regulations. For the purposes of this act any action constitutes a
12 subdivision.

13 ~~(39)~~(38) Slope of land. The grade, pitch, rise or incline of the topographic landform or
14 surface of the ground.

15 ~~(40)~~(39) Storm water detention. A provision for storage of storm water runoff and the
16 controlled release of the runoff during and after a flood or storm.

17 ~~(41)~~(40) Storm water retention. A provision for storage of storm water runoff.

18 ~~(42)~~(41) Street. A public or private thoroughfare used, or intended to be used, for passage
19 or travel by motor vehicles. Streets are further classified by the functions they perform. See street
20 classification.

21 ~~(43)~~(42) Street, access to. An adequate and permanent way of entering a lot. All lots of
22 record shall have access to a public street for all vehicles normally associated with the uses
23 permitted for that lot.

24 ~~(44)~~(43) Street, alley. A public or private thoroughfare primarily designed to serve as
25 secondary access to the side or rear of those properties whose principal frontage is on some other
26 street.

27 ~~(45)~~(44) Street, cul-de-sac. A local street with only one outlet and having an appropriate
28 vehicular turnaround, either temporary or permanent, at the closed end.

29 ~~(46)~~(45) Street, limited access highway. A freeway or expressway providing for through
30 traffic. Owners or occupants of abutting property on lands and other persons have no legal right to
31 access, except at the points and in the manner as may be determined by the public authority having
32 jurisdiction over the highway.

33 ~~(47)~~(46) Street, private. A thoroughfare established as a separate tract for the benefit of
34 multiple, adjacent properties and meeting specific, municipal improvement standards. This

1 definition does not apply to driveways.

2 ~~(48)~~(47) Street, public. All public property reserved or dedicated for street traffic.

3 ~~(49)~~(48) Street, stub. A portion of a street reserved to provide access to future development,
4 which may provide for utility connections.

5 ~~(50)~~(49) Street classification. A method of roadway organization which identifies a street
6 hierarchy according to function within a road system, that is, types of vehicles served and
7 anticipated volumes, for the purposes of promoting safety, efficient land use and the design
8 character of neighborhoods and districts. Local classifications use the following as major
9 categories:

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

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

14 (c) Local. Streets whose primary function is to provide access to abutting properties.

15 ~~(51)~~(50) Subdivider. Any person who (1) having an interest in land, causes it, directly or
16 indirectly, to be divided into a subdivision or who (2) directly or indirectly sells, leases, or develops,
17 or offers to sell, lease, or develop, or advertises to sell, lease, or develop, any interest, lot, parcel,
18 site, unit, or plat in a subdivision, or who (3) engages directly or through an agent in the business
19 of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any
20 interest, lot, parcel, site, unit, or plat in a subdivision.

21 ~~(52)~~(51) Subdivision. The division or re-division, of a lot, tract or parcel of land into two
22 or more lots, tracts, or parcels. Any adjustment to existing lot lines of a recorded lot by any means
23 is considered a subdivision. All re-subdivision activity is considered a subdivision. The division of
24 property for purposes of financing constitutes a subdivision.

25 ~~(53)~~(52) Technical review committee. A committee appointed by the planning board for
26 the purpose of reviewing, commenting, and making recommendations to the planning board with
27 respect to approval of land development and subdivision applications.

28 ~~(54)~~(53) Temporary improvement. Improvements built and maintained by a developer
29 during construction of a development project and prior to release of the improvement guarantee,
30 but not intended to be permanent.

31 ~~(55)~~(54) Vested rights. The right to initiate or continue the development of an approved
32 project for a specified period of time, under the regulations that were in effect at the time of
33 approval, even if, after the approval, the regulations change prior to the completion of the project.

34 ~~(56)~~(55) Waiver of requirements. See § 45-23-62.

1 ~~45-23-36. General provisions — Application for development and certification of~~
2 ~~completeness~~ General provisions -- Application for development and certification of
3 completeness -- Effective January 1, 2024.

4 (a) Classification. ~~The (1) In accordance with this chapter the~~ administrative officer shall
5 advise the applicant as to which ~~approvals are~~ category of approval is required ~~and the appropriate~~
6 ~~board for hearing an application~~ for a ~~land development or subdivision~~ project. The following ~~types~~
7 categories of applications, as defined in § 45-23-32, may be filed:

8 ~~(1)(i)~~ (i) Administrative subdivision;

9 ~~(2) Minor subdivision or minor land development plan~~ (ii) Administrative or formal
10 development plan review; and

11 ~~(3)(iii)~~ (iii) Major subdivision or major land development plan.

12 (2) A development plan review application or major subdivision or major land
13 development application requiring relief from the zoning ordinance shall be reviewed by the
14 planning board under procedures for unified development review pursuant to §§ 45-23-50.1 and
15 45-24-46.4.

16 (b) Certification of a complete application. An application shall be complete for purposes
17 of commencing the applicable time period for action when so certified by the administrative officer.
18 Every certification of completeness required by this chapter shall be in writing. In the event the
19 certification of the application is not made within the time specified in this chapter for the type of
20 plan, the application is deemed complete for purposes of commencing the review period unless the
21 application lacks information required for these applications as specified in the local regulations
22 and the administrative officer has notified the applicant, in writing, of the deficiencies in the
23 application.

24 (c) Notwithstanding subsections (a) and (b) of this section, the planning board may
25 subsequently require correction of any information found to be in error and submission of
26 additional information specified in the regulations but not required by the administrative officer
27 prior to certification, as is necessary to make an informed decision.

28 (d) Where the review is postponed with the consent of the applicant, pending further
29 information or revision of information, the time period for review is stayed and resumes when the
30 administrative officer or the planning board determines that the required application information is
31 complete.

32 ~~45-23-39. General provisions — Major land development and major subdivision~~
33 ~~review stages~~ General provisions -- Major land development and major subdivision review
34 stages -- Effective January 1, 2024.

1 (a) Major plan review is required of all applications for land development and subdivision
2 approval subject to this chapter, unless classified as an administrative subdivision or ~~as a minor~~
3 ~~land development or a minor subdivision~~ development plan review.

4 (b) Major plan review consists of three stages of review, master plan, preliminary plan and
5 final plan, following the pre-application meeting(s) specified in § 45-23-35. Also required is a
6 public informational meeting and a public meeting.

7 (c) The planning board may vote to combine review stages and to modify and/or waive
8 requirements as specified in § 45-23-62. Review stages may be combined only after the planning
9 board determines that all necessary requirements have been met by the applicant.

10 (d) All major land developments and major subdivisions requiring relief from the literal
11 use or dimensional requirements of a municipal zoning ordinance shall be reviewed as unified
12 development review pursuant to § 45-23-50.1.

13 **45-23-49. ~~Special provisions — Land development projects~~ Special provisions -- Land**
14 **development projects -- Effective January 1, 2024.**

15 (a) ~~If municipalities~~ Municipalities shall provide for the submission and approval of land
16 development projects, as defined in § 45-24-47 of the Rhode Island Zoning Enabling Act of 1991,
17 and the projects are subject to the local regulations.

18 (b) In these instances, the local regulations must include all requirements, procedures and
19 standards necessary for proper review and approval of land development projects to ensure
20 consistency with the intent and purposes of this chapter and with § 45-24-47 of the Rhode Island
21 Zoning Enabling Act of 1991.

22 **45-23-50. ~~Special provisions — Development plan review~~ Special provisions --**
23 **Development plan review -- Effective January 1, 2024.**

24 (a) Municipalities ~~may~~ shall provide for development plan review, ~~as defined in § 45-24-~~
25 ~~49 of the Rhode Island Zoning Enabling Act of 1991, to be subject to~~ as part of the local regulations.

26 ~~(b)~~ In these instances, local regulations must include all requirements, procedures and standards
27 necessary for proper review and recommendations of projects subject to development plan review
28 to ensure consistency with the intent and purposes of this chapter and with § 45-24-49 of the Rhode
29 Island Zoning Enabling Act of 1991.

30 (b) Types of review. The following types of applications, which can include subdivisions,
31 re-subdivisions, adaptive reuse and land development projects are to be reviewed by a municipality
32 pursuant to development plan approval:

33 (1)(A) Administrative development plan review. The following application categories shall
34 be reviewed administratively by the administrative officer or technical review committee:

- 1 (i) Any new one, two (2) or three (3) family residential structures;
- 2 (ii) All subdivisions which involve the creation of lots which comply with all zoning
3 requirements and design standards of local ordinances and regulations and do not result in the
4 creation or extension of a public roadway;
- 5 (iii) Accessory structures under twelve hundred square feet (1,200 sq. ft) of gross floor
6 area;
- 7 (iv) Exterior additions with a gross floor area of under one thousand feet (1,000');
- 8 (v) Development plans for sites where less than two (2) acres shall be disturbed. The area
9 of disturbance shall include any temporary clearing or storage associated with construction related
10 activities;
- 11 (vi) Proposed development requiring fewer than twenty (20) parking spaces; and
- 12 (vii) Proposed development having less than fifty thousand square feet (50,000 sq. ft) of
13 new floor area.
- 14 (B) Notwithstanding anything in this chapter to the contrary, a municipality may utilize the
15 administrative development plan review process to review any use permitted by right which
16 complies with all other zoning standards for purposes of design review.
- 17 (2)(A) Formal development plan review. The following application categories shall be
18 reviewed by the municipal planning board:
- 19 (i) Commercial or industrial developments in which the total floor area is less than one
20 hundred thousand square feet (100,000 sq. ft);
- 21 (ii) Commercial or industrial projects permitted by right which do not seek relief from the
22 literal provisions of the zoning ordinance;
- 23 (iii) Mixed use developments in which the total floor area is less than two hundred thousand
24 square feet (200,000 sq. ft);
- 25 (iv) Multi-family development projects with less than fifty thousand square feet (50,000
26 sq. ft) of gross floor area;
- 27 (v) Adaptive reuse projects, as defined in § 42-64.22-2 and also those as provided for in §
28 45-24-37; and
- 29 (vi) Subdivisions which seek relief from the zoning ordinance or waivers from design
30 standards or which require the extension or creation of a public roadway.
- 31 (B) A planning board may waive requirements for adaptive reuse projects otherwise
32 qualifying for formal development plan approval where there is a change in use or occupancy and
33 no extensive construction of improvements is sought. The waiver may be granted only by a decision
34 by the planning board finding that the use will not affect existing drainage, circulation, relationship

1 of buildings to each other, landscaping, buffering, lighting and other considerations of development
2 plan approval, and that the existing facilities do not require upgraded or additional site
3 improvements. The application for a waiver of development plan approval review shall include
4 documentation, as required by the planning board, on prior use of the site. the proposed use, and its
5 impact.

6 (C) Any project not meeting one of the categories in this section, including, but not limited
7 to, commercial or industrial projects permitted by right but requiring relief from the dimensional
8 provisions of the zoning ordinance, shall be reviewed as a major land development or major
9 subdivision project. as applicable.

10 (c) Submission requirements. Any applicant requesting approval of a proposed
11 development under this chapter, shall submit to the administrative officer the items required by the
12 local regulations. Requests for relief from the literal requirements of the zoning ordinance and/or
13 for the issuance of special-use permits or use variances related to projects qualifying for
14 development plan review shall be submitted and reviewed under unified development review
15 pursuant to § 45-23-50.1. State approvals and permits shall not be required until the final stage of
16 review.

17 (d) Certification. The application shall be certified, in writing, complete or incomplete by
18 the administrative officer within twenty-five (25) days or within fifteen (15) days if no street
19 creation or extension is required, and/or unified development review is not required, according to
20 the provisions of § 45-23-36(b). The running of the time period set forth in this section will be
21 deemed stopped upon the issuance of a written certificate of incompleteness of the application by
22 the administrative officer and will recommence upon the resubmission of a corrected application
23 by the applicant. However, in no event will the administrative officer be required to certify a
24 corrected submission as complete or incomplete less than fourteen (14) days after its resubmission.
25 If the administrative officer certifies the application as incomplete, the officer shall set forth in
26 writing with specificity the missing or incomplete items.

27 (e) Review stages. Administrative development plan review consists of one stage of
28 review, while formal development plan review consists of two (2) stages of review, preliminary
29 and final, provided that if a street creation or extension is involved, a public hearing is required. If
30 there are requests for variances of the zoning ordinance and/or special-use permits requested, the
31 project shall be reviewed as unified development review pursuant to § 45-23-50.1. The planning
32 board may combine the approval stages, providing requirements for both stages are met by the
33 applicant to the satisfaction of the planning officials.

34 (f) Decision and time for review. Applications under this chapter shall be reviewed under

1 specific and objective criteria and standards established by local regulation. Local regulations must
2 include all requirements, procedures and standards necessary for proper review and
3 recommendations of projects subject to development plan review to ensure consistency with the
4 intent and purposes of this chapter and with § 45-24-49 of the Rhode Island zoning enabling act of
5 1991.

6 (1) Administrative development plan approval. An application shall be approved, denied,
7 or approved with conditions within twenty-five (25) days of the certificate of completeness or
8 within any further time that is agreed to in writing by the applicant and administrative officer.

9 (2) Formal development plan approval.

10 (i) Preliminary plan. Unless the application is reviewed under unified development review,
11 the planning board will approve, deny, or approve with conditions, the preliminary plan within
12 sixty-five (65) days of certification of completeness, or within any further time that is agreed to by
13 the applicant and the board. If a street extension or creation is required, the planning board will
14 hold a public hearing prior to approval according to the requirements in § 45-23-42 and will
15 approve, deny, or approve with conditions, the preliminary plan within ninety (90) days of
16 certification of completeness, or within any specified time that is agreed to in writing by the
17 applicant and the board.

18 (ii) Final Plan. For formal development plan approval, the planning board may delegate
19 final plan review and approval to either the administrative officer or the technical review
20 committee. The officer or committee will report its actions in writing to the planning board at its
21 next regular meeting, to be made part of the record. Final plan shall be approved or denied within
22 forty-five (45) days after the certification of completeness, or within a further amount of time that
23 may be consented to by the applicant, in writing.

24 (g) Failure to act. Failure of the administrative officer or the planning board to act within
25 the period prescribed constitutes approval of the preliminary plan and a certificate of the
26 administrative officer as to the failure to act within the required time and the resulting approval
27 shall be issued on request of the application.

28 (h) Vested rights. Approval of development plan review shall expire two (2) years from
29 the date of approval unless, within that period, a plat or plan, in conformity with approval, and as
30 defined in this act, is submitted for signature and recording as specified in § 45-23-64. Validity
31 may be extended for an additional period upon application to the administrative officer or planning
32 board, whichever entity approved the application, upon a showing of good cause.

33 (i) Modifications and changes to plans.

34 (1) Minor changes, as defined in the local regulations, to the plans approved at any stage

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

7 (2) Major changes, as defined in the local regulations, to the plans approved at any stage
8 may be approved only by the local review board and must follow the same review and public
9 hearing process required for approval of preliminary plans.

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

13 (j) Appeal. A rejection of the application for development plan review shall be considered
14 an appealable decision pursuant to § 45-23-71.

15 **45-23-50.1. ~~Special provisions~~ — ~~Unified development review~~ Special provisions --**
16 **Unified development review -- Effective January 1, 2024.**

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

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

24 (1) ~~Minor subdivisions and land development projects~~ Developments subject to
25 development plan review pursuant to §§ 45-23-49 and 45-24-50. Requests for relief from the literal
26 requirements of the zoning ordinance and/or for the issuance of special-use permits related to ~~minor~~
27 ~~subdivisions and land development projects~~ development plan review projects shall be submitted
28 as part of the application materials for the preliminary plan stage of review. A public hearing on
29 the application, including any variance and special-use permit requests that meets the requirements
30 of subsection (c) of this section shall be held prior to consideration of the preliminary plan by the
31 planning board or commission. The planning board or commission shall conditionally approve or
32 deny the request(s) for the variance(s) and/or special-use permit(s) before considering the
33 preliminary plan application for the ~~minor subdivision or land development~~ development plan
34 review project. Approval of the variance(s) and/or special-use permit(s) shall be conditioned on

1 approval of the final plan of the ~~minor subdivision or land development~~ [development plan review](#)
2 project.

3 (2) Major subdivisions and land-development projects — Master plan. Requests for relief
4 from the literal requirements of the zoning ordinance and/or for the issuance of a special-use permit
5 related to major subdivisions and land-development projects shall be submitted as part of the
6 application materials for the master plan stage of review. A public hearing on the application,
7 including any variance and special-use permit requests that meets the requirements of subsection
8 (c) of this section, shall be held prior to consideration of the master plan by the planning board or
9 commission. The planning board or commission shall conditionally approve or deny the requests
10 for the variance(s) and/or special-use permit(s) before considering the master plan application for
11 the major subdivision or land-development project. Approval of the variance(s) and/or special-use
12 permit(s) shall be conditioned on approval of the final plan of the major subdivision or land-
13 development project.

14 (3) Major subdivisions and land-development projects — Preliminary plan. During the
15 preliminary plan stage of review, applicants shall have the ability to request alteration of any
16 variance(s) and/or special-use permit(s) granted by the planning board or commission during the
17 master plan stage of review, and/or to request new variance(s) and/or special-use permit(s), based
18 on the outcomes of the more detailed planning and design necessary for the preliminary plan. If
19 necessary, the applicant shall submit such requests and all supporting documentation along with
20 the preliminary plan application materials. A public hearing on the application, including any
21 alterations and new requests, that meets the requirements of subsection (c) of this section, shall be
22 held prior to consideration of the preliminary plan by the planning board or commission. The
23 planning board or commission shall conditionally approve, amend, or deny the requests for
24 alteration(s), new variance(s) and/or new special-use permit(s), before considering the preliminary
25 plan application for the major subdivision or land-development project. Approval of the
26 alteration(s), new variance(s), and/or new special-use permit(s) shall be conditioned on approval of
27 the final plan of the major subdivision or land-development project. If the planning board or
28 commission denies the request for alteration(s), new variance(s), and/or new special-use permit(s),
29 the planning board shall have the option of remanding the application back to the master plan stage
30 of review. Alternatively, if the planning board or commission denies the request for alteration(s),
31 new variance(s), and/or new special-use permit(s), the applicant may consent to an extension of the
32 decision period mandated by § 45-23-41(f) so that additional information can be provided and
33 reviewed by the board or commission.

34 ~~(c)~~(c) Decision. The time periods by which the planning board or commission must

1 approve or deny applications for variances and special-use permits under the unified development
2 review provisions of the local regulations shall be the same as the time periods by which the board
3 must make a decision on the applicable review stage of the ~~subdivision or land development~~
4 category of project under review.

5 ~~(e)~~(d) All ~~subdivision and land development~~ applications ~~that include requests for~~
6 ~~variances and/or special use permits submitted under the development review provisions of the~~
7 ~~regulations~~ under this section shall require a singular public hearing, held pursuant to subsection
8 (b) of this section. All such public hearings must meet the following requirements:

9 (1) Public hearing notice shall adhere to the requirements found in § 45-23-42(b).

10 (2) The notice area for notice of the public hearing shall be specified in the local
11 regulations, and shall, at a minimum, include all property located in or within not less than two
12 hundred feet (200') of the perimeter of the area included in the subdivision and/or land-development
13 project. Notice of the public hearing shall be sent by the administrative officer to the administrative
14 officer of an adjacent municipality if: (1) The notice area extends into the adjacent municipality; or
15 (2) The development site extends into the adjacent municipality; or (3) There is a potential for
16 significant negative impact on the adjacent municipality. Additional notice within watersheds shall
17 also be sent as required in § 45-23-53(b) and (c).

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

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

21 ~~(d)~~(e) The time periods by which the planning board or commission must approve or deny
22 requests for variances and special-use permits under the unified development review provisions of
23 a zoning ordinance shall be the same as the time periods by which the board must make a decision
24 on the applicable review stage of the ~~subdivision or land development~~ underlying type of project
25 under review.

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

29 ~~(e) Requests~~ (g) Decisions under this section including requests for the variance(s) and/or
30 special-use permits that are denied by the planning board or commission may be appealed ~~to the~~
31 ~~board of appeal~~ pursuant to § ~~45-23-66~~ 45-23-71.

32 ~~45-23-62. Procedure — Waivers — Modifications and reinstatement of plans~~
33 Procedure -- Waivers -- Modifications and reinstatement of plans -- Effective January 1, 2024.

34 (a) ~~Waiver of development plan approval.~~

1 ~~(1) A planning board may waive requirements for development plan approval where there~~
2 ~~is a change in use or occupancy and no extensive construction of improvements is sought. The~~
3 ~~waiver may be granted only by a decision by the planning board finding that the use will not affect~~
4 ~~existing drainage, circulation, relationship of buildings to each other, landscaping, buffering,~~
5 ~~lighting and other considerations of development plan approval, and that the existing facilities do~~
6 ~~not require upgraded or additional site improvements.~~

7 ~~(2) The application for a waiver of development plan approval review shall include~~
8 ~~documentation, as required by the planning board, on prior use of the site, the proposed use, and its~~
9 ~~impact.~~

10 ~~(b)~~ Waiver and/or modification of requirements. The planning board has the power to grant
11 waivers and/or modifications from the requirements for land development and subdivision approval
12 as may be reasonable and within the general purposes and intents of the provisions for local
13 regulations. The only grounds for waivers and/or modifications are where the literal enforcement
14 of one or more provisions of the regulations is impracticable and will exact undue hardship because
15 of peculiar conditions pertaining to the land in question or where waiver and/or modification is in
16 the best interest of good planning practice and/or design as evidenced by consistency with the
17 municipality's comprehensive plan and zoning ordinance.

18 ~~(e)~~(b) Local regulations shall include provisions for reinstatement of development
19 applications when the deadlines set in the local regulations and approval agreements for particular
20 actions are exceeded and the development application or approval is therefore rendered invalid.
21 Where an approval has expired, the local regulations shall specify the point in the review to which
22 the application may be reinstated.

23 ~~(d)~~(c) Decision. The planning board shall approve, approve with conditions or deny the
24 request for either a waiver or modification as described in subsection (a) or (b) in this section,
25 according to the requirements of § 45-23-63.

26 **45-23-71. Appeals to the superior court Appeals -- Effective January 1, 2024.**

27 (a) An aggrieved party may appeal a decision of the ~~board of appeal~~ administrative officer
28 or planning board, to the superior court for the county in which the municipality is situated by filing
29 a complaint stating the reasons of appeal within twenty (20) days after the decision has been
30 recorded and posted in the office of the city or town clerk. The ~~board of appeal~~ administrative
31 officer or planning board shall file the original documents acted upon by it and constituting the
32 record of the case appealed from, or certified copies of the original documents, together with any
33 other facts that may be pertinent, with the clerk of the court within thirty (30) days after being
34 served with a copy of the complaint. When the complaint is filed by someone other than the original

1 applicant or appellant, the original applicant or appellant and the ~~members of the~~ planning board
2 shall be made parties to the proceedings. The appeal does not stay proceedings upon the decision
3 appealed from, but the court may, in its discretion, grant a stay on appropriate terms and make any
4 other orders that it deems necessary for an equitable disposition of the appeal.

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

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

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

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

18 (3) Made upon unlawful procedure;

19 (4) Affected by other error of law;

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

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

24 SECTION 2. Sections 45-24-31, 45-24-46.4, 45-24-47, 45-24-49 and 45-24-58 of the
25 General Laws in Chapter 45-24 entitled "Zoning Ordinances" are hereby amended to read as
26 follows:

27 **45-24-31. Definitions Definitions -- Effective January 1 2024.**

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

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

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

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

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

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

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

15 (5) Agricultural land. "Agricultural land," as defined in § 45-22.2-4.

16 (6) Airport hazard area. "Airport hazard area," as defined in § 1-3-2.

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

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

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

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

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

29 (12) Building height. For a vacant parcel of land, building height shall be measured from
30 the average, existing-grade elevation where the foundation of the structure is proposed. For an
31 existing structure, building height shall be measured from average grade taken from the outermost
32 four (4) corners of the existing foundation. In all cases, building height shall be measured to the top
33 of the highest point of the existing or proposed roof or structure. This distance shall exclude spires,
34 chimneys, flag poles, and the like. For any property or structure located in a special flood hazard

1 area, as shown on the official FEMA Flood Insurance Rate Maps (FIRMs), or depicted on the
2 Rhode Island coastal resources management council (CRMC) suggested design elevation three foot
3 (3') sea level rise (CRMC SDE 3 SLR) map as being inundated during a one-hundred-year (100)
4 storm, the greater of the following amounts, expressed in feet, shall be excluded from the building
5 height calculation:

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

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

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

21 (14) Common ownership. Either:

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

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

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

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

34 (ii) A group home providing care or supervision, or both, to not more than eight (8) persons

1 with disabilities, and licensed by the state pursuant to chapter 24 of title 40.1;

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

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

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

15 (17) Day care — Daycare center. Any other daycare center that is not a family daycare
16 home.

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

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

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

25 (21) Development plan review. The process whereby authorized, local officials review the
26 site plans, maps, and other documentation of a development to determine the compliance with the
27 stated purposes and standards of the ordinance. [See §§ 45-23-32 and 45-23-50.](#)

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

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

33 (24) Dwelling unit. A structure, or portion of a structure, providing complete, independent
34 living facilities for one or more persons, including permanent provisions for living, sleeping, eating,

1 cooking, and sanitation, and containing a separate means of ingress and egress.

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

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

9 (27) Floating zone. An unmapped zoning district adopted within the ordinance that is
10 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 § 45-22.2-4.

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

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

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

21 (32) Hardship. See § 45-24-41.

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

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

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

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

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

34 (36) Incentive zoning. The process whereby the local authority may grant additional

1 development capacity in exchange for the developer's provision of a public benefit or amenity as
2 specified in local ordinances.

3 (37) Infrastructure. Facilities and services needed to sustain residential, commercial,
4 industrial, institutional, and other activities.

5 (38) Land-development project. A project in which one or more lots, tracts, or parcels of
6 land are developed or redeveloped as a coordinated site for one or more uses, units, or structures,
7 including, but not limited to, planned development or cluster development for residential,
8 commercial, institutional, recreational, open space, or mixed uses ~~as provided in the zoning~~
9 ~~ordinance.~~

10 (39) Lot. Either:

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

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

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

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

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

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

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

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

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

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

34 (iii) Side: any lot line other than a front or rear lot line. On a corner lot, a side lot line may

1 be a street lot line, depending on requirements of the local zoning ordinance.

2 (46) Lot size, minimum. Shall have the same meaning as “minimum lot area” defined
3 herein.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (65) Use. The purpose or activity for which land or buildings are designed, arranged, or
26 intended, or for which land or buildings are occupied or maintained.

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

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

1 (ii) Dimensional variance. Permission to depart from the dimensional requirements of a
2 zoning ordinance, where the applicant for the requested relief has shown, by evidence upon the
3 record, that there is no other reasonable alternative way to enjoy a legally permitted beneficial use
4 of the subject property unless granted the requested relief from the dimensional regulations.
5 However, the fact that a use may be more profitable or that a structure may be more valuable after
6 the relief is granted are not grounds for relief.

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

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

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

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

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

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

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

27 **45-24-46.4. Special provisions — Unified development review Special provisions --**
28 **Unified development review -- Effective January 1, 2024.**

29 (a) A zoning ordinance ~~may~~ shall provide that review and approval of dimensional
30 variances, use variances, and/or special-use permits for properties undergoing review by the
31 planning board or commission as ~~land development or~~ development plan review or major land
32 development or major subdivision projects pursuant to § 45-23-36, be conducted and decided by
33 the planning board or commission in conjunction with and simultaneous with the review process
34 for the development plan review, major land development or major subdivision, as applicable. This

1 process is to be known as unified development review.

2 (b) ~~If unified development review is desired, such review must be enabled within the~~
3 ~~zoning ordinance, in accordance with this section, and the~~ The local subdivision and land-
4 development regulations ~~must be brought into conformance,~~ shall provide for the application and
5 review process pursuant to § 45-23-50.1.

6 (c) A zoning ordinance that provides for unified development review shall:

7 (1) ~~Specify which types of zoning approval~~ Empower the planning board or commission
8 ~~shall be empowered to grant for which types of projects~~ zoning relief; and

9 (2) Provide that any person, group, agency, or corporation that files an application for an
10 included ~~land development or subdivision~~ project ~~may~~ shall also file specific requests for relief
11 from the literal requirements of a zoning ordinance on the subject property, pursuant to § 45-24-
12 41, and/or for the issuance of special-use permits for the subject property, pursuant to § 45-24-42,
13 by including such within the application to the administrative officer of the planning board or
14 commission with the other required application materials, pursuant to § 45-23-50.1(b).

15 (d) ~~A zoning ordinance that provides for unified development review may specify design,~~
16 ~~use, public benefit, or other relevant criteria that must be met in order for an application to qualify~~
17 ~~for review under the unified development review provisions of the zoning ordinance. Certification~~
18 ~~as to whether an application meets the established criteria shall be conducted in conjunction with,~~
19 ~~and following the time lines outlined for, certification of completeness of the application, pursuant~~
20 ~~to §§ 45-23-38(c), 45-23-40(b), or 45-23-41(b).~~

21 (e) All land development and subdivision applications that include requests for variances
22 and/or special-use permits submitted pursuant to this section shall require a public hearing that
23 meets the requirements of §§ 45-23-50.1(b) and 45-23-50.1(c).

24 (f) In granting requests for dimensional and use variances, the planning board or
25 commission shall be bound to the requirements of ~~§§ 45-24-41(d) and 45-24-41(e)~~ § 45-24-41
26 relative to entering evidence into the record in satisfaction of the applicable standards.

27 (g) In reviewing requests for special-use permits, the planning board or commission shall
28 be bound to the conditions and procedures under which a special-use permit may be issued and the
29 criteria for the issuance of such permits, as found within the zoning ordinance pursuant to ~~§§ 45-~~
30 ~~24-42(b)(1), 45-24-42(b)(2) and 45-24-42(b)(3)~~ § 45-24-42, and shall be required to provide for
31 the recording of findings of fact and written decisions as described in the zoning ordinance pursuant
32 to § ~~45-24-42(b)(5)~~ 45-24-42.

33 (h) An appeal from any decision made pursuant to this section may be taken pursuant to §
34 ~~45-23-66~~ 45-23-71.

1 ~~45-24-47. Special provisions — Land development projects~~ **Special provisions -- Land**
2 **development projects -- Effective January 1, 2024.**

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

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

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

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

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

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

28 (4) Maximum density per lot and maximum density for the entire development, ~~with~~ ;

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

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

33 (d) In regulating land development projects, an ordinance adopted pursuant to this chapter
34 shall include provisions for zoning incentives which include the adjustment of applicable lot density

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

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

12 ~~(6) Buffer areas, landscaping, screening, and shading.~~

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

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

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

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

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

1 ~~45-24-49. Special provisions — Development plan review~~ **Special provisions --**
2 **Development plan review -- Effective January 1 2024.**

3 (a) A zoning ordinance ~~may~~ shall permit development plan review of applications ~~for uses~~
4 ~~requiring a special use permit, a variance, a zoning ordinance amendment, and/or a zoning map~~
5 ~~change. The review shall be conducted by the planning board or commission and shall be advisory~~
6 ~~to the permitting authority~~ pursuant to § 45-23-50.

7 ~~(b) A zoning ordinance may permit development plan review of applications for uses that~~
8 ~~are permitted by right under the zoning ordinance, but the review shall only be based on specific~~
9 ~~and objective guidelines which must be stated in the zoning ordinance. The review body shall also~~
10 ~~be set forth in and be established by the zoning ordinance. A rejection of the application shall be~~
11 ~~considered an appealable decision pursuant to § 45-24-64.~~

12 ~~(c) Nothing in this subsection shall be construed to permit waivers of any regulations unless~~
13 ~~approved by the permitting authority pursuant to the local ordinance and this act.~~

14 ~~45-24-58. Administration — Application procedure~~ **Administration -- Application**
15 **procedure -- Effective January 1, 2024.**

16 The zoning ordinance establishes the various application procedures necessary for the
17 filing of appeals, requests for variances, special-use permits, development plan reviews, ~~site plan~~
18 ~~reviews,~~ and other applications that may be specified in the zoning ordinance as allowed by this
19 chapter, with the zoning board of review, consistent with the provisions of this chapter. The zoning
20 ordinance provides for the creation of appropriate forms, and for the submission and resubmission
21 requirements, for each type of application required. A zoning ordinance may establish that a time
22 period of a certain number of months is required to pass before a successive similar application
23 may be filed.

24 SECTION 3. Sections 45-23-38, 45-23-57, 45-23-67, 45-23-68, 45-23-69 and 45-23-70 of
25 the General Laws in Chapter 45-23 entitled "Subdivision of Land" are hereby repealed effective
26 January 1, 2024.

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

29 ~~(a) Review stages. Minor plan review consists of two (2) stages, preliminary and final;~~
30 ~~provided, that if a street creation or extension is involved, or a request for variances and/or special-~~
31 ~~use permits are submitted, pursuant to the regulation's unified development review provisions, a~~
32 ~~public hearing is required. The planning board may combine the approval stages, providing~~
33 ~~requirements for both stages are met by the applicant to the satisfaction of the planning officials.~~

34 ~~(b) Submission requirements. Any applicant requesting approval of a proposed, minor~~

1 ~~subdivision or minor land development, as defined in this chapter, shall submit to the administrative~~
2 ~~officer the items required by the local regulations. Requests for relief from the literal requirements~~
3 ~~of the zoning ordinance and/or for the issuance of special use permits related to minor subdivisions~~
4 ~~and/or minor land development projects that are submitted under a zoning ordinance's unified~~
5 ~~development review provisions shall be included as part of the preliminary plan application,~~
6 ~~pursuant to § 45-23-50.1(b).~~

7 ~~(c) Certification. The application shall be certified, in writing, complete or incomplete by~~
8 ~~the administrative officer within twenty five (25) days or within fifteen (15) days if no street~~
9 ~~creation or extension is required, and/or unified development review is not requested, according to~~
10 ~~the provisions of § 45-23-36(b). The running of the time period set forth in this section will be~~
11 ~~deemed stopped upon the issuance of a certificate of incompleteness of the application by the~~
12 ~~administrative officer and will recommence upon the resubmission of a corrected application by~~
13 ~~the applicant. However, in no event will the administrative officer be required to certify a corrected~~
14 ~~submission as complete or incomplete less than fourteen (14) days after its resubmission.~~

15 ~~(d) Technical review committee. The technical review committee, if established, will~~
16 ~~review the application and will comment and make recommendations to the planning board. The~~
17 ~~application will be referred to the planning board as a whole if there is no technical review~~
18 ~~committee. When reviewed by a technical review committee:~~

19 ~~(1) If the land development or subdivision application does not include a request for unified~~
20 ~~development review and the plan is approved by a majority of the committee members, the~~
21 ~~application is forwarded to the planning board with a recommendation for preliminary plan~~
22 ~~approval without further review.~~

23 ~~(2) If the plan is not approved by a majority vote of the committee members, or the~~
24 ~~application includes a request for unified development review, the minor land development and~~
25 ~~subdivision application is referred to the planning board.~~

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

29 ~~(f) Decision. If no street creation or extension is required, the planning board will approve,~~
30 ~~deny, or approve with conditions, the preliminary plan within sixty five (65) days of certification~~
31 ~~of completeness, or within any further time that is agreed to by the applicant and the board,~~
32 ~~according to the requirements of §§ 45-23-60 and 45-23-63. If a street extension or creation is~~
33 ~~required, the planning board will hold a public hearing prior to approval according to the~~
34 ~~requirements in § 45-23-42 and will approve, deny, or approve with conditions, the preliminary~~

1 ~~plan within ninety five (95) days of certification of completeness, or within any specified time that~~
2 ~~is agreed to by the applicant and the board, according to the requirements of §§ 45-23-60 and 45-~~
3 ~~23-63.~~

4 ~~(g) Failure to act. Failure of the planning board to act within the period prescribed~~
5 ~~constitutes approval of the preliminary plan and a certificate of the administrative officer as to the~~
6 ~~failure of the planning board to act within the required time and the resulting approval will be issued~~
7 ~~on request of the application.~~

8 ~~(h) Final plan. The planning board may delegate final plan review and approval to either~~
9 ~~the administrative officer or the technical review committee. The officer or committee will report~~
10 ~~its actions, in writing to the planning board at its next regular meeting, to be made part of the record.~~

11 ~~(i) Expiration of approval. Approval of a minor land development or subdivision plan~~
12 ~~expires ninety (90) days from the date of approval unless, within that period, a plat or plan, in~~
13 ~~conformity with approval, and as defined in this act, is submitted for signature and recording as~~
14 ~~specified in § 45-23-64. Validity may be extended for a longer period, for cause shown, if requested~~
15 ~~by the application in writing, and approved by the planning board.~~

16 ~~**45-23-57. Administration — The board of appeal.**~~

17 ~~The city or town council shall establish the city or town zoning board of review as the~~
18 ~~board of appeal to hear appeals of decisions of the planning board or the administrative officer on~~
19 ~~matters of review and approval of land development and subdivision projects.~~

20 ~~**45-23-67. Appeals — Process of appeal.**~~

21 ~~(a) An appeal to the board of appeal from a decision or action of the planning board or~~
22 ~~administrative officer may be taken by an aggrieved party to the extent provided in § 45-23-66.~~
23 ~~The appeal must be taken within twenty (20) days after the decision has been recorded in the city's~~
24 ~~or town's land evidence records and posted in the office of the city or town clerk.~~

25 ~~(b) The appeal shall be in writing and state clearly and unambiguously the issue or decision~~
26 ~~that is being appealed, the reason for the appeal, and the relief sought. The appeal shall either be~~
27 ~~sent by certified mail, with a return receipt requested, or be hand-delivered to the board of appeal.~~
28 ~~The city or town clerk shall accept delivery of an appeal on behalf of the board of appeal, if the~~
29 ~~local regulations governing land development and subdivision review so provide.~~

30 ~~(c) Upon receipt of an appeal, the board of appeal shall require the planning board or~~
31 ~~administrative officer to immediately transmit to the board of appeal, all papers, documents and~~
32 ~~plans, or a certified copy thereof, constituting the record of the action which is being appealed.~~

33 ~~**45-23-68. Appeals — Stay of proceedings.**~~

34 ~~An appeal stays all proceedings in furtherance of the action being appealed.~~

1 **45-23-69. Appeals — Public hearing.**

2 ~~(a) The board of appeal shall hold a public hearing on the appeal within forty five (45) days~~
3 ~~of the receipt of the appeal, give public notice of the hearing, as well as due notice to the parties of~~
4 ~~interest. At the hearing any party may appear in person, or be represented by an agent or attorney.~~
5 ~~The board shall render a decision within ten (10) days of the close of the public hearing. The cost~~
6 ~~of any notice required for the hearing shall be borne by the applicant.~~

7 ~~(b) The board of appeal shall only hear appeals of the actions of a planning board or~~
8 ~~administrative officer at a meeting called especially for the purpose of hearing the appeals and~~
9 ~~which has been so advertised.~~

10 ~~(c) The hearing, which may be held on the same date and at the same place as a meeting of~~
11 ~~the zoning board of review, must be held as a separate meeting from any zoning board of review~~
12 ~~meeting. Separate minutes and records of votes as required by § 45-23-70(d) shall be maintained~~
13 ~~by the board of appeal.~~

14 **45-23-70. Appeals — Standards of review.**

15 ~~(a) As established by this chapter, in instances of a board of appeal's review of a planning~~
16 ~~board or administrative officer's decision on matters subject to this chapter, the board of appeal~~
17 ~~shall not substitute its own judgment for that of the planning board or the administrative officer but~~
18 ~~must consider the issue upon the findings and record of the planning board or administrative officer.~~
19 ~~The board of appeal shall not reverse a decision of the planning board or administrative officer~~
20 ~~except on a finding of prejudicial procedural error, clear error, or lack of support by the weight of~~
21 ~~the evidence in the record.~~

22 ~~(b) The concurring vote of three (3) of the five (5) members of the board of appeal sitting~~
23 ~~at a hearing, is necessary to reverse any decision of the planning board or administrative officer.~~

24 ~~(c) In the instance where the board of appeal overturns a decision of the planning board or~~
25 ~~administrative officer, the proposed project application is remanded to the planning board or~~
26 ~~administrative officer, at the stage of processing from which the appeal was taken, for further~~
27 ~~proceedings before the planning board or administrative officer and/or for the final disposition,~~
28 ~~which shall be consistent with the board of appeal's decision.~~

29 ~~(d) The board of appeal shall keep complete records of all proceedings including a record~~
30 ~~of all votes taken, and shall put all decisions on appeals in writing. The board of appeal shall include~~
31 ~~in the written record the reasons for each decision.~~

32 SECTION 4. This act shall take effect on January 1, 2024.

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES -- SUBDIVISION OF LAND

- 1 This act would amend the provisions relative to the subdivision of land and the application
- 2 process requesting relief from zoning ordinances and the review process thereof.
- 3 This act would take effect on January 1, 2024.

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LC002501
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