

2023 -- S 1037

LC002500

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO TOWNS AND CITIES -- LOW AND MODERATE INCOME HOUSING

Introduced By: Senators Ruggerio, Pearson, Gallo, and Kallman

Date Introduced: May 19, 2023

Referred To: Senate Housing & Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-53-3 and 45-53-4 of the General Laws in Chapter 45-53 entitled
2 "Low and Moderate Income Housing" are hereby amended to read as follows:

3 **45-53-3. Definitions Definitions -- Effective January 1, 2024.**

4 The following words, wherever used in this chapter, unless a different meaning clearly
5 appears from the context, have the following meanings:

6 (1) "Adjustment(s)" means a request, or requests by the applicant to seek relief from the
7 literal use and dimensional requirements of the municipal zoning ordinance and/or the design
8 standards or requirements of the municipal land development and subdivision regulations. The
9 standard for the local review board's consideration of adjustments is set forth in § 45-53-
10 4(C)(2)(iii)(E)(II).

11 ~~(1)~~(2) "Affordable housing plan" means a component of a housing element, as defined in
12 § 45-22.2-4(1), ~~to meet~~ that complies with housing needs in a city or town that is prepared in
13 accordance with guidelines adopted by the state planning council, and/or to meet the provisions of
14 § 45-53-4(b)(1) and (c).

15 ~~(2)~~(3) "Approved affordable housing plan" means an affordable housing plan that has been
16 approved by the director of administration as meeting the guidelines for the local comprehensive
17 plan as promulgated by the state planning council; provided, however, that state review and
18 approval, for plans submitted by December 31, 2004, shall not be contingent on the city or town
19 having completed, adopted, or amended its comprehensive plan as provided for in § 45-22.2-8, §

1 45-22.2-9, or § 45-22.2-9.

2 ~~(3)~~(4) “Comprehensive plan” means a comprehensive plan adopted and approved by a city
3 or town pursuant to chapters 22.2 and 22.3 of this title.

4 (4)(5) “Consistent with local needs” means reasonable in view of the state need for low-
5 and moderate-income housing, considered with the number of low-income persons in the city or
6 town affected and the need to protect the health and safety of the occupants of the proposed housing
7 or of the residents of the city or town, to promote better site and building design in relation to the
8 surroundings, or to preserve open spaces, and if the local zoning or land use ordinances,
9 requirements, and regulations are applied as equally as possible to both subsidized and
10 unsubsidized housing. Local zoning and land use ordinances, requirements, or regulations are
11 consistent with local needs when imposed by a city or town council after a comprehensive hearing
12 in a city or town where:

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

19 (ii) The city or town has promulgated zoning or land use ordinances, requirements, and
20 regulations to implement a comprehensive plan that has been adopted and approved pursuant to
21 chapters 22.2 and 22.3 of this title, and the housing element of the comprehensive plan provides
22 for low- and moderate-income housing in excess of either ten percent (10%) of the year-round
23 housing units or fifteen percent (15%) of the occupied year-round rental housing units as provided
24 in subdivision (4)(i).

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

28 ~~(5)~~(6) “Infeasible” means any condition brought about by any single factor or combination
29 of factors, as a result of limitations imposed on the development by conditions attached to the
30 approval of the comprehensive permit, to the extent that it makes it ~~impossible for a public agency,~~
31 ~~nonprofit organization, or limited equity housing cooperative~~ financially or logistically impractical
32 for any applicant to proceed in building or operating low- or moderate-income housing ~~without~~
33 ~~financial loss~~, within the limitations set by the subsidizing agency of government or local review
34 board, on the size or character of the development, on the amount or nature of the subsidy, or on

1 the tenants, rentals, and income permissible, and without substantially changing the rent levels and
2 unit sizes proposed by the ~~public agency, nonprofit organization, or limited equity housing~~
3 ~~cooperative~~ applicant.

4 ~~(6)~~(7) “Letter of eligibility” means a letter issued by the Rhode Island housing and
5 mortgage finance corporation in accordance with § 42-55-5.3(a).

6 ~~(7)~~(8) “Local board” means any town or city official, zoning board of review, planning
7 board or commission, board of appeal or zoning enforcement officer, local conservation
8 commission, historic district commission, or other municipal board having supervision of the
9 construction of buildings or the power of enforcing land use regulations, such as subdivision, or
10 zoning laws.

11 ~~(8)~~(9) “Local review board” means the planning board as defined by § 45-22.2-4~~(20)~~, ~~or if~~
12 ~~designated by ordinance as the board to act on comprehensive permits for the town, the zoning~~
13 ~~board of review established pursuant to § 45-24-56.~~

14 ~~(9)~~(10) “Low- or moderate-income housing” means any housing whether built or operated
15 by any public agency or any nonprofit organization or by any limited equity housing cooperative
16 or any private developer, that is subsidized by a federal, state, or municipal government subsidy
17 under any program to assist the construction or rehabilitation of ~~housing~~ affordable ~~to~~ housing for
18 low- or moderate-income households, as defined in ~~the applicable federal or state statute, or local~~
19 ~~ordinance~~ § 42-128-8.1 and that will remain affordable through a land lease and/or deed restriction
20 for ninety-nine (99) years or such other period that is either agreed to by the applicant and town or
21 prescribed by the federal, state, or municipal government subsidy program but that is not less than
22 thirty (30) years from initial occupancy.

23 ~~(10)~~(11) “Meeting local housing needs” means as a result of the adoption of the
24 implementation program of an approved affordable housing plan ~~and~~, the absence of unreasonable
25 denial of applications that are made pursuant to an approved affordable housing plan in order to
26 accomplish the purposes and expectations of the approved affordable housing plan, and a showing
27 that at least twenty percent (20%) of the total residential units approved by a local review board or
28 any other municipal board in a calendar year are for low- and moderate-income housing as defined
29 in § 42-128-8.1.

30 ~~(11)~~(12) “Monitoring agents” means those monitoring agents appointed by the Rhode
31 Island housing resources commission pursuant to § 45-53-3.2 and to provide the monitoring and
32 oversight set forth in this chapter, including, but not limited to, §§ 45-53-3.2 and 45-53-4.

33 ~~(12)~~(13) “Municipal government subsidy” means assistance that is made available through
34 a city or town program sufficient to make housing affordable, as affordable housing is defined in §

1 42-128-8.1(d)(1); such assistance ~~may~~ shall include a combination of, but is not limited to, direct
2 financial support, abatement of taxes, waiver of fees and charges, and approval of density bonuses
3 and/or internal subsidies, zoning incentives, and adjustments as defined in this section and any
4 combination of forms of assistance.

5 **45-53-4. Procedure for approval of construction of low- or moderate-income housing**

6 **Procedure for approval of construction of low- or moderate-income housing -- Effective**
7 **January 1, 2024.**

8 (a) Any applicant proposing to build low- or moderate-income housing may submit to the
9 local review board a single application for a comprehensive permit to build that housing in lieu of
10 separate applications to the applicable local boards. This procedure is only available for proposals
11 in which at least twenty-five percent (25%) of the housing is low- or moderate-income housing.

12 (b) Municipal government subsidies, adjustments and zoning incentives are to be made
13 available to applications under this chapter, which shall include, but not be limited to:

14 (1) A municipality shall provide an applicant with more dwelling units than allowed by
15 right under its zoning ordinance in the form of a density bonus of at least a thirty percent (30%)
16 increase in the allowed dwelling units per acre (DU/A), as well as other incentives and municipal
17 government subsidies as defined in § 45-53-3. Such zoning incentives, adjustment and municipal
18 government subsidies shall be established by the municipality and shall apply to offset differential
19 costs of below-market units. The allowed dwelling units per acre (DU/A) shall be calculated based
20 upon the total lot area of the property and the minimum lot size requirements of the underlying
21 zoning district in which the property is located;

22 (2) A larger density bonus shall be approved by a municipality for projects containing
23 greater than the threshold of twenty-five percent (25%) of low- and moderate-income housing
24 required under this chapter. A density bonus shall be calculated based upon the total lot area of the
25 property and the minimum lot size requirements of the underlying zoning district in which the
26 property is located;

27 (3) A municipality shall not require more than one off-street parking space per dwelling
28 unit in applications submitted under this chapter;

29 (4) A municipality shall not limit the number of bedrooms for applications submitted under
30 this chapter to anything less than three (3) bedrooms per dwelling unit;

31 (5) A municipality shall not utilize floor area requirements to limit any application, except
32 as provided by § 45-24.3-11;

33 (6) A municipality shall not restrict comprehensive permit applications and permits by any
34 locally adopted ordinance or policy that places a limit or moratorium on the development of

1 [residential units.](#)

2 (c) The application and review process for a comprehensive permit shall be as follows:

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

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

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

12 ~~(iii) A proposed timetable for the commencement of construction and completion of the~~
13 ~~project; and~~

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

18 ~~(v) Identification of an approved entity that will monitor the long term affordability of the~~
19 ~~low and moderate income units; provided, that, on and after July 1, 2022, this entity shall include~~
20 ~~the Rhode Island housing resources commission established pursuant to chapter 128 of title 42 and~~
21 ~~acting through its monitoring agents, and these agents shall monitor the long term affordability of~~
22 ~~the low and moderate income units pursuant to § 45-53-3.2; and~~

23 ~~(vi) A financial pro forma for the proposed development; and~~

24 ~~(vii) For comprehensive permit applications: (A) Not involving major land developments~~
25 ~~or major subdivisions including, but not limited to, applications seeking relief from specific~~
26 ~~provisions of a local zoning ordinance, or involving administrative subdivisions, minor land~~
27 ~~developments or minor subdivisions, or other local ordinances and regulations: those items required~~
28 ~~by local regulations promulgated pursuant to applicable state law, with the exception of evidence~~
29 ~~of state or federal permits; and for comprehensive permit applications; and (B) Involving major~~
30 ~~land developments and major subdivisions, unless otherwise agreed to by the applicant and the~~
31 ~~town; those items included in the checklist for the master plan in the local regulations promulgated~~
32 ~~pursuant to § 45-23-40. Subsequent to master plan approval, the applicant must submit those items~~
33 ~~included in the checklist for a preliminary plan for a major land development or major subdivision~~
34 ~~project in the local regulations promulgated pursuant to § 45-23-41, with the exception of evidence~~

1 of state or federal permits. All required state and federal permits must be obtained prior to the final
2 plan approval or the issuance of a building permit; and

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

8 (xi) ~~Notwithstanding the submission requirements set forth above, the local review board~~
9 ~~may request additional, reasonable documentation throughout the public hearing, including, but not~~
10 ~~limited to, opinions of experts, credible evidence of application for necessary federal and/or state~~
11 ~~permits, statements and advice from other local boards and officials.~~

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

22 (3)(1) Pre-application conference. Where the comprehensive permit application proposal
23 is a major land development project or a major subdivision pursuant to chapter 23 of this title [for a](#)
24 [project in excess of twenty \(20\) units and/or for property in excess of five \(5\) acres](#), a municipality
25 may require an applicant proposing a project under this chapter to first schedule a pre-application
26 conference with the local review board, the technical review committee established pursuant to §
27 45-23-56, or with the administrative officer for the local review board ~~and other local officials~~, as
28 appropriate. To request a pre-application conference, the applicant shall submit [only](#) a short
29 description of the project in writing including the number of units, type of housing, as well as a
30 location map, [and conceptual site plan](#). The purpose of the pre-application conference shall be to
31 review a concept plan of the proposed development [and to elicit feedback from the reviewing](#)
32 [person or board](#). Upon receipt of a request by an applicant for a pre-application conference, the
33 municipality ~~has~~ [shall have](#) thirty (30) days to schedule and hold the pre-application conference. If
34 thirty (30) days has elapsed from the filing of the pre-application submission and no pre-application

1 conference has taken place, nothing shall be deemed to preclude an applicant from thereafter filing
2 and proceeding with an application [for preliminary plan review](#) for a comprehensive permit.

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

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

10 ~~(ii) Public notice. Public notice for all public hearings will be the same notice required
11 under local regulations for a public hearing for a preliminary plan promulgated in accordance with
12 § 45-23-42. The cost of notice shall be paid by the applicant.~~

13 ~~(iii) Review of minor projects. The review of a comprehensive permit application involving
14 only minor land developments or minor subdivisions or requesting zoning ordinance relief or relief
15 from other local regulations or ordinances not otherwise addressed in this subsection, shall be
16 conducted following the procedures in the applicable local regulations, with the exception that all
17 minor land developments or minor subdivisions under this section are required to hold a public
18 hearing on the application, and within ninety five (95) days of issuance of the certificate of
19 completeness, or within such further time as is agreed to by the applicant and the local review
20 board, render a decision.~~

21 ~~(iv) Review of major projects. In the review of a comprehensive permit application
22 involving a major land development and/or major subdivision, the local review board shall hold a
23 public hearing on the master plan and shall, within ninety (90) days of issuance of the certification
24 of completeness, or within such further amount of time as may be agreed to by the local review
25 board and the applicant, render a decision. Preliminary and final plan review shall be conducted
26 according to local regulations promulgated pursuant to chapter 23 of this title except as otherwise
27 specified in this section.~~

28 [\(2\) Preliminary plan review.](#)

29 [\(i\) Submission requirements.-- Applications for preliminary plan review under this chapter
30 shall include:](#)

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

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

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

6 (D) Those items required by local regulations promulgated pursuant to applicable state law,
7 with the exception of evidence of state or federal permits; and for comprehensive permit
8 applications included in the checklist for the preliminary plan review in the local regulations
9 promulgated pursuant to chapter 23 of title 45; and

10 (E) Notwithstanding the submission requirements set forth above, the local review board
11 may request additional, reasonable documentation throughout the public hearing, including, but not
12 limited to, opinions of experts, credible evidence of application for necessary federal and/or state
13 permits, statements and advice from other local boards and officials.

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

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

26 (A) Public hearing. A public hearing shall be noticed and held within thirty (30) days of
27 the issuance of a certificate of completeness.

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

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

1 (D) Failure to act. Failure of the local review board to act within the prescribed period
2 constitutes approval of the preliminary plan and a certificate of the administrative officer as to the
3 failure of the local review board to act within the required time and the resulting approval shall be
4 issued on request of the applicant. Further, if the public hearing is not convened or a decision is not
5 rendered within the time allowed in subsections (c)(2)(iii)(A) and (c)(2)(iii)(C) of this section, the
6 application is deemed to have been allowed and the preliminary plan approval shall be issued
7 immediately.

8 ~~(A)~~(E) Required findings for approval. In approving an application, the local review board
9 shall make positive findings, supported by legally competent evidence on the record that discloses
10 the nature and character of the observations upon which the fact finders acted, on each of the
11 following standard provisions, where applicable:

12 ~~(A)~~(I) The proposed development is consistent with local needs as identified in the local
13 comprehensive community plan with particular emphasis on the community's affordable housing
14 plan and/or has satisfactorily addressed the issues where there may be inconsistencies.

15 ~~(B)~~(II) The proposed development is in compliance with the standards and provisions of
16 the municipality's zoning ordinance and subdivision regulations, and/or where ~~expressly varied or~~
17 ~~waived~~ adjustments are requested by the applicant that local concerns that have been affected by
18 the relief granted do not outweigh the state and local need for low- and moderate-income housing.

19 ~~(C)~~(III) All low- and moderate-income housing units proposed are integrated throughout
20 the development; are compatible in scale and architectural style to the market rate units within the
21 project; and will be built and occupied prior to, or simultaneous with the construction and
22 occupancy of any market rate units.

23 ~~(D) There will be no significant negative environmental impacts from the proposed~~
24 ~~development as shown on the final plan, with all required conditions for approval.~~

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

30 ~~(F)~~(V) All proposed land developments and all subdivisions lots will have adequate and
31 permanent physical access to a public street in accordance with the requirements of § 45-23-60(5).

32 ~~(G)~~(VI) The proposed development will not result in the creation of individual lots with
33 any physical constraints to development that building on those lots according to pertinent
34 regulations and building standards would be impracticable, unless created only as permanent open

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

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

6 ~~(vii)~~(F) Required findings for denial. In reviewing the comprehensive permit request, the
7 local review board may deny the request for any of the following reasons: ~~(A)~~(I) If the city or town
8 has an approved affordable housing plan and is meeting housing needs, and the proposal is
9 inconsistent with the affordable housing plan; provided that, the local review board also finds that
10 the municipality has made significant progress in implementing that housing plan; ~~(B)~~(II) The
11 proposal is not consistent with local needs, including, but not limited to, the needs identified in an
12 approved comprehensive plan, and/or local zoning ordinances and procedures promulgated in
13 conformance with the comprehensive plan; ~~(C)~~(III) The proposal is not in conformance with the
14 comprehensive plan; ~~(D)~~(IV) The community has met or has plans to meet the goal of ten percent
15 (10%) of the year-round units or, in the case of an urban town or city, fifteen percent (15%) of the
16 occupied rental housing units as defined in § 45-53-3(4)(i) being low- and moderate-income
17 housing; provided that, the local review board also finds that the community has achieved or has
18 made significant progress towards meeting the goals required by this section; or ~~(E)~~(V) Concerns
19 for the environment and the health and safety of current residents have not been adequately
20 addressed.

21 (iv) Vesting. The approved preliminary plan is vested for a period of two (2) years with the
22 right to extend for two (2), one-year extensions upon written request by the applicant, who must
23 appear before the planning board for each annual review and provide proof of valid state or federal
24 permits as applicable. Thereafter, vesting may be extended for a longer period, for good cause
25 shown, if requested, in writing by the applicant, and approved by the local review board. The
26 vesting for the preliminary plan approval includes all ordinance provisions and regulations at the
27 time of the approval, general and specific conditions shown on the approved preliminary plan
28 drawings and supporting material.

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

34 (i) Submission requirements. -- Applications for final plan review under this chapter shall

1 include:

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

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

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

10 (D) Those items required by local regulations promulgated pursuant to applicable state law
11 included in the checklist for final plan review in the local regulations promulgated pursuant to
12 chapter 23 of title 45, including, but not limited to:

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

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

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

19 (ii) Certification of completeness. The final plan application must be certified complete or
20 incomplete by the administrative officer according to the provisions of § 45-23-36; provided
21 however, that, the certificate shall be granted within fourteen (14) days of submission of the
22 application. The running of the time period set forth herein will be deemed stopped upon the
23 issuance of a written certificate of incompleteness of the application by the administrative officer
24 and will recommence upon the resubmission of a corrected application by the applicant. However,
25 in no event will the administrative officer be required to certify a corrected submission as complete
26 or incomplete less than ten (10) days after its resubmission. If the administrative officer certifies
27 the application as incomplete, the officer shall set forth in writing with specificity the missing or
28 incomplete items.

29 (iii) Review of applications.

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

32 (B) Modifications and changes to plans:

33 (I) Minor changes, as defined in the local regulations, to the plans approved at preliminary
34 plan may be approved administratively, by the administrative officer, whereupon final plan

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

6 (II) Major changes, as defined in the local regulations, to the plans approved at preliminary
7 plan may be approved only by the local review board and must follow the same review and public
8 hearing process required for approval of preliminary plans as described in subsection (c)(2)(iii) of
9 this section.

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

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

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

21 (iv) Vesting. The approved final plan is vested for a period of two (2) years with the right
22 to extend for one one-year extension upon written request by the applicant, who must appear before
23 the planning board for the extension request. Thereafter, vesting may be extended for a longer
24 period, for good cause shown, if requested, in writing by the applicant, and approved by the local
25 review board.

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

31 (5) Recording of written decisions. All written decisions on applications under this chapter
32 shall be recorded in the land evidence records within twenty (20) days after the local review board's
33 vote or the administrative officer's decision, as applicable. A copy of the recorded decision shall be
34 mailed within one business day of recording, by any method that provides confirmation of receipt,

1 to the applicant and to any objector who has filed a written request for notice with the administrative
2 officer.

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

8 ~~(viii)(7) Majority vote required.~~ All local review board decisions on comprehensive
9 permits shall be by majority vote of the members present at the proceeding; ~~provided that, there is~~
10 ~~at least a quorum of the local review board present and voting at the proceeding, and may be~~
11 ~~appealed by the applicant to the state housing appeals board.~~

12 ~~(ix) If the public hearing is not convened or a decision is not rendered within the time~~
13 ~~allowed in subsections (a)(4)(iii) and (iv), the application is deemed to have been allowed and the~~
14 ~~relevant approval shall issue immediately; provided, however, that this provision shall not apply to~~
15 ~~any application remanded for hearing in any town where more than one application has been~~
16 ~~remanded for hearing provided for in § 45-53-6(f)(2).~~

17 ~~(x) Any person aggrieved by the issuance of an approval may appeal to the superior court~~
18 ~~within twenty (20) days of the issuance of approval.~~

19 ~~(xi)(8) Construction timetable.~~ A comprehensive permit shall expire unless construction is
20 started within twelve (12) months and completed within sixty (60) months of the recording of the
21 final plan ~~approval~~ unless a longer and/or phased period for development is agreed to by the local
22 review board and the applicant. Low- and moderate-income housing units shall be built and
23 occupied prior to, or simultaneous with the construction and occupancy of market rate units.

24 ~~(xii)(9) For-profit developers -- Limits.~~ A town with an approved affordable housing plan
25 and that is meeting local housing needs, as defined in this chapter, may by council action limit the
26 annual total number of dwelling units in comprehensive permit applications from for-profit
27 developers to an aggregate of one percent (1%) of the total number of year-round housing units in
28 the town, as recognized in the affordable housing plan and notwithstanding the timetables set forth
29 elsewhere in this section, the local review board shall have the authority to consider comprehensive
30 permit applications from for-profit developers, which are made pursuant to this paragraph,
31 sequentially in the order in which they are submitted.

32 ~~(xiii)(10) Report.~~ The local review board of a town with an approved affordable housing
33 plan shall report the status of implementation to the housing resources commission, including the
34 disposition of any applications made under the plan, as of June 30, 2006, by September 1, 2006,

1 and for each June 30 thereafter by September 1 through 2010. The housing resources commission
2 shall prepare by October 15 and adopt by December 31, a report on the status of implementation,
3 which shall be submitted to the governor, the speaker; and the president of the senate, ~~and the~~
4 ~~chairperson of the state housing appeals board~~, and shall find which towns are not in compliance
5 with implementation requirements.

6 ~~(xiv)~~(11) Remanded applications. Notwithstanding the provisions of § 45-53-4 in effect on
7 February 13, 2004, ~~to~~ a local review board shall commence hearings within thirty (30) days of
8 receiving an application remanded by the state housing appeals board ~~pursuant to § 45-53-6(f)(2)~~
9 ~~shall be heard as herein provided; in~~ or superior court, as applicable. In any town with more than
10 one remanded application, applications may be scheduled for hearing in the order in which they
11 were received, and may be taken up sequentially, with the thirty-day (30) requirement for the
12 initiation of hearings, commencing upon the decision of the earlier filed application.

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

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

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

32 ~~(e)~~(e) Towns and cities that are not in conformity with the provisions of § 45-53-3(4)(i)
33 shall prepare by December 31, 2004, a comprehensive plan housing element for low- and moderate-
34 income housing as specified by § 45-53-3(4)(ii), consistent with applicable law and regulation.

1 That the secretary of the planning board or commission of each city or town subject to the
2 requirements of this paragraph shall report in writing the status of the preparation of the housing
3 element for low- and moderate-income housing on or before June 30, 2004, and on or before
4 December 31, 2004, to the secretary of the state planning council, to the chair of the house
5 committee on corporations and to the chair of the senate committee on commerce, housing and
6 municipal government. The state housing appeals board shall use said plan elements in making
7 determinations provided for in § 45-53-6(c)(2).

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

15 ~~(g)~~(g) In planning for, awarding, and otherwise administering programs and funds for
16 housing and for community development, state departments, agencies, boards and commissions,
17 and public corporations, as defined in chapter 18 of title 35, shall among the towns subject to the
18 provision of § 45-53-3(ii), give priority to the maximum extent allowable by law to towns with an
19 approved affordable housing plan. The director of administration shall adopt not later than January
20 31, 2005, regulations to implement the provisions of this section.

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

24 SECTION 2. This act shall take effect on January 1, 2024.

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LC002500
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES -- LOW AND MODERATE INCOME HOUSING

1 This act would provide amendments relative to low- and moderate-income housing and
2 modify and clarify the procedure for review of applications to build such housing.

3 This act would take effect on January 1, 2024.

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LC002500
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