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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

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A N A C T

RELATING TO TOWNS AND CITIES -- SUBDIVISION OF LAND

Introduced By: Representative Kenneth Carter

Date Introduced: February 25, 2010

Referred To: House Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-23-32 of the General Laws in Chapter 45-23 entitled  
2 "Subdivision of Land" is hereby amended to read as follows:

3 **45-23-32. Definitions.** -- Where words or phrases used in this chapter are defined in the  
4 definitions section of either the Rhode Island Comprehensive Planning and Land Use Regulation  
5 Act, section 45-22.2-4, or the Rhode Island Zoning Enabling Act of 1991, section 45-24-31, they  
6 have the meanings stated in those acts. Additional words and phrases may be defined in local  
7 ordinances, regulations and rules under this act. The words and phrases defined in this section,  
8 however, shall be controlling in all local ordinances, regulations, and rules created under this  
9 chapter. See also section 45-23-34. In addition, the following words and phrases have the  
10 following meanings:

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

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

1 (3) Board of appeal. - The local review authority for appeals of actions of the  
2 administrative officer and the planning board on matters of land development or subdivision,  
3 which shall be the local zoning board of review constituted as the board of appeal. See section 45-  
4 23-57.

5 (4) Bond. - See improvement guarantee.

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

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

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

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

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

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

28 (11) Division of land. - A subdivision.

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

33 (13) Final plan. - The final stage of land development and subdivision review. See  
34 section 45-23-43.

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

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

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

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

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

15 (19) Land suitable for development. - The total land area of the lot including slopes and  
16 wetlands, considering and including the requirements of pertinent federal, state and local  
17 regulations. See Rhode Island general laws subdivision 45-23-60(40).

18 ~~(19)~~ (20) Local regulations. - The land development and subdivision review regulations  
19 adopted under the provisions of this act. For purposes of clarification, throughout this act, where  
20 reference is made to local regulations, it is be understood as the land development and  
21 subdivision review regulations and all related ordinances and rules properly adopted pursuant to  
22 this chapter.

23 ~~(20)~~ (21) Maintenance guarantee. - Any security instrument which may be required and  
24 accepted by a municipality to ensure that necessary improvements will function as required for a  
25 specific period of time. See improvement guarantee.

26 ~~(21)~~ (22) Major land development plan. - Any land development plan not classified as a  
27 minor land development plan.

28 ~~(22)~~ (23) Major subdivision. - Any subdivision not classified as either an administrative  
29 subdivision or a minor subdivision.

30 ~~(23)~~ (24) Master plan. - An overall plan for a proposed project site outlining general,  
31 rather than detailed, development intentions. It describes the basic parameters of a major  
32 development proposal, rather than giving full engineering details. Required in major land  
33 development or major subdivision review. See section 45-23-40.

34 ~~(24)~~ (25) Minor land development plan. - A development plan for a residential project as

1 defined in local regulations, provided that the development does not require waivers or  
2 modifications as specified in this act. All nonresidential land development projects are considered  
3 major land development plans.

4 ~~(25)~~ [\(26\)](#) Minor subdivision. - A plan for a subdivision of land consisting of five (5) or  
5 fewer units or lots, provided that the subdivision does not require waivers or modifications as  
6 specified in this chapter.

7 ~~(26)~~ [\(27\)](#) Modification of requirements. - See section 45-23-62.

8 ~~(27)~~ [\(28\)](#) Parcel. - A lot, or contiguous group of lots in single ownership or under single  
9 control, and usually considered a unit for purposes of development. Also referred to as a tract.

10 ~~(28)~~ [\(29\)](#) Parking area or lot. - All that portion of a development that is used by vehicles,  
11 the total area used for vehicular access, circulation, parking, loading and unloading.

12 ~~(29)~~ [\(30\)](#) Permitting authority. - The local agency of government specifically empowered  
13 by state enabling law and local ordinance to hear and decide on specific matters pertaining to  
14 local land use.

15 ~~(30)~~ [\(31\)](#) Phased development. - Development, usually for large-scale projects, where  
16 construction of public and/or private improvements proceeds by sections subsequent to approval  
17 of a master plan for the entire site. See section 45-23-48.

18 ~~(31)~~ [\(32\)](#) Physical constraints to development. - Characteristics of a site or area, either  
19 natural or man-made, which present significant difficulties to construction of the uses permitted  
20 on that site, or would require extraordinary construction methods. See also environmental  
21 constraints.

22 ~~(32)~~ [\(33\)](#) Planning board. - The official planning agency of a municipality, whether  
23 designated as the plan commission, planning commission, plan board, or as otherwise known.

24 ~~(33)~~ [\(34\)](#) Plat. - A drawing or drawings of a land development or subdivision plan  
25 showing the location, boundaries, and lot lines of individual properties, as well as other necessary  
26 information as specified in the local regulations.

27 ~~(34)~~ [\(35\)](#) Pre-application conference. - An initial meeting between developers and  
28 municipal representatives which affords developers the opportunity to present their proposals  
29 informally and to receive comments and directions from the municipal officials and others. See  
30 section 45-23-35.

31 ~~(35)~~ [\(36\)](#) Preliminary plan. - The required stage of land development and subdivision  
32 review which requires detailed engineered drawings and all required state and federal permits.  
33 See section 45-23-41.

34 ~~(36)~~ [\(37\)](#) Public improvement. - Any street or other roadway, sidewalk, pedestrian way,

1 tree, lawn, off-street parking area, drainage feature, or other facility for which the local  
2 government or other governmental entity either is presently responsible, or will ultimately assume  
3 the responsibility for maintenance and operation upon municipal acceptance.

4 ~~(37)~~ (38) Public informational meeting. - A meeting of the planning board or governing  
5 body preceded by a notice, open to the public and at which the public is heard.

6 ~~(38)~~ (39) Re-subdivision. - Any change of an approved or recorded subdivision plat or in  
7 a lot recorded in the municipal land evidence records, or that affects the lot lines of any areas  
8 reserved for public use, or that affects any map or plan legally recorded prior to the adoption of  
9 the local land development and subdivision regulations. For the purposes of this act any action  
10 constitutes a subdivision.

11 ~~(39)~~ (40) Storm water detention. - A provision for storage of storm water runoff and the  
12 controlled release of the runoff during and after a flood or storm.

13 ~~(40)~~ (41) Storm water retention. - A provision for storage of storm water runoff.

14 ~~(41)~~ (42) Street. - A public or private thoroughfare used, or intended to be used, for  
15 passage or travel by motor vehicles. Streets are further classified by the functions they perform.  
16 See street classification.

17 ~~(42)~~ (43) Street, access to. - An adequate and permanent way of entering a lot. All lots of  
18 record shall have access to a public street for all vehicles normally associated with the uses  
19 permitted for that lot.

20 ~~(43)~~ (44) Street, alley. - A public or private thoroughfare primarily designed to serve as  
21 secondary access to the side or rear of those properties whose principal frontage is on some other  
22 street.

23 ~~(44)~~ (45) Street, cul-de-sac. - A local street with only one outlet and having an  
24 appropriate vehicular turnaround, either temporary or permanent, at the closed end.

25 ~~(45)~~ (46) Street, limited access highway. - A freeway or expressway providing for  
26 through traffic. Owners or occupants of abutting property on lands and other persons have no  
27 legal right to access, except at the points and in the manner as may be determined by the public  
28 authority having jurisdiction over the highway.

29 ~~(46)~~ (47) Street, private. - A thoroughfare established as a separate tract for the benefit of  
30 multiple, adjacent properties and meeting specific, municipal improvement standards. This  
31 definition does not apply to driveways.

32 ~~(47)~~ (48) Street, public. - All public property reserved or dedicated for street traffic.

33 ~~(48)~~ (49) Street, stub. - A portion of a street reserved to provide access to future  
34 development, which may provide for utility connections.

1           ~~(49)~~ (50) Street classification. - A method of roadway organization which identifies a  
2 street hierarchy according to function within a road system, that is, types of vehicles served and  
3 anticipated volumes, for the purposes of promoting safety, efficient land use and the design  
4 character of neighborhoods and districts. Local classifications use the following as major  
5 categories:

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

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

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

11          ~~(50)~~ (51) Subdivider. - Any person who (1) having an interest in land, causes it, directly  
12 or indirectly, to be divided into a subdivision or who (2) directly or indirectly sells, leases, or  
13 develops, or offers to sell, lease, or develop, or advertises to sell, lease, or develop, any interest,  
14 lot, parcel, site, unit, or plat in a subdivision, or who (3) engages directly or through an agent in  
15 the business of selling, leasing, developing, or offering for sale, lease, or development a  
16 subdivision or any interest, lot, parcel, site, unit, or plat in a subdivision.

17          ~~(51)~~ (52) Subdivision. - The division or re-division, of a lot, tract or parcel of land into  
18 two or more lots, tracts, or parcels. Any adjustment to existing lot lines of a recorded lot by any  
19 means is considered a subdivision. All re-subdivision activity is considered a subdivision. The  
20 division of property for purposes of financing constitutes a subdivision.

21          ~~(52)~~ (53) Technical review committee. - A committee appointed by the planning board  
22 for the purpose of reviewing, commenting, and making recommendations to the planning board  
23 with respect to approval of land development and subdivision applications.

24          ~~(53)~~ (54) Temporary improvement. - Improvements built and maintained by a developer  
25 during construction of a development project and prior to release of the improvement guarantee,  
26 but not intended to be permanent.

27          ~~(54)~~ (55) Vested rights. - The right to initiate or continue the development of an  
28 approved project for a specified period of time, under the regulations that were in effect at the  
29 time of approval, even if, after the approval, the regulations change prior to the completion of the  
30 project.

31          ~~(55)~~ (56) Waiver of requirements. - See section 45-23-62.

32          SECTION 2. This act shall take effect upon passage.

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

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1           This act would add a definition for land suitable for development which would mean the  
2 total land area of a lot including slopes and wetlands, considering the requirements of pertinent  
3 federal, state and local regulations.

4           This act would take effect upon passage.

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