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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES--PROMOTION OF
NEIGHBORHOOD CHARACTER AND SMART GROWTH

Introduced By: Senators Bell, Murray, and Kallman

Date Introduced: February 12, 2024

Referred To: Senate Housing & Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-24-30, 45-24-31, 45-24-33, 45-24-34, 45-24-36, 45-24-37, 45-
2 24-39, 45-24-40, 45-24-43, 45-24-44, 45-24-46.1, 45-24-46.2, 45-24-46.3, 45-24-47 and 45-24-48
3 of the General Laws in Chapter 45-24 entitled "Zoning Ordinances" are hereby amended to read as
4 follows:

5 **45-24-30. General purposes of zoning ordinances.**

6 (a) Zoning regulations shall be developed and maintained in accordance with a
7 comprehensive plan prepared, adopted, and as may be amended, in accordance with chapter 22.2
8 of this title and shall be designed to address the following purposes. The general assembly
9 recognizes these purposes, each with equal priority and numbered for reference purposes only.

10 (1) Respecting the right of housing for every Rhode Islander in any city or town, regardless
11 of their income.

12 (2) Promoting the public health, safety, and general welfare.

13 ~~(2)~~(3) Providing for a range of uses and intensities of use appropriate to the character of
14 the city or town and reflecting current and expected future needs.

15 (4) Promoting smart growth, redevelopment of previously developed land and preservation
16 of undeveloped land.

17 ~~(3)~~(5) Providing for orderly growth, ~~and~~ development, and redevelopment that recognizes:

18 (i) The goals and patterns of land use contained in the comprehensive plan of the city or

1 town adopted pursuant to chapter 22.2 of this title;

2 (ii) The natural characteristics of the land, including its suitability for use based on soil
3 characteristics, topography, and susceptibility to surface or groundwater pollution;

4 (iii) The values and dynamic nature of coastal and freshwater ponds, the shoreline, and
5 freshwater and coastal wetlands;

6 (iv) The values of unique or valuable natural resources and features;

7 (v) The availability and capacity of existing and planned public and/or private services and
8 facilities, specifically public and civic spaces, transportation, water, storm water management
9 systems, sewage treatment and disposal, solid waste treatment and disposal, schools, recreation,
10 public facilities, open space, and other public requirements;

11 (vi) The need to shape and balance urban and rural development; and

12 (vii) The use of innovative development and redevelopment regulations and techniques.

13 ~~(4)~~(6) Providing for the control, protection, and/or abatement of air, water, groundwater,
14 and noise pollution, and soil erosion and sedimentation.

15 ~~(5)~~(7) Providing for the protection of the natural, historic, cultural, and scenic ~~character~~
16 characteristics of the city or town or areas in the municipality.

17 ~~(6)~~(8) Providing for the preservation and promotion of agricultural production, forest,
18 silviculture, aquaculture, timber resources, public and civic spaces, and open space.

19 ~~(7)~~(9) Providing for the protection of public investment in transportation, public and civic
20 spaces, water, stormwater management systems, sewage treatment and disposal, solid waste
21 treatment and disposal, schools, recreation, public facilities, open space, and other public
22 requirements.

23 ~~(8)~~(10) Promoting a balance of housing choices, for all income levels and groups, to assure
24 the health, safety and welfare of all citizens and their rights to affordable, accessible, safe, and
25 sanitary housing.

26 ~~(9)~~(11) Providing opportunities for the establishment of low- and moderate-income
27 housing.

28 ~~(10)~~(12) Promoting safety from ~~fire~~, flood, and ~~other natural or unnatural disasters~~ wildfire.

29 ~~(11)~~(13) Promoting a high level of quality in design and construction in the development
30 and redevelopment of private and public facilities.

31 ~~(12)~~(14) Promoting implementation of the comprehensive plan of the city or town adopted
32 pursuant to chapter 22.2 of this title.

33 ~~(13)~~(15) Providing for coordination of land uses with contiguous municipalities, other
34 municipalities, the state, and other agencies, as appropriate, especially with regard to resources and

1 facilities that extend beyond municipal boundaries or have a direct impact on that municipality.

2 ~~(14)~~(16) Providing for efficient review of development and redevelopment proposals, to
3 clarify and expedite the zoning approval process.

4 ~~(15)~~(17) Providing for procedures for the administration of the zoning ordinance,
5 including, but not limited to, variances, special-use permits, and, where adopted, procedures for
6 modifications.

7 ~~(16)~~(18) Providing opportunities for reasonable accommodations in order to comply with
8 the Rhode Island Fair Housing Practices Act, chapter 37 of title 34; the United States Fair Housing
9 Amendments Act of 1988 (FHAA); the Rhode Island Civil Rights of Persons with Disabilities Act,
10 chapter 87 of title 42; and the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12101
11 et seq.

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

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

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

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

3 **45-24-31. Definitions. [Effective January 1, 2024.]**

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

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

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

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

20 (4) **Adaptive reuse.** “Adaptive reuse,” as defined in § 42-64.22-2.

21 (5) **Aggrieved party.** An aggrieved party, for purposes of this chapter, shall be:

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

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

26 (6) **Agricultural land.** “Agricultural land,” as defined in § 45-22.2-4.

27 (7) **Airport hazard area.** “Airport hazard area,” as defined in § 1-3-2.

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

30 (9) **Application.** The completed form, or forms, and all accompanying documents,
31 exhibits, and fees required of an applicant by an approving authority for development review,
32 approval, or permitting purposes.

33 (10) Architectural form. The shape or configuration of a building. Form and its opposite,
34 space, constitute primary elements of architecture. The form of a group of buildings, such as part

1 [of a street wall, may include several buildings on separate lots owned by separate owners.](#)

2 [\(11\) Architectural wall. The vertical plane created by a series of architectural forms. See](#)
3 [also "street wall."](#)

4 ~~(10)~~[\(12\) Buffer.](#) Land that is maintained in either a natural or landscaped state, and is used
5 to screen or mitigate the impacts of development on surrounding areas, properties, or rights-of-
6 way.

7 ~~(11)~~[\(13\) Building.](#) Any structure used or intended for supporting or sheltering any use or
8 occupancy.

9 ~~(12)~~[\(14\) Building envelope.](#) The three-dimensional space within which a structure is
10 permitted to be built on a lot and that is defined by regulations governing building setbacks,
11 maximum height, and bulk; by other regulations; or by any combination thereof.

12 ~~(13)~~[\(15\) Building height.](#) For a vacant parcel of land, building height shall be measured
13 from the average, existing-grade elevation where the foundation of the structure is proposed. For
14 an existing structure, building height shall be measured from average grade taken from the
15 outermost four (4) corners of the existing foundation. In all cases, building height shall be measured
16 to the top of the highest point of the existing or proposed roof or structure. This distance shall
17 exclude spires, chimneys, flag poles, and the like. For any property or structure located in a special
18 flood hazard area, as shown on the official FEMA Flood Insurance Rate Maps (FIRMs), or depicted
19 on the Rhode Island coastal resources management council (CRMC) suggested design elevation
20 three foot (3') sea level rise (CRMC SDE 3 SLR) map as being inundated during a one-hundred-
21 year (100) storm, the greater of the following amounts, expressed in feet, shall be excluded from
22 the building height calculation:

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

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

29 [\(16\) Civic space. See "public and civic space".](#)

30 ~~(14)~~[\(17\) Cluster.](#) A site-planning technique that concentrates buildings in specific areas
31 on the site to allow the remaining land to be used for [public and civic space](#), recreation, common
32 open space, and/or preservation of environmentally, historically, culturally, or other sensitive
33 features and/or structures. The techniques used to concentrate buildings shall be specified in the
34 ordinance and may include, but are not limited to, reduction in lot areas, setback requirements,

1 and/or bulk requirements, with the resultant open land being devoted by deed restrictions for one
2 or more uses. Under cluster development, there is no increase in the number of lots that would be
3 permitted under conventional development except where ordinance provisions include incentive
4 bonuses for certain types or conditions of development.

5 ~~(15)~~(18) **Common ownership.** Either:

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

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

10 ~~(16)~~(19) **Community residence.** A home or residential facility where children and/or
11 adults reside in a family setting and may or may not receive supervised care. This does not include
12 halfway houses or substance-use-disorder-treatment facilities. This does include, but is not limited
13 to, the following:

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

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

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

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

30 ~~(17)~~(20) **Comprehensive plan.** The comprehensive plan adopted and approved pursuant
31 to chapter 22.2 of this title and to which any zoning adopted pursuant to this chapter shall be in
32 compliance.

33 ~~(18)~~(21) **Day care — Daycare center.** Any other daycare center that is not a family
34 daycare home.

1 ~~(19)~~[\(22\)](#) **Day care — Family daycare home.** Any home, other than the individual’s home,
2 in which day care in lieu of parental care or supervision is offered at the same time to six (6) or less
3 individuals who are not relatives of the caregiver, but may not contain more than a total of eight
4 (8) individuals receiving day care.

5 ~~(20)~~[\(23\)](#) **Density, residential.** The number of dwelling units per unit of land.

6 ~~(21)~~[\(24\)](#) **Development.** The construction, reconstruction, conversion, [façade redesign](#),
7 structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill,
8 or land disturbance; or any change in use, or alteration or extension of the use, of land.

9 ~~(22)~~[\(25\)](#) **Development plan review.** See §§ 45-23-32 and 45-23-50.

10 ~~(23)~~[\(26\)](#) **District.** See “zoning use [and form](#) district.”

11 ~~(24)~~[\(27\)](#) **Drainage system.** A system for the removal of water from land by drains, grading,
12 or other appropriate means. These techniques may include runoff controls to minimize erosion and
13 sedimentation during and after construction or development; the means for preserving surface and
14 groundwaters; and the prevention and/or alleviation of flooding.

15 ~~(25)~~[\(28\)](#) **Dwelling unit.** A structure, or portion of a structure, providing complete,
16 independent living facilities for one or more persons, including permanent provisions for living,
17 sleeping, eating, cooking, and sanitation, and containing a separate means of ingress and egress.

18 ~~(26)~~[\(29\)](#) **Extractive industry.** The extraction of minerals, including: solids, such as coal
19 and ores; liquids, such as crude petroleum; and gases, such as natural gases. The term also includes
20 quarrying; well operation; milling, such as crushing, screening, washing, and flotation; and other
21 preparation customarily done at the extraction site or as a part of the extractive activity.

22 ~~(27)~~[\(30\)](#) **Family member.** A person, or persons, related by blood, marriage, or other legal
23 means, including, but not limited to, a child, parent, spouse, mother-in-law, father-in-law,
24 grandparents, grandchildren, domestic partner, sibling, care recipient, or member of the household.

25 ~~(28)~~[\(31\)](#) **Floating zone.** An unmapped zoning district adopted within the ordinance that is
26 established on the zoning map only when an application for development, meeting the zone
27 requirements, is approved.

28 ~~(29)~~[\(32\)](#) Floodplains, or Flood hazard area. As defined in § 45-22.2-4.

29 [\(33\)](#) **Form.** See "[architectural form](#)."

30 ~~(30)~~[\(34\)](#) **Freeboard.** A factor of safety expressed in feet above the base flood elevation of
31 a flood hazard area for purposes of floodplain management. Freeboard compensates for the many
32 unknown factors that could contribute to flood heights, such as wave action, bridge openings, and
33 the hydrological effect of urbanization of the watershed.

34 ~~(31)~~[\(35\)](#) **Groundwater.** “Groundwater” and associated terms, as defined in § 46-13.1-3.

1 ~~(32)~~(36) Halfway house. A residential facility for adults or children who have been
2 institutionalized for criminal conduct and who require a group setting to facilitate the transition to
3 a functional member of society.

4 ~~(33)~~(37) Hardship. See § 45-24-41.

5 ~~(34)~~(38) Historic district or historic site. As defined in § 45-22.2-4.

6 ~~(35)~~(39) Home occupation. Any activity customarily carried out for gain by a resident,
7 conducted as an accessory use in the resident’s dwelling unit.

8 ~~(36)~~(40) Household. One or more persons living together in a single-dwelling unit, with
9 common access to, and common use of, all living and eating areas and all areas and facilities for
10 the preparation and storage of food within the dwelling unit. The term “household unit” is
11 synonymous with the term “dwelling unit” for determining the number of units allowed within any
12 structure on any lot in a zoning district. An individual household shall consist of any one of the
13 following:

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

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

17 ~~(37)~~(41) Incentive zoning. The process whereby the local authority may grant additional
18 development capacity in exchange for the developer’s provision of a public benefit or amenity as
19 specified in local ordinances.

20 ~~(38)~~(42) Infrastructure. Facilities and services needed to sustain residential, commercial,
21 industrial, institutional, and other activities.

22 ~~(39)~~(43) **Land development project.** As defined in § 45-23-32.

23 ~~(40)~~(44) Lot. Either:

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

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

29 ~~(41)~~(45) Lot area. The total area within the boundaries of a lot, excluding any street right-
30 of-way, usually reported in acres or square feet.

31 ~~(42)~~(46) Lot area, minimum. The smallest land area established by the local zoning
32 ordinance upon which a use, building, or structure may be located in a particular zoning district.

33 ~~(43)~~(47) Lot building coverage. That portion of the lot that is, or may be, covered by
34 buildings and accessory buildings.

1 ~~(44)~~[\(48\)](#) Lot depth. The distance measured from the front lot line to the rear lot line. For
2 lots where the front and rear lot lines are not parallel, the lot depth is an average of the depth.

3 ~~(45)~~[\(49\)](#) Lot frontage. That portion of a lot abutting a street. A zoning ordinance shall
4 specify how noncontiguous frontage will be considered with regard to minimum frontage
5 requirements.

6 ~~(46)~~[\(50\)](#) Lot line. A line of record, bounding a lot, that divides one lot from another lot or
7 from a public or private street or any other public or private space and shall include:

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

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

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

16 ~~(47)~~[\(51\)](#) **Lot size, minimum.** Shall have the same meaning as “minimum lot area” defined
17 herein.

18 ~~(48)~~[\(52\)](#) **Lot, through.** A lot that fronts upon two (2) parallel streets, or that fronts upon
19 two (2) streets that do not intersect at the boundaries of the lot.

20 ~~(49)~~[\(53\)](#) Lot width. The horizontal distance between the side lines of a lot measured at
21 right angles to its depth along a straight line parallel to the front lot line at the minimum front
22 setback line.

23 ~~(50)~~[\(54\)](#) Mere inconvenience. See § 45-24-41.

24 ~~(51)~~[\(55\)](#) Mixed use. A mixture of land uses within a single development, building, or tract.
25 [Also referred to as traditional development. Typically ground floor commercial with residential](#)
26 [above.](#)

27 ~~(52)~~[\(56\)](#) Modification. Permission granted and administered by the zoning enforcement
28 officer of the city or town, and pursuant to the provisions of this chapter to grant a dimensional
29 variance other than lot area requirements from the zoning ordinance to a limited degree as
30 determined by the zoning ordinance of the city or town, but not to exceed twenty-five percent (25%)
31 of each of the applicable dimensional requirements.

32 ~~(53)~~[\(57\)](#) Nonconformance. A building, structure, or parcel of land, or use thereof, lawfully
33 existing at the time of the adoption or amendment of a zoning ordinance [or in existence for at least](#)
34 [six \(6\) years](#) and not in conformity with the provisions of that ordinance or amendment.

1 Nonconformance is of only two (2) types:

2 (i) Nonconforming by use: a lawfully established use of land, building, or structure that is
3 not a permitted use in that zoning district. A building or structure containing more dwelling units
4 than are permitted by the use regulations of a zoning ordinance is ~~nonconformity by use; or~~
5 nonconforming by use. Nonconforming by use shall be established if a use was lawfully existing
6 prior to the enactment of the zoning ordinance or amendment that rendered the use out of
7 conformity; if a use has been in existence for fifty (50) years; or if a non-accessory use has been in
8 existence for twenty-five (25) years without the initiation of any enforcement actions to ensure
9 conformity with the zoning ordinance. In the case where the nonconformance by use exists because
10 the number of dwelling units exceeds the limits established by the use regulations of a zoning
11 ordinance, the nonconformance shall be established if the dwelling units were lawfully existing
12 prior to the enactment of a zoning ordinance or a zoning amendment that rendered the use out of
13 conformity; if the dwelling units were in existence prior to January 1, 2018; if the dwelling units
14 have been in existence for twenty-five (25) years; or if the dwelling units have been in existence
15 for six (6) years without the initiation of any enforcement actions to ensure conformity with the
16 zoning ordinance. In the case where the use is a zoning use that raises pollution risk,
17 nonconformance by use shall only be established if the zoning use that raises pollution risk was
18 lawfully existing for at least six (6) years prior to the enactment of the zoning ordinance or
19 amendment that rendered the zoning use that raises pollution risk out of conformity.

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

27 Nonconformance by dimension shall be established if the dimensional conditions were
28 lawfully existing prior to the enactment of the zoning ordinance or amendment that rendered the
29 building, structure, or parcel of land out of conformity; if the dimensional conditions were in
30 existence prior to January 1, 2018; if the dimensional conditions have been in existence for twenty-
31 five (25) years; or if the dimensional conditions have been in existence for six (6) years without the
32 initiation of any enforcement actions to ensure conformity with the zoning ordinance.

33 ~~(54)~~(58) Overlay district. A district established in a zoning ordinance that is superimposed
34 on one or more districts or parts of districts. The standards and requirements associated with an

1 overlay district may be more or less restrictive than those in the underlying districts consistent with
2 other applicable state and federal laws.

3 ~~(55)~~(59) Performance standards. A set of criteria or limits relating to elements that a
4 particular use or process must either meet or may not exceed.

5 ~~(56)~~(60) Permitted use. A use by right that is specifically authorized in a particular zoning
6 district.

7 ~~(57)~~(61) Planned development. A “land development project,” as defined in subsection
8 (39), and developed according to plan as a single entity and containing one or more structures or
9 uses with appurtenant common areas.

10 ~~(58)~~(62) Plant agriculture. The growing of plants for food or fiber, to sell or consume.

11 ~~(59)~~(63) Preapplication conference. A review meeting of a proposed development held
12 between applicants and reviewing agencies as permitted by law and municipal ordinance, before
13 formal submission of an application for a permit or for development approval.

14 (64) Public and civic space. An extension of the community, serving as a stage for our
15 public lives. The space enriches the lives of its users and enhances its surrounding buildings and
16 neighborhood. Public and civic space includes atria, boardwalks, courtyards, forecourts, overlooks,
17 plazas, paths, and squares.

18 (65) Reconstruction. The act or process of depicting, by means of new construction, the
19 form features, and detailing of a non-surviving site, landscape, building, structure, or object for the
20 purpose of replicating its appearance at a specific period of time and in its historic location.

21 (66) Redevelopment. Alteration to previously developed land, structures, or buildings
22 which may include adaptive reuse, reconstruction, conversion, facade redesign, structural
23 alteration, relocation, or enlargement of any structure or building.

24 (67) Rural. Sparsely populated and lacking in public services. Primarily open space and
25 agriculture with interstitial development.

26 ~~(60)~~(68) Setback line or lines. A line, or lines, parallel to a lot line at the minimum distance
27 of the required setback for the zoning district in which the lot is located that establishes the area
28 within which the principal structure must be erected or placed.

29 ~~(61)~~(69) Site plan. The development plan for one or more lots on which is shown the
30 existing and/or the proposed conditions of the lot.

31 ~~(62)~~(70) Slope of land. The grade, pitch, rise, or incline of the topographic landform or
32 surface of the ground.

33 ~~(63)~~(71) Special use. A regulated use that is permitted pursuant to the special-use permit
34 issued by the authorized governmental entity, pursuant to § 45-24-42. Formerly referred to as a

1 special exception.

2 (72) Street wall. The architectural wall on either side of a street. A street wall requires
3 relatively consistent setbacks, building heights, building envelopes, and landscaping to function.

4 ~~(64)~~(73) Structure. A combination of materials to form a construction for use, occupancy,
5 or ornamentation, whether installed on, above, or below the surface of land or water.

6 ~~(65)~~(74) Substandard lot of record. Any lot lawfully existing at the time of adoption or
7 amendment of a zoning ordinance and not in conformance with the dimensional or area provisions
8 of that ordinance.

9 (75) Urban. Densely populated with defined and balanced public and private realms,
10 primarily with public and civic spaces, people-centric design, continuous, coherent, and
11 harmonious architectural wall, extensive public services, including transportation, water,
12 stormwater management systems, sewage treatment and disposal, solid waste treatment and
13 disposal, schools, recreation, public facilities, interstitial open space and agriculture, and other
14 public requirements. Generally defined by the division of planning as village centers and areas
15 within the urban services boundary, on a map maintained by the division of planning.

16 ~~(66)~~(76) Use. The purpose or activity for which land or buildings are designed, arranged,
17 or intended, or for which land or buildings are occupied or maintained.

18 ~~(67)~~(77) **Variance.** Permission to depart from the literal requirements of a zoning
19 ordinance. An authorization for the construction or maintenance of a building or structure, or for
20 the establishment or maintenance of a use of land, that is prohibited by a zoning ordinance. There
21 are only two (2) categories of variance, a use variance or a dimensional variance.

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

26 (ii) Dimensional variance. Permission to depart from the dimensional requirements of a
27 zoning ordinance under the applicable standards set forth in § 45-24-41.

28 ~~(68)~~(78) Waters. As defined in § 46-12-1(23).

29 ~~(69)~~(79) Wetland, coastal. As defined in § 45-22.2-4.

30 ~~(70)~~(80) Wetland, freshwater. As defined in § 2-1-20.

31 ~~(71)~~(81) Zoning certificate. A document signed by the zoning enforcement officer, as
32 required in the zoning ordinance, that acknowledges that a use, structure, building, or lot either
33 complies with, or is legally nonconforming to, the provisions of the municipal zoning ordinance or
34 is an authorized variance or modification therefrom.

1 ~~(72)~~(82) Zoning map. The map, or maps, that are a part of the zoning ordinance and that
2 delineate the boundaries of all mapped zoning districts within the physical boundary of the city or
3 town.

4 ~~(73)~~(83) Zoning ordinance. An ordinance enacted by the legislative body of the city or
5 town pursuant to this chapter and in the manner providing for the adoption of ordinances in the city
6 or town's legislative or home rule charter, if any, that establish regulations and standards relating
7 to the nature and extent of uses of land and structures; that is consistent with the comprehensive
8 plan of the city or town as defined in chapter 22.2 of this title; that includes a zoning map; and that
9 complies with the provisions of this chapter.

10 ~~(74)~~(84) Zoning use and form district. The basic unit in zoning, either mapped or
11 unmapped, to which a uniform set of regulations applies, or a uniform set of regulations for a
12 specified use. Zoning use and form districts include, but are not limited to: agricultural,
13 commercial, industrial, institutional, mixed use, open space, and residential, as well as urban core,
14 urban center, general urban, inner suburban, outer suburban, exurban, and rural. Each district may
15 include sub-districts. Districts may be combined.

16 (85) Zoning use that raises pollution risk. A use that raises potential for residents and
17 visitors of the surrounding area to experience the negative effects of air, groundwater, stormwater,
18 smell, auditory, or vibrational activities associated with the primary or accessory use of the subject
19 property. The following uses shall be included: animal care facility, nightclub, broadcasting
20 facility, car wash, drive-through facility, parking facility, asphalt surfaces, freight terminal, funeral
21 home, gas station, golf course, plant nursery, commercial agriculture, marina, boat construction
22 and repair, brewery, distillery, winery, power plant, strip mall, motorized vehicle repair, and all
23 industrial uses. The division of planning shall have the power to establish rules and regulations that
24 identify additional uses that meet these criteria.

25 **45-24-33. Standard provisions.**

26 (a) A zoning ordinance addresses each of the purposes stated in § 45-24-30 and addresses,
27 through reasonable objective standards and criteria, the following general provisions which are
28 numbered for reference purposes only except as prohibited by §§ 45-24-30(b), 45-24-30(c), or 45-
29 24-30(d):

30 (1) Permitting, prohibiting, limiting, and restricting the development and redevelopment of
31 land and structures in zoning districts, and regulating those land and structures according to their
32 type and the nature and extent of their use;

33 (2) Regulating the nature and extent of the use of land for residential, commercial,
34 industrial, institutional, recreational, agricultural, open space, or other use or combination of uses,

1 as the need for land for those purposes is determined by the city or town's comprehensive plan;

2 (3) Permitting, prohibiting, limiting, and restricting buildings, structures, land uses, and
3 other development [and redevelopment](#) by performance standards, or other requirements, related to
4 air and water and groundwater quality, noise and glare, energy consumption, soil erosion and
5 sedimentation, and/or the availability and capacity of existing and planned public or private
6 services, [specifically transportation, water, stormwater management systems, sewage treatment and](#)
7 [disposal, solid waste treatment and disposal, schools, recreation, public facilities, open space, and](#)
8 [other public requirements](#);

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

10 (i) The height, number of stories, ~~and~~ size, [fenestration, and proportions](#) of buildings;

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

13 (iii) The density and intensity of use;

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

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

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

18 (vii) Landscaping, fencing, and lighting;

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

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

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

22 (5) Permitting, prohibiting, limiting, and restricting development [and redevelopment](#) in
23 flood plains or flood hazard areas and designated significant natural areas;

24 (6) Promoting the conservation of energy and promoting energy-efficient patterns of
25 development [and redevelopment](#);

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

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

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

34 (10) Promoting an economic climate that increases quality job opportunities and the overall

1 economic well-being of the city or town and the state;

2 (11) Providing for ~~pedestrian~~ [transportation](#) access to and between public and private
3 facilities, including, but not limited to, schools, employment centers, shopping areas, recreation
4 areas, and residences;

5 (12) Providing standards for, and requiring the provision of, adequate and properly
6 designed physical improvements, including plantings, and the proper maintenance of property;

7 (13) Permitting, prohibiting, limiting, and restricting land use in areas where development
8 [and redevelopment](#) is deemed to create a hazard to the public health or safety;

9 (14) Permitting, prohibiting, limiting, and restricting extractive industries and earth
10 removal and requiring restoration of land after these activities;

11 (15) Regulating sanitary landfill, except as otherwise provided by state statute;

12 (16) Permitting, prohibiting, limiting, and restricting signs and billboards and other outdoor
13 advertising devices;

14 (17) Designating airport hazard areas under the provisions of chapter 3 of title 1, and
15 enforcement of airport hazard area zoning regulations under the provisions established in that
16 chapter;

17 (18) Designating areas of historic, cultural, and/or archaeological value and regulating
18 development [and redevelopment](#) in those areas under the provisions of chapter 24.1 of this title;

19 (19) Providing standards and requirements for the regulation, review, and approval of any
20 proposed development [and redevelopment](#) in connection with those uses of land, buildings, or
21 structures specifically designated as subject to development plan review in a zoning ordinance;

22 (20) Designating special protection areas for water supply and limiting or prohibiting
23 development [and redevelopment](#) in these areas, except as otherwise provided by state statute;

24 (21) Specifying requirements for safe road access to developments [and redevelopments](#)
25 from existing streets, including limiting the number, design, and location of curb cuts, and
26 provisions for internal circulation systems, [including pedestrian and bicycle ways](#), for new
27 developments [and redevelopments](#); ~~and provisions for pedestrian and bicycle ways; and~~

28 (22) Reducing unnecessary delay in approving or disapproving development applications
29 through provisions for preapplication conferences and other means.

30 (23) Providing for the application of the Rhode Island Fair Housing Practices Act, chapter
31 37 of title 34, the United States Fair Housing Amendments Act of 1988 (FHAA); the Rhode Island
32 Civil Rights People with Disabilities Act, chapter 37 of title 42; and the Americans with Disabilities
33 Act of 1990 (ADA), 42 U.S.C. § 12101 et seq.; [and](#)

34 (24) Regulating drive-through windows of varied intensity of use when associated with

1 land-use activities and providing standards and requirements for the regulation, review, and
2 approval of the drive-through windows, including, but not limited to:

3 (i) Identifying within which zoning districts drive-through windows may be permitted,
4 prohibited, or permitted by special-use permit;

5 (ii) Specifying requirements for adequate traffic circulation; and

6 (iii) Providing for adequate pedestrian safety and access, including issues concerning safety
7 and access for those with disabilities.

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

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

12 (i) Increased open space;

13 (ii) Increased housing choices;

14 (iii) Traffic and pedestrian improvements;

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

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

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

22 (3) Regulating the development [and redevelopment](#) adjacent to designated scenic
23 highways, scenic waterways, major thoroughfares, public greenspaces, or other areas of special
24 public investment or valuable natural resources.

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

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

29 **45-24-34. General provisions — Purpose and consistency with comprehensive plan.**

30 (a) A zoning ordinance adopted pursuant to this chapter shall provide a statement of its
31 purposes. Those purposes shall be consistent with § 45-24-30. A zoning ordinance adopted or
32 amended pursuant to this chapter shall include a statement that the zoning ordinance is consistent
33 with the comprehensive plan of the city or town adopted pursuant to chapter 22.2 of this title, or as
34 otherwise provided below and shall provide that in the instance of uncertainty in the construction

1 or application of any section of the ordinance, the ordinance shall be construed in a manner that
2 will further the implementation of, and not be contrary to, the goals and policies and applicable
3 elements of the comprehensive plan.

4 (b) The city or town shall bring the zoning ordinance or amendment into conformance with
5 its comprehensive plan as approved by the chief of the division of planning of the department of
6 administration or the superior court in accordance with its implementation schedule as set forth in
7 said plan, a period no longer than three (3) years. A zoning ordinance shall address and specify
8 requirements for the coordination between contiguous communities, the state, and other agencies,
9 as required by chapter 22.2 of this title.

10 **45-24-36. General provisions — Division into districts.**

11 A zoning ordinance divides a city or town into zoning use and form districts, which may
12 include overlay districts and floating zone districts, of the number, kind, type, shape, and area
13 suitable to carry out the purposes of this chapter. Regulations and standards shall be consistent for
14 each land use, type of development and redevelopment, or type of building or structure within a
15 district, but may differ from those in other districts. Zoning use and form districts shall be depicted
16 by type and location on the zoning map.

17 **45-24-37. General provisions — Permitted uses. [Effective January 1, 2024.]**

18 (a) The zoning ordinance shall provide a listing of all land uses and/or performance
19 standards for uses that are permitted within the zoning use and form districts of the municipality.
20 The ordinance may provide for a procedure under which a proposed land use that is not specifically
21 listed may be presented by the property owner to the zoning board of review or to a local official
22 or agency charged with administration and enforcement of the ordinance for an evaluation and
23 determination of whether the proposed use is of a similar type, character, and intensity as a listed
24 permitted use. Upon such determination, the proposed use may be considered to be a permitted use.

25 (b) Notwithstanding any other provision of this chapter, the following uses are permitted
26 uses within all residential zoning use and form districts of a municipality and all industrial and
27 commercial zoning use and form districts except where residential use is prohibited for public
28 health or safety reasons:

- 29 (1) Households;
30 (2) Community residences; and
31 (3) Family daycare homes.

32 (c) Any time a building or other structure used for residential purposes, or a portion of a
33 building containing residential units, is rendered uninhabitable by virtue of a casualty such as fire
34 or flood, the owner of the property is allowed to park, temporarily, mobile and manufactured home,

1 or homes, as the need may be, elsewhere upon the land, for use and occupancy of the former
2 occupants for a period of up to twelve (12) months, or until the building or structure is rehabilitated
3 and otherwise made fit for occupancy. The property owner, or a properly designated agent of the
4 owner, is only allowed to cause the mobile and manufactured home, or homes, to remain
5 temporarily upon the land by making timely application to the local building official for the
6 purposes of obtaining the necessary permits to ~~repair or rebuild~~ redevelop the structure.

7 (d) Notwithstanding any other provision of this chapter, appropriate access for people with
8 disabilities to residential structures is allowed as a reasonable accommodation for any person(s)
9 residing, or intending to reside, in the residential structure.

10 (e) Notwithstanding any other provision of this chapter, an accessory dwelling unit in an
11 owner-occupied residence that complies with §§ 45-24-31 and 45-24-73 shall be permitted as a
12 reasonable accommodation for family members with disabilities or who are sixty-two (62) years of
13 age or older, or to accommodate other family members.

14 (f) When used in this section the terms “people with disabilities” or “member, or members,
15 with disabilities” means a person(s) who has a physical or mental impairment that substantially
16 limits one or more major life activities, as defined in § 42-87-1(7).

17 (g) Notwithstanding any other provisions of this chapter, plant agriculture is a permitted
18 use within all zoning districts of a municipality, including all industrial and commercial zoning
19 districts, except where prohibited for public health or safety reasons or the protection of wildlife
20 habitat.

21 (h) **Adaptive reuse.** Notwithstanding any other provisions of this chapter, adaptive reuse
22 for the conversion of any commercial building, including offices, schools, religious facilities,
23 medical buildings, and malls into residential units or mixed-use developments which include the
24 development of at least fifty percent (50%) of the existing gross floor area into residential units,
25 shall be a permitted use and allowed by specific and objective provisions of a zoning ordinance,
26 except where such is prohibited by environmental land use restrictions recorded on the property by
27 the state of Rhode Island department of environmental management or the United States
28 Environmental Protection Agency preventing the conversion to residential use.

29 (1) The specific zoning ordinance provisions for adaptive reuse shall exempt adaptive reuse
30 developments from off-street parking requirements of over one space per dwelling unit.

31 (2) Density.

32 (i) For projects that meet the following criteria, zoning ordinances shall allow for high
33 density development and shall not limit the density to less than fifteen (15) dwelling units per acre:

34 (A) Where the project is limited to the existing footprint, except that the footprint is allowed

1 to be expanded to accommodate upgrades related to the building and fire codes and utilities; and

2 (B) The development includes at least twenty percent (20%) low- and moderate-income
3 housing; and

4 (C) The development has access to public sewer and water service or has access to adequate
5 private water, such as a well and and/or wastewater treatment system(s) approved by the relevant
6 state agency for the entire development as applicable.

7 (ii) For all other adaptive reuse projects, the residential density permitted in the converted
8 structure shall be the maximum allowed that otherwise meets all standards of minimum housing
9 and has access to public sewer and water service or has access to adequate private water, such as a
10 well, and wastewater treatment system(s) approved by the relevant state agency for the entire
11 development, as applicable. The density proposed shall be determined to meet all public health and
12 safety standards.

13 (3) Notwithstanding any other provisions of this chapter, for adaptive reuse projects,
14 existing building setbacks shall remain and shall be considered legal nonconforming, but no
15 additional encroachments shall be permitted into any nonconforming setback, unless otherwise
16 allowed by zoning ordinance or relief is granted by the applicable authority.

17 (4) For adaptive reuse projects, notwithstanding any other provisions of this chapter, the
18 height of the existing structure, if it exceeds the maximum height of the zoning district, may remain
19 and shall be considered legal nonconforming, and any rooftop construction shall be included within
20 the height exemption

21 **45-24-39. General provisions — Nonconforming development.**

22 (a) Any city or town adopting or amending a zoning ordinance under this chapter shall
23 make provision for any use, activity, structure, building, or sign or other improvement, ~~lawfully~~
24 ~~existing at the time of the adoption or amendment of the zoning ordinance, but~~ which is lawfully
25 established as nonconforming by use or nonconforming by dimension. The zoning ordinance may
26 regulate development which is nonconforming by dimension differently than that which is
27 nonconforming by use.

28 (b) The zoning ordinance shall permit the continuation of nonconforming development;
29 however, this does not prohibit the regulation of nuisances. The continuation of nonconforming
30 development shall only relate to zoning. It shall not be construed to provide any right to
31 continuation of non-compliance with building codes, any right to continuation of non-compliance
32 with the provisions of chapters 24.2 and 24.3 of title 45, any right to continuation of noncompliance
33 with the provisions of chapter 23 of title 46, or any right to continuation of noncompliance with
34 any regulations promulgated by the coastal resources management council.

1 (c) A zoning ordinance ~~may~~ shall provide that, if a nonconforming use is abandoned, it
2 may not be reestablished. Abandonment of a nonconforming ~~use~~ zoning use that raises pollution
3 risk consists of some overt act, or failure to act, which leads one to believe that the owner of the
4 nonconforming zoning use that raises pollution risk neither claims nor retains any interest in
5 continuing the nonconforming zoning use that raises pollution risk unless the owner can
6 demonstrate an intent not to abandon the zoning use that raises pollution risk. If any nonconforming
7 zoning use that raises pollution risk is halted for a period of three (3) years, the owner of the
8 nonconforming zoning use that raises pollution risk is presumed to have abandoned the
9 nonconforming zoning use that raises pollution risk, even if there is no intent to abandon the zoning
10 use that raises pollution risk. ~~An involuntary interruption of nonconforming use, as by fire and~~
11 ~~natural catastrophe, does not establish the intent to abandon the nonconforming use; however, if~~ If
12 any nonconforming use is halted for a period of ~~one-year~~ twenty (20) years, the owner of the
13 nonconforming use is presumed to have abandoned the nonconforming use, unless that presumption
14 is rebutted by the presentation of sufficient evidence of intent not to abandon the use. An
15 involuntary interruption of nonconforming use, as by fire and natural catastrophe, does not establish
16 the intent to abandon the nonconforming use. A use that is nonconforming by use because the
17 building or structure contains more dwelling units than are permitted by the use regulations of a
18 zoning ordinance shall never be considered abandoned, unless the zoning use and form district does
19 not permit any residential use.

20 (d) Abandonment of a nonconforming accessory use shall not be construed to imply
21 abandonment of other nonconforming uses of the site.

22 (e) Although nonconformance by dimension shall never be deemed abandoned, the
23 non-abandonment of nonconformance by dimension shall not be construed to imply
24 non-abandonment of nonconforming uses of the site.

25 (f) In the event that a use that was previously not legally established as a nonconforming
26 use becomes legally established as a nonconforming use, or in the event that a preexisting use that
27 violated the zoning ordinance becomes a legal use due to changes in the zoning ordinance or state
28 law, the building official shall still be required to certify sufficient compliance with applicable
29 codes before the use is officially recorded as a legal use. However, the building official shall not
30 be permitted to levy any penalties or engage in any enforcement actions on the basis of any evidence
31 collected from an examination of the property for the purpose of assessing what alterations, if any,
32 would be necessary to achieve sufficient compliance to record the use as a legal use.

33 **45-24-40. General provisions — Alteration of nonconforming development —**
34 **Alteration of uses established by variance or special use permit. [Effective January 1, 2024.]**

1 (a) A zoning ordinance ~~may~~ shall permit a nonconforming development to be altered under
2 either of the following conditions:

3 (1) The ordinance may establish a special-use permit, authorizing the alteration, which
4 must be approved by the zoning board of review following the procedure established in this chapter
5 and in the zoning ordinance; or

6 (2) The ordinance ~~may~~ shall allow the reconstruction, addition and enlargement, expansion,
7 intensification, or change in use, of nonconforming development either by permit or by right and
8 may distinguish between the foregoing actions by zoning districts.

9 (b) ~~The ordinance may require that the alteration more closely adheres to the intent and~~
10 ~~purposes of the zoning ordinance.~~

11 (c) A use established by variance or special use permit shall not acquire the rights of this
12 section, unless allowed by specific provisions of a municipal zoning ordinance.

13 **45-24-43. General provisions — Special conditions.**

14 In granting a variance or in making any determination upon which it is required to pass
15 after a public hearing under a zoning ordinance, the zoning board of review or other zoning
16 enforcement agency may apply the special conditions that may, in the opinion of the board or
17 agency, be required to promote the intent and purposes of the comprehensive plan and the zoning
18 ordinance of the city or town. Failure to abide by any special conditions attached to a grant
19 constitutes a zoning violation. Those special conditions shall be based on competent credible
20 evidence on the record, be incorporated into the decision, and may include, but are not limited to,
21 provisions for:

22 (1) Minimizing the adverse impact of the development or redevelopment upon other land,
23 including the type, intensity, design, and performance of activities;

24 (2) Controlling the sequence of development, including when it must be commenced and
25 completed;

26 (3) Controlling the duration of use or development or redevelopment and the time within
27 which any temporary structure must be removed;

28 (4) Assuring satisfactory installation and maintenance of required public improvements;

29 (5) Designating the exact location and nature of development or redevelopment; and

30 (6) Establishing detailed records by submission of drawings, maps, plats, or specifications.

31 **45-24-44. General provisions — Creation of vested rights.**

32 (a) A zoning ordinance provides protection for the consideration of applications for
33 development or redevelopment that are substantially complete and have been submitted for
34 approval to the appropriate review agency in the city or town prior to enactment of the new zoning

1 ordinance or amendment.

2 (b) Zoning ordinances or other land development ordinances or regulations specify the
3 minimum requirements for a development application to be substantially complete for the purposes
4 of this section.

5 (c) Any application considered by a city or town under the protection of this section shall
6 be reviewed according to the regulations applicable in the zoning ordinance in force at the time the
7 application was submitted.

8 (d) If an application for development [or redevelopment](#) under the provisions of this section
9 is approved, reasonable time limits shall be set within which development [or redevelopment](#) of the
10 property must begin and within which development [or redevelopment](#) must be substantially
11 completed.

12 **45-24-46.1. Inclusionary zoning. [Effective January 1, 2024.]**

13 (a) A zoning ordinance requiring the inclusion of affordable housing as part of a
14 development [or redevelopment](#) shall provide that the housing will be affordable housing, as defined
15 in § 42-128-8.1(d)(1); that the affordable housing will constitute not less than twenty-five percent
16 (25%) of the total units in the development [or redevelopment](#); and that the units will remain
17 affordable for a period of not less than thirty (30) years from initial occupancy enforced through a
18 land lease and/or deed restriction enforceable by the municipality and the state of Rhode Island. A
19 zoning ordinance that requires the inclusion of affordable housing as part of a development [or](#)
20 [redevelopment](#) shall specify the threshold in which the inclusion of affordable housing is required,
21 but in no event shall a minimum threshold triggering the inclusion of affordable housing be higher
22 than ten (10) dwelling units.

23 (b) A zoning ordinance that includes inclusionary zoning may provide that the affordable
24 housing must be built on-site or utilize one or more alternative methods of production, including,
25 but not limited to: off-site construction or rehabilitation; donation of land suitable for development
26 [or redevelopment](#) of the required affordable units; and/or the payment of a fee in lieu of the
27 construction or provision of affordable housing units.

28 (c) **Density bonus, zoning incentives, and municipal subsidies.** For all projects subject
29 to inclusionary zoning, subject to applicable setback, lot width, or frontage requirements or the
30 granting of relief from the same, a municipality shall allow the addition of two (2) market rate units
31 for each affordable unit provided and the minimum lot area per dwelling unit normally required in
32 the applicable zoning district shall be reduced by that amount necessary to accommodate the
33 development [or redevelopment](#). Larger density bonuses for the provision of an increased percentage
34 of affordable housing in a development [or redevelopment](#) may be provided by a municipality in the

1 zoning ordinance. Nothing herein shall prohibit a municipality from providing, or an applicant from
2 requesting, additional zoning incentives and/or municipal government subsidies as defined in § 45-
3 53-3 to offset differential costs of affordable units. Available zoning incentives and municipal
4 government subsidies shall be listed in the zoning ordinance.

5 (d) **Fee-in-lieu.** To the extent a municipality provides an option for the payment of a fee-
6 in-lieu of the construction or provision of affordable housing, such fee shall be the choice of the
7 developer or builder applied on a per-unit basis and may be used for new developments, purchasing
8 property and/or homes, rehabilitating properties, or any other manner that creates additional low-
9 or moderate-income housing as defined in § 45-53-3(9).

10 (1) Eligibility for density bonus. Notwithstanding any other provisions of this chapter, an
11 application that utilizes a fee-in-lieu of the construction or provision of affordable housing shall
12 not be eligible for the density bonus outlined in this section.

13 (2) An application that seeks to utilize a fee-in-lieu of the construction or provision of
14 affordable housing must be permitted by the planning board or commission and is not eligible for
15 administrative review under the Rhode Island Land Development and Subdivision Review
16 Enabling Act of 1992, codified at §§ 45-23-25 — 45-23-74.

17 (3) Amount of fee-in-lieu. For affordable single-family homes and condominium units, the
18 per-unit fee shall be the difference between the maximum affordable sales price for a family of four
19 (4) earning eighty percent (80%) of the area median income as determined annually by the U.S.
20 Department of Housing and Urban Development and the average cost of developing a single unit
21 of affordable housing. The average cost of developing a single unit of affordable housing shall be
22 determined annually based on the average, per-unit development cost of affordable homes financed
23 by Rhode Island housing and mortgage finance corporation (RIHMFC) over the previous three (3)
24 years, excluding existing units that received preservation financing.

25 (i) Notwithstanding subsection (d)(3) of this section, in no case shall the per-unit fee for
26 affordable single family homes and condominium units be less than forty thousand dollars
27 (\$40,000).

28 (4) Use of fee-in-lieu. The municipality shall deposit all in-lieu payments into restricted
29 accounts that shall be allocated and spent only for the creation and development of affordable
30 housing within the municipality serving individuals or families at or below eighty percent (80%)
31 of the area median income. The municipality shall maintain a local affordable housing board to
32 oversee the funds in the restricted accounts and shall allocate the funds within three (3) years of
33 collection. The municipality shall include in the housing element of their local comprehensive plan
34 and shall pass by ordinance, the process it will use to allocate the funds.

1 (e) As an alternative to the provisions of subsection (d), the municipality may elect to
2 transfer in-lieu payments promptly upon receipt or within the three-year (3) period after receipt. A
3 municipality shall transfer all fee-in-lieu payments that are not allocated within three (3) years of
4 collection, including funds held as of July 1, 2024, to RIHMFC for the purpose of developing
5 affordable housing within that community.

6 (f) Both the municipalities and RIHMFC shall report annually with the first report due
7 December 31, 2024, to the general assembly, the secretary of housing, and the housing resources
8 commission the amount of fees in lieu collected by community, the projects that were provided
9 funding with the fees, the dollar amounts allocated to the projects, and the number of units created.

10 **45-24-46.2. Special provisions — Transfer of development rights — North Kingstown.**

11 (a) In addition to other powers granted to towns and cities by this chapter to establish and
12 administer transfer of development rights programs, the town council of the town of North
13 Kingstown may provide by ordinance for the transfer of development rights, as a voluntary program
14 available to developers and property owners, in the manner set forth in this section.

15 (b) The establishment, as provided for by this section, of a system for transfer of
16 development rights within or between zoning districts, or a portion thereof, designated in the zoning
17 ordinance shall be:

18 (1) For the purpose of providing developers and property owners the ability to establish,
19 certify, purchase, sell, convey, and/or hold land development rights; and

20 (2) For one or more of the following purposes:

21 (i) Preserving sensitive resource areas in the community such as groundwater reserves,
22 wildlife habitat, agricultural lands, and public access to surface waters;

23 (ii) Directing development away from sensitive resource areas to places better suited to
24 increased levels of development [and redevelopment](#) such as established or proposed mixed use,
25 commercial, village, or residential centers;

26 (iii) Directing development to areas served by existing infrastructure such as established
27 roadways, public water supply systems, centralized sewer collection systems, public transit and
28 other utilities; or

29 (iv) Shaping and balancing urban and rural development; and/or promoting a high level of
30 quality in design in the development [and redevelopment](#) of private and public facilities and spaces.

31 (c) For purposes of this section the following terms shall have the following meaning:

32 (1) “Receiving area district” means a zoning district, which is established and mapped
33 pursuant to a transfer of development rights ordinance and superimposed on one or more zoning
34 use [and form](#) districts or portions thereof that is eligible to receive development rights through a

1 major land development project review. As may be necessary or desirable to achieve the intended
2 uses, density and intensity of use, a receiving area district may allow for additional development
3 [and redevelopment](#) capacity and for increased lot building coverage and building envelope that are
4 greater than those of the underlying zoning.

5 (2) “Sending area district” means a zoning district, which is established and mapped
6 pursuant to a transfer of development rights ordinance and superimposed on one or more zoning
7 use [and form](#) districts or a portion thereof, that is eligible to establish development rights that may
8 eventually be transferred to a receiving area.

9 **45-24-46.3. Special provisions — Transfer of development rights — Exeter.**

10 (a) In addition to other powers granted to towns and cities by this chapter to establish and
11 administer transfer of development rights programs, the town council of the town of Exeter may
12 provide by ordinance for the transfer of development rights, as a voluntary program available to
13 developers and property owners, in the manner set forth in this section.

14 (b) For purposes of this section the following terms shall have the following meaning:

15 (1) “Receiving area district” means a zoning district, which is established and mapped
16 pursuant to a transfer of development rights ordinance and superimposed on one or more zoning
17 use [and form](#) districts or portions thereof, that is eligible to receive development rights through a
18 major land development project review. As may be necessary or desirable to achieve the intended
19 uses, density and intensity of use, a receiving area district may allow for additional development
20 capacity and for increased lot building coverage and building envelope that are greater than those
21 of the underlying zoning.

22 (2) “Sending area district” means a zoning district, which is established and mapped
23 pursuant to a transfer of development rights ordinance and superimposed on one or more zoning
24 use [and form](#) districts or a portion thereof, that is eligible to establish development rights that may
25 eventually be transferred to a receiving area.

26 (c) The establishment, as provided for by this section, of a system for transfer of
27 development rights within or between zoning districts, or a portion thereof, designated in the zoning
28 ordinance shall be:

29 (1) For the purpose of providing developers and property owners the ability to establish,
30 certify, purchase, sell, convey, and/or hold land development rights; and

31 (2) For one or more of the following purposes:

32 (i) Preserving sensitive resource areas in the community such as groundwater reserves,
33 wildlife habitat, agricultural lands, and public access to surface waters;

34 (ii) Directing development away from sensitive resource areas to places better suited to

1 increased levels of development [and redevelopment](#) such as established or proposed mixed use,
2 commercial, village, or residential centers;

3 (iii) Directing development to areas served by existing infrastructure such as established
4 roadways, public water supply systems, centralized sewer collection systems, public transit and
5 other utilities; or

6 (iv) Shaping and balancing urban and rural development, and/or promoting a high level of
7 quality in design in the development [and redevelopment](#) of private and public facilities and spaces.

8 **45-24-47. Special provisions — Land development projects. [Effective January 1,**
9 **2024.]**

10 (a) A zoning ordinance shall provide for land development projects which are defined in §
11 45-23-32.

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

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

- 27 (1) A minimum area or site size for a land development project;
- 28 (2) Uses to be permitted within the development;
- 29 (3) Ratios of residential to nonresidential uses where applicable;
- 30 (4) Maximum density per lot and maximum density for the entire development;
- 31 (5) Roads, driveways, utilities, parking, and other facilities; regulations may distinguish
32 between those facilities intended to remain in private ownership or to be dedicated to the public;
33 and
- 34 (6) Buffer areas, landscaping, screening, and shading.

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

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

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

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

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

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

33 **45-24-48. Special provisions — Preapplication conference.**

34 A zoning ordinance may provide for a preapplication conference for specific types of

1 development [and redevelopment](#) proposals. A preapplication conference is intended to allow the
2 designated agency to:

3 (1) Acquaint the applicant with the comprehensive plan and any specific plans that apply
4 to the parcel, as well as the zoning and other ordinances that affect the proposed development [or](#)
5 [redevelopment](#);

6 (2) Suggest improvements to the proposed design on the basis of a review of the sketch
7 plan;

8 (3) Advise the applicant to consult appropriate authorities on the character and placement
9 of public utility services; and

10 (4) Help the applicant to understand the steps to be taken to receive approval.

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

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LC004210
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES--PROMOTION OF
NEIGHBORHOOD CHARACTER AND SMART GROWTH

1 This act would amend several sections of chapter 24 of title 45, entitled "zoning
2 ordinances," also known as the "Rhode Island zoning enabling act of 1991," with the intent of
3 preserving neighborhood character and promoting smart growth.

4 This act would take effect upon passage.

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