

2010 -- H 7533

LC01228

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO TOWNS AND CITIES - SUBDIVISION OF LAND

Introduced By: Representative Brian C. Newberry

Date Introduced: February 23, 2010

Referred To: House Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-23-25, 45-23-26, 45-23-27, 45-23-28, 45-23-29, 45-23-30, 45-
2 23-31, 45-23-32, 45-23-33, 45-23-34, 45-23-35, 45-23-36, 45-23-37, 45-23-38, 45-23-39, 45-23-
3 40, 45-23-41, 45-23-42, 45-23-43, 45-23-44, 45-23-45, 45-23-46, 45-23-47, 45-23-48, 45-23-49,
4 45-23-49.1, 45-23-50, 45-23-51, 45-23-52, 45-23-53, 45-23-54, 45-23-55, 45-23-56, 45-23-57,
5 45-23-58, 45-23-59, 45-23-60, 45-23-61, 45-23-62, 45-23-63, 45-23-63.1, 45-23-64, 45-23-65,
6 45-23-66, 45-23-67, 45-23-68, 45-23-69, 45-23-70, 45-23-71, 45-23-72, 45-23-73 and 45-23-74
7 of the General Laws in Chapter 45-23 entitled "Subdivision of Land" are hereby repealed.

8 ~~45-23-25. Title. --- Sections 45-23-25 --- 45-23-74 shall be known as the "Rhode Island~~
9 ~~Land Development and Subdivision Review Enabling Act of 1992". The short title shall be the~~
10 ~~"Development Review Act".~~

11 ~~45-23-26. Requirement in all municipalities. --- (a) Every municipality in the state shall~~
12 ~~adopt land development and subdivision review regulations, referred to as local regulations in this~~
13 ~~chapter, which comply with all the provisions of this chapter.~~

14 ~~---(b) All municipalities shall establish the standard review procedures for local land~~
15 ~~development and subdivision review and approval as specified in this chapter. The procedures are~~
16 ~~intended to provide thorough, orderly, and expeditious processing of development project~~
17 ~~applications.~~

18 ~~45-23-27. Applicability. --- (a) Sections 45-23-25 --- 45-23-74 and all local regulations are~~
19 ~~applicable in all of the following instances:~~

1 ~~(1) In all cases of subdivision of land, including re-subdivision, as defined in section 45-~~
2 ~~23-32, all provisions of sections 45-23-25—45-23-74 apply;~~

3 ~~(2) In all cases of land development projects, as provided for in section 45-24-47 of the~~
4 ~~Zoning Enabling Act of 1991, where a municipality has allowed for the land development~~
5 ~~projects in its local zoning ordinance; and/or~~

6 ~~(3) In all cases of development plan review, as provided for in section 45-24-49 of the~~
7 ~~Zoning Enabling Act of 1991, where a municipality has established, within their zoning~~
8 ~~ordinance, the procedures for planning board review of applications.~~

9 ~~(b) Plats required.~~

10 ~~(1) All activity defined as subdivision requires a new plat, drawn to the specifications of~~
11 ~~the local regulations, and reviewed and approved by the planning board or its agents as provided~~
12 ~~in this chapter; and~~

13 ~~(2) Prior to recording, the approved plat shall be submitted for signature and recording as~~
14 ~~specified in section 45-23-64.~~

15 ~~**45-23-28. Continuation of ordinances -- Supersession -- Relation to other statutes.**~~

16 ~~(a) Any land development and subdivision review ordinance, regulation or rule, or amendment,~~
17 ~~enacted after December 31, 1994 shall conform to the provisions of this chapter. All lawfully~~
18 ~~adopted land development and subdivision review ordinances, regulations, and rules shall be~~
19 ~~brought into conformance with this chapter by December 31, 1995.~~

20 ~~(b) All subdivision ordinances, regulations or rules adopted under authority of sections~~
21 ~~45-23-1 through 45-23-24, or any special subdivision enabling act that is in effect on July 21,~~
22 ~~1992 remains in full force and effect until December 31, 1995, unless amended earlier so as to~~
23 ~~conform to the provisions of this chapter.~~

24 ~~(c) Sections 45-23-1 through 45-23-24 and all special subdivision enabling acts in effect~~
25 ~~on July 21, 1992 are repealed effective December 31, 1995.~~

26 ~~(d) Nothing contained in this chapter and no local ordinance, rule or regulation adopted~~
27 ~~under this chapter impairs the validity of any plat legally recorded prior to the effective date of~~
28 ~~the ordinance, rule or regulation.~~

29 ~~**45-23-29. Legislative findings and intent.**~~

30 ~~(a) The general assembly recognizes and~~
31 ~~affirms in sections 45-23-25—45-23-74 that the findings and goals stated in sections 45-22.2-3 et~~
32 ~~seq. and 45-24-27 et seq., known as the Rhode Island Comprehensive Planning and Land Use~~
33 ~~Regulation Act and the Rhode Island Zoning Enabling Act of 1991, respectively, present findings~~
34 ~~and goals with which local regulations must be consistent.~~

~~(b) The general assembly further finds that:~~

1 ~~-(1) The subdivision enabling statutes contained in sections 45-23-1 through 45-23-24,~~
2 ~~hereby repealed as of December 31, 1995, have been enacted in a series of separate actions over~~
3 ~~many years and do not provide for all the elements presently necessary for proper municipal~~
4 ~~review and approval of land development and subdivision projects;~~

5 ~~-(2) The character of land development and subdivision, and the related public and~~
6 ~~private services, have changed substantially in recent years;~~

7 ~~-(3) The responsibilities of the local governments in regulating land development and~~
8 ~~subdivision have changed, increased in complexity, and expanded to include additional areas of~~
9 ~~concern;~~

10 ~~-(4) State and federal laws increasingly require the interaction of local land development~~
11 ~~regulatory authorities with those of the federal and state agencies and adjacent municipalities;~~

12 ~~-(5) Not all instances of land development or subdivision are sufficiently reviewed prior~~
13 ~~to recording or construction, resulting in unwarranted environmental impacts, financial impacts~~
14 ~~on private individuals and communities, and inappropriate design;~~

15 ~~-(6) At present the cities and town throughout the state each establish their own~~
16 ~~procedures for review, approval, recording, and enforcement of land development and~~
17 ~~subdivision projects;~~

18 ~~-(7) It is necessary to provide for review and approval of land development projects~~
19 ~~within the subdivision review and approval procedures, as specified in the Rhode Island Zoning~~
20 ~~Enabling Act of 1991 (section 45-24-27 et seq.); and~~

21 ~~-(8) It is necessary to require that the regulations and standards for all land development~~
22 ~~projects and subdivisions be sufficiently definite to provide clear direction for development~~
23 ~~design and construction and to satisfy the requirements for due process for all applicants for~~
24 ~~development approval.~~

25 ~~-(c) Therefore, it is the intent of the general assembly:~~

26 ~~-(1) That the land development and subdivision enabling authority contained in this~~
27 ~~chapter provide all cities and towns with the ability to adequately address the present and future~~
28 ~~needs of the communities;~~

29 ~~-(2) That the land development and subdivision enabling authority contained in this~~
30 ~~chapter require each city and town to develop land development and subdivision regulations in~~
31 ~~accordance with the community comprehensive plan, capital improvement plan, and zoning~~
32 ~~ordinance and to ensure the consistency of all local development regulations;~~

33 ~~-(3) That certain local procedures for review and approval of land development and~~
34 ~~subdivision are the same in every city and town;~~

1 ~~-(4) That the local procedure for integrating the approvals of state regulatory agencies~~
2 ~~into the local review and approval process for land development and subdivision is the same in~~
3 ~~every city and town; and~~

4 ~~-(5) That all proposed land developments and subdivisions are reviewed by local officials,~~
5 ~~following a standard process, prior to recording in local land evidence records.~~

6 ~~**45-23-30. General purposes of land development and subdivision review ordinances,**~~
7 ~~**regulations and rules.** --- Land development and subdivision review ordinances, regulations and~~
8 ~~rules shall be developed and maintained in accordance with this chapter and with a~~
9 ~~comprehensive plan which complies with chapter 22.2 of this title and a zoning ordinance which~~
10 ~~complies with section 45-24-27 et seq. Local regulations shall address the following purposes:~~

11 ~~-(1) Providing for the orderly, thorough and expeditious review and approval of land~~
12 ~~developments and subdivisions;~~

13 ~~-(2) Promoting high quality and appropriate design and construction of land~~
14 ~~developments and subdivisions;~~

15 ~~-(3) Promoting the protection of the existing natural and built environment and the~~
16 ~~mitigation of all significant negative impacts of any proposed development on the existing~~
17 ~~environment;~~

18 ~~-(4) Promoting design of land developments and subdivisions which are well integrated~~
19 ~~with the surrounding neighborhoods with regard to natural and built features, and which~~
20 ~~concentrate development in areas which can best support intensive use by reason of natural~~
21 ~~characteristics and existing infrastructure;~~

22 ~~-(5) Encouraging local design and improvement standards to reflect the intent of the~~
23 ~~community comprehensive plans with regard to the physical character of the various~~
24 ~~neighborhoods and districts of the municipality;~~

25 ~~-(6) Promoting thorough technical review of all proposed land developments and~~
26 ~~subdivisions by appropriate local officials;~~

27 ~~-(7) Encouraging local requirements for dedications of public land, impact mitigation, and~~
28 ~~payment in lieu thereof, to be based on clear documentation of needs and to be fairly applied and~~
29 ~~administered; and~~

30 ~~-(8) Encouraging the establishment and consistent application of procedures for local~~
31 ~~record keeping on all matters of land development and subdivision review, approval and~~
32 ~~construction.~~

33 ~~**45-23-31. Purpose and consistency with comprehensive plan, zoning ordinance and**~~
34 ~~**other local land use regulations.** --- (a) Local regulations adopted pursuant to this chapter shall~~

1 ~~provide a statement of purposes. These purposes shall be consistent with purposes stated in~~
2 ~~chapters 22.2 and 24 of this title concerning comprehensive plans and zoning ordinances,~~
3 ~~respectively, as well as with section 45-23-30. The local regulations shall also be consistent with~~
4 ~~the adopted local comprehensive plan, local zoning ordinance and all other duly adopted local~~
5 ~~development regulations.~~

6 ~~(b) In the instance of uncertainty in the construction or application of any section of the~~
7 ~~local regulations, the local regulations shall be construed in a manner that will further the~~
8 ~~implementation of, and not be contrary to, the goals and policies and applicable elements of the~~
9 ~~comprehensive plan. Furthermore, the local regulations shall be construed in a manner which is~~
10 ~~consistent with the legislative findings, intents, and purposes of sections 45-23-25—45-23-74.~~

11 ~~**45-23-32. Definitions.**— Where words or phrases used in this chapter are defined in the~~
12 ~~definitions section of either the Rhode Island Comprehensive Planning and Land Use Regulation~~
13 ~~Act, section 45-22.2-4, or the Rhode Island Zoning Enabling Act of 1991, section 45-24-31, they~~
14 ~~have the meanings stated in those acts. Additional words and phrases may be defined in local~~
15 ~~ordinances, regulations and rules under this act. The words and phrases defined in this section,~~
16 ~~however, shall be controlling in all local ordinances, regulations, and rules created under this~~
17 ~~chapter. See also section 45-23-34. In addition, the following words and phrases have the~~
18 ~~following meanings:~~

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

24 ~~(2) Administrative subdivision.— Re subdivision of existing lots which yields no~~
25 ~~additional lots for development, and involves no creation or extension of streets. The re-~~
26 ~~subdivision only involves divisions, mergers, mergers and division, or adjustments of boundaries~~
27 ~~of existing lots.~~

28 ~~(3) Board of appeal.— The local review authority for appeals of actions of the~~
29 ~~administrative officer and the planning board on matters of land development or subdivision,~~
30 ~~which shall be the local zoning board of review constituted as the board of appeal. See section 45-~~
31 ~~23-57.~~

32 ~~(4) Bond.— See improvement guarantee.~~

33 ~~(5) Buildable lot.— A lot where construction for the use(s) permitted on the site under the~~
34 ~~local zoning ordinance is considered practicable by the planning board, considering the physical~~

1 ~~constraints to development of the site as well as the requirements of the pertinent federal, state~~
2 ~~and local regulations. See section 45-23-60(4).~~

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

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

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

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

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

21 ~~-(11) Division of land.—A subdivision.~~

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

26 ~~-(13) Final plan.—The final stage of land development and subdivision review. See~~
27 ~~section 45-23-43.~~

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

31 ~~-(15) Floor area, gross.—See R.I. State Building Code.~~

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

1 ~~-(17) Improvement.—Any natural or built item which becomes part of, is placed upon, or~~
2 ~~is affixed to, real estate.~~

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

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

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

16 ~~-(21) Major land development plan.—Any land development plan not classified as a~~
17 ~~minor land development plan.~~

18 ~~-(22) Major subdivision.—Any subdivision not classified as either an administrative~~
19 ~~subdivision or a minor subdivision.~~

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

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

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

31 ~~-(26) Modification of requirements.—See section 45-23-62.~~

32 ~~-(27) Parcel.—A lot, or contiguous group of lots in single ownership or under single~~
33 ~~control, and usually considered a unit for purposes of development. Also referred to as a tract.~~

34 ~~-(28) Parking area or lot.—All that portion of a development that is used by vehicles, the~~

1 ~~total area used for vehicular access, circulation, parking, loading and unloading.~~

2 ~~(29) Permitting authority.—The local agency of government specifically empowered by~~
3 ~~state enabling law and local ordinance to hear and decide on specific matters pertaining to local~~
4 ~~land use.~~

5 ~~(30) Phased development.—Development, usually for large scale projects, where~~
6 ~~construction of public and/or private improvements proceeds by sections subsequent to approval~~
7 ~~of a master plan for the entire site. See section 45-23-48.~~

8 ~~(31) Physical constraints to development.—Characteristics of a site or area, either natural~~
9 ~~or man-made, which present significant difficulties to construction of the uses permitted on that~~
10 ~~site, or would require extraordinary construction methods. See also environmental constraints.~~

11 ~~(32) Planning board.—The official planning agency of a municipality, whether~~
12 ~~designated as the plan commission, planning commission, plan board, or as otherwise known.~~

13 ~~(33) Plat.—A drawing or drawings of a land development or subdivision plan showing~~
14 ~~the location, boundaries, and lot lines of individual properties, as well as other necessary~~
15 ~~information as specified in the local regulations.~~

16 ~~(34) Pre-application conference.—An initial meeting between developers and municipal~~
17 ~~representatives which affords developers the opportunity to present their proposals informally and~~
18 ~~to receive comments and directions from the municipal officials and others. See section 45-23-35.~~

19 ~~(35) Preliminary plan.—The required stage of land development and subdivision review~~
20 ~~which requires detailed engineered drawings and all required state and federal permits. See~~
21 ~~section 45-23-41.~~

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

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

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

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

- 1 ~~-(40) Storm water retention.—A provision for storage of storm water runoff.~~
- 2 ~~-(41) Street.—A public or private thoroughfare used, or intended to be used, for passage~~
3 ~~or travel by motor vehicles. Streets are further classified by the functions they perform. See street~~
4 ~~classification.~~
- 5 ~~-(42) Street, access to.—An adequate and permanent way of entering a lot. All lots of~~
6 ~~record shall have access to a public street for all vehicles normally associated with the uses~~
7 ~~permitted for that lot.~~
- 8 ~~-(43) Street, alley.—A public or private thoroughfare primarily designed to serve as~~
9 ~~secondary access to the side or rear of those properties whose principal frontage is on some other~~
10 ~~street.~~
- 11 ~~-(44) Street, cul de sac.—A local street with only one outlet and having an appropriate~~
12 ~~vehicular turnaround, either temporary or permanent, at the closed end.~~
- 13 ~~-(45) Street, limited access highway.—A freeway or expressway providing for through~~
14 ~~traffic. Owners or occupants of abutting property on lands and other persons have no legal right~~
15 ~~to access, except at the points and in the manner as may be determined by the public authority~~
16 ~~having jurisdiction over the highway.~~
- 17 ~~-(46) Street, private.—A thoroughfare established as a separate tract for the benefit of~~
18 ~~multiple, adjacent properties and meeting specific, municipal improvement standards. This~~
19 ~~definition does not apply to driveways.~~
- 20 ~~-(47) Street, public.—All public property reserved or dedicated for street traffic.~~
- 21 ~~-(48) Street, stub.—A portion of a street reserved to provide access to future development,~~
22 ~~which may provide for utility connections.~~
- 23 ~~-(49) Street classification.—A method of roadway organization which identifies a street~~
24 ~~hierarchy according to function within a road system, that is, types of vehicles served and~~
25 ~~anticipated volumes, for the purposes of promoting safety, efficient land use and the design~~
26 ~~character of neighborhoods and districts. Local classifications use the following as major~~
27 ~~categories:~~
- 28 ~~-(a) Arterial.—A major street that serves as an avenue for the circulation of traffic into,~~
29 ~~out of, or around the municipality and carries high volumes of traffic.~~
- 30 ~~-(b) Collector.—A street whose principal function is to carry traffic between local streets~~
31 ~~and arterial streets but that may also provide direct access to abutting properties.~~
- 32 ~~-(c) Local.—Streets whose primary function is to provide access to abutting properties.~~
- 33 ~~-(50) Subdivider.—Any person who (1) having an interest in land, causes it, directly or~~
34 ~~indirectly, to be divided into a subdivision or who (2) directly or indirectly sells, leases, or~~

1 ~~develops, or offers to sell, lease, or develop, or advertises to sell, lease, or develop, any interest,~~
2 ~~lot, parcel, site, unit, or plat in a subdivision, or who (3) engages directly or through an agent in~~
3 ~~the business of selling, leasing, developing, or offering for sale, lease, or development a~~
4 ~~subdivision or any interest, lot, parcel, site, unit, or plat in a subdivision.~~

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

9 ~~(52) Technical review committee. — A committee appointed by the planning board for the~~
10 ~~purpose of reviewing, commenting, and making recommendations to the planning board with~~
11 ~~respect to approval of land development and subdivision applications.~~

12 ~~(53) Temporary improvement. — Improvements built and maintained by a developer~~
13 ~~during construction of a development project and prior to release of the improvement guarantee,~~
14 ~~but not intended to be permanent.~~

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

18 ~~(55) Waiver of requirements. — See section 45-23-62.~~

19 ~~**45-23-33. General provisions -- Required contents of local regulations.** -- The local~~
20 ~~regulations consist of the regulations and other text, together with charts, graphs, appendices and~~
21 ~~other explanatory material. All local regulations include, at a minimum, the elements listed below~~
22 ~~and as further described in this chapter:~~

23 ~~(1) Statement of enabling authority for land development and subdivision derived from~~
24 ~~section 45-23-25 et seq.;~~

25 ~~(2) Statement of the city or town enabling ordinance as specified in section 45-23-51;~~

26 ~~(3) Statement of purpose and consistency with the comprehensive plan, the zoning~~
27 ~~ordinance and other federal, state and local land use regulations;~~

28 ~~(4) Definitions;~~

29 ~~(5) General provisions;~~

30 ~~(6) Special provisions;~~

31 ~~(7) Procedures for review and approval of plats and plans;~~

32 ~~(8) Procedures for recording of plats and plans;~~

33 ~~(9) Procedures for guarantees of public improvements;~~

34 ~~(10) Procedures for waivers and modifications;~~

- 1 ~~-(11) Procedures for enforcement and penalties;~~
- 2 ~~-(12) Procedures for the adoption of the regulations and amendments;~~
- 3 ~~-(13) Procedures for the administration of the regulations and amendments;~~
- 4 ~~-(14) Procedures for appeals;~~
- 5 ~~-(15) Design and public improvement standards for all districts within the municipality;~~
- 6 ~~-(16) Construction specifications for improvement standards; and~~
- 7 ~~-(17) Specification of all application documents and other documents to be submitted.~~

8 **45-23-34. General provisions -- Definitions.** ~~Local regulations adopted pursuant to~~
9 ~~this chapter shall provide definitions for words or phrases contained in the regulations as is~~
10 ~~deemed appropriate. Where words or phrases used in any local regulations, whether or not~~
11 ~~defined in those regulations, are substantially similar to words or phrases defined in section 45-~~
12 ~~23-32 of this chapter, or section 45-22.2-4 of the Comprehensive Planning and Land Use Act or~~
13 ~~section 45-24-31 of the Zoning Enabling Act of 1991 the words or phrases shall be construed~~
14 ~~according to the definitions provided in those sections of the law.~~

15 **45-23-35. General provisions -- Pre-application meetings and concept review.** ~~(a)~~
16 ~~One or more pre-application meetings shall be held for all major land development or subdivision~~
17 ~~applications. Pre-application meetings may be held for administrative and minor applications,~~
18 ~~upon request of either the municipality or the applicant. Pre-application meetings allow the~~
19 ~~applicant to meet with appropriate officials, boards and/or commissions, planning staff, and,~~
20 ~~where appropriate, state agencies, for advice as to the required steps in the approvals process, the~~
21 ~~pertinent local plans, ordinances, regulations, rules and procedures and standards which may bear~~
22 ~~upon the proposed development project.~~

23 ~~(b) At the pre-application stage the applicant may request the planning board or the~~
24 ~~technical review committee for an informal concept plan review for a development. The purpose~~
25 ~~of the concept plan review is also to provide planning board or technical review committee input~~
26 ~~in the formative stages of major subdivision and land development concept design.~~

27 ~~(c) Applicants seeking a pre-application meeting or an informal concept review shall~~
28 ~~submit general, conceptual materials in advance of the meeting(s) as requested by municipal~~
29 ~~officials.~~

30 ~~(d) Pre-application meetings aim to encourage information sharing and discussion of~~
31 ~~project concepts among the participants. Pre-application discussions are intended for the guidance~~
32 ~~of the applicant and are not considered approval of a project or its elements.~~

33 ~~(e) Provided that at least one pre-application meeting has been held for major land~~
34 ~~development or subdivision application or sixty (60) days has elapsed from the filing of the pre-~~

1 application submission and no pre-application meeting has been scheduled to occur within those
2 sixty (60) days, nothing shall be deemed to preclude an applicant from thereafter filing and
3 proceeding with an application for a land development or subdivision project in accordance with
4 section 45-23-36.

5 ~~**45-23-36. General provisions -- Application for development and certification of**~~
6 ~~**completeness.**~~ (a) Classification. The administrative officer shall advise the applicant as to
7 which approvals are required and the appropriate board for hearing an application for a land
8 development or subdivision project. The following types of applications, as defined in section 45-
9 23-32, may be filed:

10 ~~(1) Administrative subdivision;~~

11 ~~(2) Minor subdivision or minor land development plan; and~~

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

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

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

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

29 ~~**45-23-37. General provisions -- Administrative subdivision.**~~ (a) Any applicant
30 requesting approval of a proposed administrative subdivision, as defined in this chapter, shall
31 submit to the administrative officer the items required by the local regulations.

32 (b) The application shall be certified, in writing, as complete or incomplete by the
33 administrative officer within a fifteen (15) day period from the date of its submission according to
34 the provisions of section 45-23-36(b).

1 ~~(c) Review process:~~

2 ~~(1) Within fifteen (15) days of certification of completeness, the administrative officer,~~

3 ~~or the technical review committee, shall review the application and approve, deny or refer it to the~~

4 ~~planning board with recommendations. The officer or committee shall report its actions to the~~

5 ~~planning board at its next regular meeting, to be made part of the record.~~

6 ~~(2) If no action is taken by the administrative officer or the technical review committee~~

7 ~~within the fifteen (15) days, the application shall be placed on the agenda of the next regular~~

8 ~~planning board meeting.~~

9 ~~(d) If referred to the planning board, the board shall consider the application and the~~

10 ~~recommendations of the administrative officer and/or the technical review committee and either~~

11 ~~approve, approve with conditions, or deny the application within sixty five (65) days of~~

12 ~~certification of completeness. Failure of the planning board to act within the prescribed period~~

13 ~~constitutes approval of the administrative subdivision plan and a certificate of the administrative~~

14 ~~officer as to the failure of the planning board or committee to act within the required time and the~~

15 ~~resulting approval shall be issued on request of the applicant.~~

16 ~~(e) Denial of an application by the administrative officer and/or the technical review~~

17 ~~committee is not appealable and requires the plan to be submitted as a minor subdivision~~

18 ~~application.~~

19 ~~(f) Any approval of an administrative subdivision shall be evidenced by a written~~

20 ~~decision which shall be filed and posted in the office of the city or town clerk.~~

21 ~~(g) Approval of an administrative subdivision expires ninety (90) days from the date of~~

22 ~~approval unless within that period a plat in conformity with that approval is submitted for~~

23 ~~signature and recording as specified in section 45-23-64.~~

24 ~~**45-23-38. General provisions -- Minor land development and minor subdivision**~~

25 ~~**review.** (a) Review stages. Minor plan review consists of two (2) stages, preliminary and~~

26 ~~final; provided, that if a street creation or extension is involved, a public hearing is required. The~~

27 ~~planning board may combine the approval stages, providing requirements for both stages are met~~

28 ~~by the applicant to the satisfaction of the planning officials.~~

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

30 ~~subdivision or minor land development, as defined in this chapter, shall submit to the~~

31 ~~administrative officer the items required by the local regulations.~~

32 ~~(c) Certification. The application shall be certified, in writing, complete or incomplete~~

33 ~~by the administrative officer within twenty five (25) days or within fifteen (15) days if no street~~

34 ~~creation or extension is required, according to the provisions of section 45-23-36(b). The running~~

1 ~~of the time period set forth in this section will be deemed stopped upon the issuance of a~~
2 ~~certificate of incompleteness of the application by the administrative officer and will recommence~~
3 ~~upon the resubmission of a corrected application by the applicant. However, in no event will the~~
4 ~~administrative officer be required to certify a corrected submission as complete or incomplete less~~
5 ~~than fourteen (14) days after its resubmission.~~

6 ~~(d) Technical review committee.—The technical review committee, if established, will~~
7 ~~review the application and will comment and make recommendations to the planning board. The~~
8 ~~application will be referred to the planning board as a whole if there is no technical review~~
9 ~~committee. When reviewed by a technical review committee:~~

10 ~~(1) If the land development or subdivision plan is approved by a majority of the~~
11 ~~committee members, the application is forwarded to the planning board with a recommendation~~
12 ~~for preliminary plan approval without further review.~~

13 ~~(2) If the plan is not approved by a majority vote of the committee members, the minor~~
14 ~~land development and subdivision application is referred to the planning board.~~

15 ~~(e) Re-assignment to major review.—The planning board may re-assign a proposed~~
16 ~~minor project to major review only when the planning board is unable to make the positive~~
17 ~~findings required in section 45-23-60.~~

18 ~~(f) Decision.—If no street creation or extension is required, the planning board will~~
19 ~~approve, deny, or approve with conditions, the preliminary plan within sixty five (65) days of~~
20 ~~certification of completeness, or within any further time that is agreed to by the applicant and the~~
21 ~~board, according to the requirements of section 45-23-63. If a street extension or creation is~~
22 ~~required, the planning board will hold a public hearing prior to approval according to the~~
23 ~~requirements in section 45-23-42 and will approve, deny, or approve with conditions, the~~
24 ~~preliminary plan within ninety five (95) days of certification of completeness, or within any~~
25 ~~specified time that is agreed to by the applicant and the board, according to the requirements of~~
26 ~~section 45-23-63.~~

27 ~~(g) Failure to act.—Failure of the planning board to act within the period prescribed~~
28 ~~constitutes approval of the preliminary plan and a certificate of the administrative officer as to the~~
29 ~~failure of the planning board to act within the required time and the resulting approval will be~~
30 ~~issued on request of the application.~~

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

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

6 ~~**45-23-39. General provisions — Major land development and major subdivision**~~
7 ~~**review stages.**— (a) Major plan review is required of all applications for land development and~~
8 ~~subdivision approval subject to this chapter, unless classified as an administrative subdivision or~~
9 ~~as a minor land development or a minor subdivision.~~

10 ~~(b) Major plan review consists of three stages of review, master plan, preliminary plan~~
11 ~~and final plan, following the pre-application meeting(s) specified in section 45-23-35. Also~~
12 ~~required is a public informational meeting and a public meeting.~~

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

16 ~~**45-23-40. General provisions — Major land development and major subdivision —**~~
17 ~~**Master plan.**— (a) Submission requirements:~~

18 ~~(1) The applicant shall first submit to the administrative officer the items required by the~~
19 ~~local regulations for master plans.~~

20 ~~(2) Requirements for the master plan and supporting material for this phase of review~~
21 ~~include, but are not limited to: information on the natural and built features of the surrounding~~
22 ~~neighborhood, existing natural and man-made conditions of the development site, including~~
23 ~~topographic features, the freshwater wetland and coastal zone boundaries, the floodplains, as well~~
24 ~~as the proposed design concept, proposed public improvements and dedications, tentative~~
25 ~~construction phasing, and potential neighborhood impacts.~~

26 ~~(3) Initial comments will be solicited from (i) local agencies including, but not limited~~
27 ~~to, the planning department, the department of public works, fire and police departments, the~~
28 ~~conservation and recreation commissions; (ii) adjacent communities; (iii) state agencies, as~~
29 ~~appropriate, including the departments of environmental management and transportation, and the~~
30 ~~coastal resources management council; and (iv) federal agencies, as appropriate. The~~
31 ~~administrative officer shall coordinate review and comments by local officials, adjacent~~
32 ~~communities, and state and federal agencies.~~

33 ~~(b) Certification.—The application must be certified in writing, complete or incomplete~~
34 ~~by the administrative officer within sixty (60) days, according to the provisions of section 45-23-~~

1 ~~36(b). The running of the time period set forth herein will be deemed stopped upon the issuance~~
2 ~~of a certificate of incompleteness of the application by the administrative officer and will~~
3 ~~recommence upon the resubmission of a corrected application by the applicant. However, in no~~
4 ~~event will the administrative officer be required to certify a corrected submission as complete or~~
5 ~~incomplete less than fourteen (14) days after its resubmission.~~

6 ~~(c) Technical review committee.—The technical review committee, if established, shall~~
7 ~~review the application and shall comment and make recommendations to the planning board.~~

8 ~~(d) Informational meeting.~~

9 ~~(1) A public informational meeting will be held prior to the planning board decision on~~
10 ~~the master plan, unless the master plan and preliminary plan approvals are being combined, in~~
11 ~~which case the public informational meeting is optional, based upon planning board~~
12 ~~determination.~~

13 ~~(2) Public notice for the informational meeting is required and must be given at least~~
14 ~~seven (7) days prior to the date of the meeting in a newspaper of general circulation within the~~
15 ~~municipality. Postcard notice must be mailed to the applicant and to all property owners within~~
16 ~~the notice area, as specified by local regulations.~~

17 ~~(3) At the public informational meeting the applicant will present the proposed~~
18 ~~development project. The planning board must allow oral and written comments from the general~~
19 ~~public. All public comments are to be made part of the public record of the project application.~~

20 ~~(e) Decision.—The planning board shall, within one hundred and twenty (120) days of~~
21 ~~certification of completeness, or within a further amount of time that may be consented to by the~~
22 ~~applicant, approve of the master plan as submitted, approve with changes and/or conditions, or~~
23 ~~deny the application, according to the requirements of section 45-23-63.~~

24 ~~(f) Failure to act.—Failure of the planning board to act within the prescribed period~~
25 ~~constitutes approval of the master plan, and a certificate of the administrative officer as to the~~
26 ~~failure of the planning board to act within the required time and the resulting approval will be~~
27 ~~issued on request of the applicant.~~

28 ~~(g) Vesting.~~

29 ~~(1) The approved master plan is vested for a period of two (2) years, with the right to~~
30 ~~extend for two (2) one year extensions upon written request by the applicant, who must appear~~
31 ~~before the planning board for the annual review. Thereafter, vesting may be extended for a longer~~
32 ~~period, for good cause shown, if requested by the applicant, in writing, and approved by the~~
33 ~~planning board. Master plan vesting includes the zoning requirements, conceptual layout and all~~
34 ~~conditions shown on the approved master plan drawings and supporting materials.~~

1 ~~-(2) The initial four (4) year vesting for the approved master plan constitutes the vested~~
2 ~~rights for the development as required in section 45-24-44.~~

3 ~~**45-23-41. General provisions -- Major land development and major subdivision --**~~

4 ~~**Preliminary plan.** (a) Submission requirements.~~

5 ~~-(1) The applicant shall first submit to the administrative officer the items required by the~~
6 ~~local regulations for preliminary plans.~~

7 ~~-(2) Requirements for the preliminary plan and supporting materials for this phase of the~~
8 ~~review include, but are not limited to: engineering plans depicting the existing site conditions,~~
9 ~~engineering plans depicting the proposed development project, a perimeter survey, all permits~~
10 ~~required by state or federal agencies prior to commencement of construction, including permits~~
11 ~~related to freshwater wetlands, the coastal zone, floodplains, preliminary suitability for individual~~
12 ~~septic disposal systems, public water systems, and connections to state roads.~~

13 ~~-(3) At the preliminary plan review phase, the administrative officer shall solicit final~~
14 ~~written comments and/or approvals of the department of public works, the city or town engineer,~~
15 ~~the city or town solicitor, other local government departments, commissions, or authorities as~~
16 ~~appropriate.~~

17 ~~-(4) Prior to approval of the preliminary plan, copies of all legal documents describing the~~
18 ~~property, proposed easements and rights of way.~~

19 ~~-(b) Certification.—The application will be certified as complete or incomplete by the~~
20 ~~administrative officer within sixty (60) days, according to the provisions of section 45-23-36(b).~~
21 ~~The running of the time period set forth herein will be deemed stopped upon the issuance of a~~
22 ~~certificate of incompleteness of the application by the administrative officer and will recommence~~
23 ~~upon the resubmission of a corrected application by the applicant. However, in no event shall the~~
24 ~~administrative officer be required to certify a corrected submission as complete or incomplete less~~
25 ~~than fourteen (14) days after its resubmission.~~

26 ~~-(c) Technical review committee.—The technical review committee, if established, shall~~
27 ~~review the application and shall comment and make recommendations to the planning board.~~

28 ~~-(d) Public hearing.—Prior to a planning board decision on the preliminary plan, a public~~
29 ~~hearing, which adheres to the requirements for notice described in section 45-23-42, must be~~
30 ~~held.~~

31 ~~-(e) Public improvement guarantees.—Proposed arrangements for completion of the~~
32 ~~required public improvements, including construction schedule and/or financial guarantees shall~~
33 ~~be reviewed and approved by the planning board at preliminary plan approval.~~

34 ~~-(f) Decision.—A complete application for a major subdivision or development plan shall~~

1 ~~be approved, approved with conditions or denied, in accordance with the requirements of sections~~
2 ~~45-23-60 and 45-23-63, within one hundred twenty (120) days of the date when it is certified~~
3 ~~complete, or within a further amount of time that may be consented to by the developer.~~

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

8 ~~(h) Vesting.— The approved preliminary plan is vested for a period of two (2) years with~~
9 ~~the right to extend for two (2) one year extensions upon written request by the applicant, who~~
10 ~~must appear before the planning board for each annual review and provide proof of valid state or~~
11 ~~federal permits as applicable. Thereafter, vesting may be extended for a longer period, for good~~
12 ~~cause shown, if requested, in writing by the applicant, and approved by the planning board. The~~
13 ~~vesting for the preliminary plan approval includes all general and specific conditions shown on~~
14 ~~the approved preliminary plan drawings and supporting material.~~

15 ~~**45-23-42. General provisions — Major land development and major subdivision —**~~

16 ~~**Public hearing and notice.** — (a) A public hearing is required for a major land development~~
17 ~~project or a major subdivision or where a street extension or creation requires a public hearing for~~
18 ~~a minor land development project or minor subdivision.~~

19 ~~(b) Notice requirements.— Public notice of the hearing shall be given at least fourteen~~
20 ~~(14) days prior to the date of the hearing in a newspaper of general circulation within the~~
21 ~~municipality following the municipality's usual and customary practices for this kind of~~
22 ~~advertising. Notice shall be sent to the applicant and to each owner within the notice area, by~~
23 ~~certified mail, return receipt requested, of the time and place of the hearing not less than ten (10)~~
24 ~~days prior to the date of the hearing. Notice shall also be sent to any individual or entity holding a~~
25 ~~recorded conservation or preservation restriction on the property that is the subject of the~~
26 ~~application. The notice shall also include the street address of the subject property, or if no street~~
27 ~~address is available, the distance from the nearest existing intersection in tenths ($1/10$'s) of a~~
28 ~~mile. Local regulations may require a supplemental notice that an application for development~~
29 ~~approval is under consideration be posted at the location in question. The posting is for~~
30 ~~informational purposes only and does not constitute required notice of a public hearing.~~

31 ~~(c) Notice area.~~

32 ~~(1) The distance(s) for notice of the public hearing shall be specified in the local~~
33 ~~regulations. The distance may differ by zoning district and scale of development. At a minimum,~~
34 ~~all abutting property owners to the proposed development's property boundary shall receive~~

1 notice.

2 ~~-(2) Watersheds.—Additional notice within watersheds shall also be sent as required in~~
3 ~~section 45-23-53(b) and (c).~~

4 ~~-(3) Adjacent municipalities.—Notice of the public hearing shall be sent by the~~
5 ~~administrative officer to the administrative officer of an adjacent municipality if (1) the notice~~
6 ~~area extends into the adjacent municipality, or (2) the development site extends into the adjacent~~
7 ~~municipality, or (3) there is a potential for significant negative impact on the adjacent~~
8 ~~municipality.~~

9 ~~-(d) Notice cost.—The cost of all notice shall be borne by the applicant.~~

10 ~~**45-23-43. General provisions—Major land development and major subdivision—**~~

11 ~~**Final plan.**~~ ~~---(a) Submission requirements.~~

12 ~~-(1) The applicant shall submit to the administrative officer the items required by the~~
13 ~~local regulations for the final plan, as well as all material required by the planning board when the~~
14 ~~application was given preliminary approval.~~

15 ~~-(2) Arrangements for completion of the required public improvements, including~~
16 ~~construction schedule and/or financial guarantees.~~

17 ~~-(3) Certification by the tax collector that all property taxes are current.~~

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

21 ~~-(b) Certification.—The application for final plan approval shall be certified complete or~~
22 ~~incomplete by the administrative officer in writing, within twenty five (25) days, according to the~~
23 ~~provisions of section 45-23-36(b). This time period may be extended to forty five (45) days by~~
24 ~~written notice from the administrative officer to the applicant where the final plans contain~~
25 ~~changes to or elements not included in the preliminary plan approval. The running of the time~~
26 ~~period set forth herein shall be deemed stopped upon the issuance of a certificate of~~
27 ~~incompleteness of the application by the administrative officer and shall recommence upon the~~
28 ~~resubmission of a corrected application by the applicant. However, in no event shall the~~
29 ~~administrative officer be required to certify a corrected submission as complete or incomplete less~~
30 ~~than fourteen (14) days after its resubmission. If the administrative officer certifies the application~~
31 ~~as complete and does not require submission to the planning board as per subsection (c) below,~~
32 ~~the final plan shall be considered approved.~~

33 ~~-(c) Referral to the planning board.—If the administrative officer determines that an~~
34 ~~application for final approval does not meet the requirements set by local regulations or by the~~

1 ~~planning board at preliminary approval, the administrative officer shall refer the final plans to the~~
2 ~~planning board for review. The planning board shall, within forty five (45) days after the~~
3 ~~certification of completeness, or within a further amount of time that may be consented to by the~~
4 ~~applicant, approve or deny the final plan as submitted.~~

5 ~~(d) Failure to act.— Failure of the planning board to act within the prescribed period~~
6 ~~constitutes approval of the final plan and a certificate of the administrative officer as to the failure~~
7 ~~of the planning board to act within the required time and the resulting approval shall be issued on~~
8 ~~request of the applicant.~~

9 ~~(e) Expiration of approval. — The final approval of a major subdivision or land~~
10 ~~development project expires one year from the date of approval with the right to extend for one~~
11 ~~year upon written request by the applicant, who must appear before the planning board for the~~
12 ~~annual review, unless, within that period, the plat or plan has been submitted for signature and~~
13 ~~recording as specified in section 45-23-64. Thereafter, the planning board may, for good cause~~
14 ~~shown, extend the period for recording for an additional period.~~

15 ~~(f) Acceptance of public improvements.— Signature and recording as specified in section~~
16 ~~45-23-64 constitute the acceptance by the municipality of any street or other public improvement~~
17 ~~or other land intended for dedication. Final plan approval shall not impose any duty upon the~~
18 ~~municipality to maintain or improve those dedicated areas until the governing body of the~~
19 ~~municipality accepts the completed public improvements as constructed in compliance with the~~
20 ~~final plans.~~

21 ~~(g) Validity of recorded plans.— The approved final plan, once recorded, remains valid as~~
22 ~~the approved plan for the site unless and until an amendment to the plan is approved under the~~
23 ~~procedure stated in section 45-23-65, or a new plan is approved by the planning board.~~

24 ~~**45-23-44. General provisions — Physical design requirements.**~~ (a) All local

25 ~~regulations shall specify, through reasonable, objective standards and criteria, all physical design~~
26 ~~requirements for the development projects which are to be reviewed and approved pursuant to the~~
27 ~~regulations. Regulations shall specify all requirements and policies for subdivisions and land~~
28 ~~development projects which are not contained in the municipality's zoning ordinance.~~

29 ~~(b) The requirements and policies may include, but are not limited to, requirements and~~
30 ~~policies for rights of way, open space, landscaping, connections of proposed streets and drainage~~
31 ~~systems with those of the surrounding neighborhood, public access through property to adjacent~~
32 ~~public property, and the relationship of proposed developments to natural and man-made features~~
33 ~~of the surrounding neighborhood.~~

34 ~~(c) The regulations shall specify all necessary findings, formulas for calculations and~~

1 ~~procedures for meeting the requirements and policies. These requirements and policies apply to~~
2 ~~all subdivisions and land development projects reviewed and/or administered under the local~~
3 ~~regulations.~~

4 ~~**45-23-45. General provisions -- Public design and improvement standards.**~~ (a)

5 ~~Public design and improvement standards for development projects shall be specified, through~~
6 ~~reasonable, objective standards and criteria, in the design and improvement standards section of~~
7 ~~the local regulations. Appropriate public improvement standards shall be specified for each area~~
8 ~~or district of the municipality. Standards may include, but are not limited to, specifications for~~
9 ~~rights-of-way, streets, sidewalks, lighting, landscaping, public access, utilities, drainage systems,~~
10 ~~fire protection, and soil erosion control.~~

11 ~~(b) All public improvements required in a land development project or subdivision by a~~
12 ~~municipality shall reflect the physical character and design for that district which is specified by~~
13 ~~the municipality's adopted comprehensive plan. Public improvement requirements and standards~~
14 ~~need not be the same in all areas or districts of a municipality. The technical details of the~~
15 ~~improvement standards may be contained in an appendix to the local regulations but shall be~~
16 ~~considered part of the regulations.~~

17 ~~**45-23-46. General provisions -- Construction and/or improvement guarantees.**~~ (a)

18 ~~The local regulations shall require planning board approval of agreements for the completion of~~
19 ~~all required public improvements prior to final plan approval in the form of (1) completion of~~
20 ~~actual construction of all improvements, (2) improvement guarantees, or (3) combination thereof.~~

21 ~~(b) Where improvements are constructed without a financial guarantee, the work is to be~~
22 ~~completed prior to final approval. All construction shall be inspected and approved under the~~
23 ~~direction of the administrative officer and according to local regulations.~~

24 ~~(c) Improvement guarantees shall be in an amount and with all necessary conditions to~~
25 ~~secure for the municipality the actual construction and complete installation of all the required~~
26 ~~improvements, within the period specified by the planning board. The amount shall be based on~~
27 ~~actual cost estimates for all required public improvements and these estimates shall be reviewed~~
28 ~~and approved by the planning board. The board may fix the guarantee in a reasonable amount in~~
29 ~~excess of the estimated costs to anticipate for economic or construction conditions. Local~~
30 ~~regulations may include provisions for the review and/or upgrade of guarantees.~~

31 ~~(d) The security shall be in the form of a financial instrument acceptable to the approving~~
32 ~~authority and shall enable the municipality to gain timely access to the secured funds, for cause.~~

33 ~~(e) The local regulations shall establish procedures for the setting of improvement~~
34 ~~guarantee amounts, for inspections of improvements, for acceptance of improvements by the~~

1 ~~municipality and for the release of the improvement guarantees to the applicant. Procedures may~~
2 ~~include provisions for partial releases of the guarantees as stages of the improvements are~~
3 ~~completed, inspected and approved under the coordination of the administrative officer and~~
4 ~~reported to the planning board.~~

5 ~~(f) In the cases of developments and subdivisions which are being approved and~~
6 ~~constructed in phases, the planning board shall specify improvement guarantee requirements~~
7 ~~related to each particular phase.~~

8 ~~(g) The planning board may also require maintenance guarantees to be provided for a~~
9 ~~one year period subsequent to completion, inspection and acceptance of the improvement(s)~~
10 ~~unless there are extenuating circumstances.~~

11 ~~(h) Procedures for the acceptance of required improvements shall stipulate that all~~
12 ~~improvements, once inspected and approved, shall be accepted by the municipality or other~~
13 ~~appropriate municipal agency for maintenance and/or part of the municipal system.~~

14 ~~(i) The municipality is granted the power to enforce the guarantees by all appropriate~~
15 ~~legal and equitable remedies.~~

16 ~~**45-23-47. General provisions -- Requirements for dedication of public land -- Public**~~
17 ~~**improvements and fees.** -- Where a municipality requires, as a condition of approval of a~~
18 ~~proposed land development or subdivision project, dedication of land to the public, public~~
19 ~~improvements, payment in lieu of dedication or construction, or payment to mitigate the impacts~~
20 ~~of a proposed project, local regulations must require the following:~~

21 ~~(1) All required public improvements must reflect the character defined for that~~
22 ~~neighborhood or district by the community's comprehensive plan;~~

23 ~~(2) The need for all dedications of land to the public and for payments in lieu of~~
24 ~~dedications must be clearly documented in the adopted plan of the community, i.e., the~~
25 ~~comprehensive plan and the capital improvement plan;~~

26 ~~(3) No dedications of land to the public or payments in lieu of dedications may be~~
27 ~~required until the need for the dedications are identified and documented by the municipality, the~~
28 ~~land proposed for dedication is determined to be appropriate for the proposed use, and the~~
29 ~~formulas for calculating a payment in lieu of dedication have been established in the local~~
30 ~~regulations;~~

31 ~~(4) All dedications, improvements, or payments in lieu of dedication or construction, for~~
32 ~~mitigation of identified negative impacts of proposed projects must meet the previously stated~~
33 ~~standards. Furthermore, the significant negative impacts of the proposed development on the~~
34 ~~existing conditions must be clearly documented. The mitigation required as a condition of~~

1 approval must be related to the significance of the identified impact; and

2 ~~-(5) All payment in lieu of dedication or construction to mitigate the impacts of the~~
3 ~~proposed development shall be kept in restricted accounts and shall only be spent on the~~
4 ~~mitigation of the identified impacts for which it is required.~~

5 ~~**45-23-48. Special provisions -- Phasing of projects.** -- (a) A municipality may provide~~
6 ~~for the preliminary and final review stages, and for the construction of major land developments~~
7 ~~and subdivisions, to be divided into reasonable phases.~~

8 ~~-(b) When local regulations allow development phasing, the regulations must require the~~
9 ~~following:~~

10 ~~-(1) Approval of the entire site design first as a master plan. Thereafter the development~~
11 ~~plans may be submitted for preliminary and/or final review and/or approval by phase(s).~~

12 ~~-(2) General standards and regulations for determining physical limits of phases,~~
13 ~~completion schedules, and guarantees, for allowing progression to additional phases, for allowing~~
14 ~~two (2) or more phases to proceed in review or construction simultaneously, for interim public~~
15 ~~improvements or construction conditions, for changes to master or preliminary plans and may~~
16 ~~include other provisions as necessitated by local conditions.~~

17 ~~-(3) The master plan documents may contain information on the physical limits of the~~
18 ~~phases, the schedule and sequence of public improvement installation, improvement guarantees,~~
19 ~~and the work and completion schedules for approvals and construction of the phases.~~

20 ~~-(c) Vesting. — The master plan remains vested as long as it can be proved, to the~~
21 ~~satisfaction of the planning board, that work is proceeding on either the approval stages or on the~~
22 ~~construction of the development as shown in the approved master plan documents. Vesting~~
23 ~~extends to all information shown on the approved master plan documents.~~

24 ~~**45-23-49. Special provisions -- Land development projects.** -- (a) If municipalities~~
25 ~~provide for land development projects, as defined in section 45-24-47 of the Rhode Island Zoning~~
26 ~~Enabling Act of 1991, the projects are subject to the local regulations.~~

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

31 ~~**45-23-49.1. Farmland residential compounds.** -- (a) The general assembly finds and~~
32 ~~declares that multiple dwelling units were historically common on farms because farming was a~~
33 ~~multi-generational way of life and because farm workers needed to be close to the land they~~
34 ~~worked; that this historical development pattern is centuries old, and that it is in the interest of the~~

1 ~~state to provide for the continuation of this development pattern as a means of preserving and~~
2 ~~enhancing agriculture and promoting sound development in rural areas of the state.~~

3 ~~-(b) Farmland residential compounds may be provided for by municipal ordinance as a~~
4 ~~minor land development project, consistent with the special provisions of this subdivision, which~~
5 ~~ordinances may treat farmland residential projects as a specific form of cluster development for~~
6 ~~purposes of zoning.~~

7 ~~-(1) Such farmland residential compounds shall only be allowed on agricultural~~
8 ~~operations, as defined in subsection 42-82-2(3), that have a net annual income of twenty thousand~~
9 ~~dollars (\$20,000) or more for the most recent three (3) consecutive years preceding the date of the~~
10 ~~application for the farmland residential compound, which income is directly attributable to said~~
11 ~~agricultural operations.~~

12 ~~-(2) Such farmland residential compounds shall be limited to one dwelling unit for the~~
13 ~~first twenty (20) acres and one dwelling unit for each additional twenty (20) acres to a maximum~~
14 ~~of five (5) dwelling units, which shall be allowable without subdivision of the farmland parcel~~
15 ~~into separate lots and without meeting frontage requirements.~~

16 ~~-(3) Any road necessary to provide access to the dwelling units shall be constructed in~~
17 ~~accordance with applicable standards for private roads and shall be owned and maintained by the~~
18 ~~agricultural operation.~~

19 ~~-(4) Water supply and waste water treatment (ISDS) for the farmland residential~~
20 ~~compound shall comply with standards for residential systems.~~

21 ~~-(c) The dwelling units of a farmland residential compound need not be located in a single~~
22 ~~area on the farm and may be constructed in phases consistent with the limitations and provisions~~
23 ~~set forth in subdivision (b) of this section.~~

24 ~~-(d) Approval of a farmland residential compound shall not affect eligibility to participate~~
25 ~~in programs for farmland preservation or for taxation of farm, forest and open space land.~~

26 ~~-(e) For any agricultural operation, farmland residential compounds shall be permitted~~
27 ~~only to the limits set forth in subdivision (b)(2) of this section; in the event that the agricultural~~
28 ~~operation is subsequently divided into two (2) or more agricultural operations, no additional~~
29 ~~farmland residential compound shall be permitted until ten (10) years after the date of the~~
30 ~~approval of the application for the prior farmland residential compound, and all of the~~
31 ~~requirements for a farmland residential compound shall apply to each farmland residential~~
32 ~~compound; in the event that the agricultural operation ceases and the farmland is subdivided, a~~
33 ~~parcel at least equal to the minimum residential lot size for the zone times the number of dwelling~~
34 ~~units in the farmland residential compound plus the road in which the farmland residential~~

1 ~~compound is located shall be dedicated to the farmland residential compound, which overall~~
2 ~~parcel shall include the water supply and waste water treatment systems for the farmland~~
3 ~~residential compound.~~

4 ~~**45-23-50. Special provisions -- Development plan review.**~~ (a) ~~Municipalities may~~
5 ~~provide for development plan review, as defined in section 45-24-49 of the Rhode Island Zoning~~
6 ~~Enabling Act of 1991, to be subject to part of the local regulations.~~

7 ~~(b) In these instances, local regulations must include all requirements, procedures and~~
8 ~~standards necessary for proper review and recommendations of projects subject to development~~
9 ~~plan review to ensure consistency with the intent and purposes of this chapter and with section~~
10 ~~45-24-49 of the Rhode Island Zoning Enabling Act of 1991.~~

11 ~~**45-23-51. Local regulations -- Authority to create and administer regulations.**~~ The
12 ~~city or town council shall empower, by ordinance, the planning board to adopt, modify and~~
13 ~~amend regulations and rules governing land development and subdivision projects within that~~
14 ~~municipality and to control land development and subdivision projects pursuant to those~~
15 ~~regulations and rules.~~

16 ~~**45-23-52. Local regulations -- Procedure for adoption and amendment.**~~ (a) The
17 ~~local planning board, once authorized by the ordinance required under section 45-23-51, shall~~
18 ~~adopt or repeal, and provide for the administration, interpretation, and enforcement of land~~
19 ~~development and subdivision review regulations.~~

20 ~~(b) Provisions of the local regulations and appendices shall be presented in text and may~~
21 ~~incorporate maps, and other technical and graphic material. The local regulations, and all of their~~
22 ~~amendments, shall be consistent with all provisions of this chapter as well as the municipality's~~
23 ~~comprehensive plan and zoning ordinance.~~

24 ~~**45-23-53. Local regulations -- Public hearing and notice requirements.**~~ (a) No local
25 ~~regulations shall be adopted, repealed, or amended until after a public hearing has been held upon~~
26 ~~the question before the city or town planning board. The city or town planning board shall first~~
27 ~~give notice of the public hearing by publication of notice in a newspaper of general circulation~~
28 ~~within the municipality at least once each week for three (3) successive weeks prior to the date of~~
29 ~~the hearing, which may include the week in which the hearing is to be held. At this hearing~~
30 ~~opportunity shall be given to all persons interested on being heard upon the matter of the~~
31 ~~proposed regulations. Written notice, which may be a copy of the newspaper notice, shall be~~
32 ~~mailed to the statewide planning program of the Rhode Island department of administration at~~
33 ~~least two (2) weeks prior to the hearing. The newspaper notice shall be published as a display~~
34 ~~advertisement, using a type size at least as large as the normal type size used by the newspaper in~~

1 ~~its news articles, and shall:~~

2 ~~-(1) Specify the place of the hearing and the date and time of its commencement;~~

3 ~~-(2) Indicate that adoption, amendment or repeal of local regulations is under~~
4 ~~consideration;~~

5 ~~-(3) Contain a statement of the proposed amendments to the regulations that may be~~
6 ~~printed once in its entirety, or may summarize or describe the matter under consideration;~~

7 ~~-(4) Advise those interested where and when a copy of the matter under consideration~~
8 ~~may be obtained or examined and copied; and~~

9 ~~-(5) State that the proposals shown on the notice may be altered or amended prior to the~~
10 ~~close of the public hearing without further advertising, as a result of further study or because of~~
11 ~~the views expressed at the public hearing. Any alteration or amendment must be presented for~~
12 ~~comment in the course of the hearing.~~

13 ~~-(b) Notice of the public hearing shall be sent by first class mail to the city or town~~
14 ~~planning board of any municipality where there is a public or quasi-public water source, or~~
15 ~~private water source that is used or is suitable for use as a public water source, located within two~~
16 ~~thousand feet (2,000') of the municipal boundaries.~~

17 ~~-(c) Notice of a public hearing shall be sent to the governing body of any state or~~
18 ~~municipal water department or agency, special water district, or private water company that has~~
19 ~~riparian rights to a surface water resource and/or surface watershed that is used or is suitable for~~
20 ~~use as a public water source located within either the municipality or two thousand feet (2,000')~~
21 ~~of the municipal boundaries; provided, that a map survey has been filed with the building~~
22 ~~inspector as specified in section 45-24-53(e).~~

23 ~~-(d) No defect in the form of any notice under this section renders any regulations invalid,~~
24 ~~unless the defect is found to be intentional or misleading.~~

25 ~~-(e) The requirements in this section are to be construed as minimum requirements.~~

26 ~~**45-23-54. Local regulations -- Publication and availability.** -- (a) Printed copies of the~~
27 ~~local regulations are available to the general public and shall be revised to include all~~
28 ~~amendments. Any appendices are also available. A reasonable charge may be made for copies.~~

29 ~~-(b) Upon publication of local regulations and any amendments to the local regulations,~~
30 ~~the municipality shall send a copy to the department of administration's statewide planning~~
31 ~~program and to the state law library.~~

32 ~~**45-23-55. Administration -- The administrative officer.** -- (a) Local administration of~~
33 ~~the local regulations is under the direction of the administrative officer, who reports to the~~
34 ~~planning board.~~

1 ~~-(b) The local regulations specify the process of appointment and the responsibilities of~~
2 ~~the administrative officer who oversees and coordinates the review, approval, recording and~~
3 ~~enforcement provisions of the local regulations. The administrative officer serves as the chair of~~
4 ~~the technical review committee, where established. The local regulations state minimum~~
5 ~~qualifications for this position regarding appropriate education, training or experience in land use~~
6 ~~planning and site plan review.~~

7 ~~-(c) The administrative officer is responsible for coordinating reviews of proposed land~~
8 ~~development projects and subdivisions with adjacent municipalities as is necessary to be~~
9 ~~consistent with applicable federal, state and local laws and as directed by the planning board.~~

10 ~~-(d) Enforcement of the local regulations is under the direction of the administrative~~
11 ~~officer. The officer is responsible for coordinating the enforcement efforts of the zoning~~
12 ~~enforcement officer, the building inspector, planning department staff, the city or town engineer,~~
13 ~~the department of public works and other local officials responsible for the enforcement or~~
14 ~~carrying out of discrete elements of the regulations.~~

15 ~~**45-23-56. Administration -- Technical review committee.**~~ (a) The planning board
16 ~~may establish a technical review committee of not fewer than three (3) members, to conduct~~
17 ~~technical reviews of applications subject to their jurisdiction. Where a technical review~~
18 ~~committee is established, the administrative officer shall serve as chairperson. Membership of this~~
19 ~~subcommittee, to be known as the technical review committee, may include, but is not limited to,~~
20 ~~members of the planning board, planning department staff, other municipal staff representing~~
21 ~~departments with responsibility for review or enforcement, conservation commissioners or other~~
22 ~~duly appointed local public commission members.~~

23 ~~-(b) If the planning board establishes a technical review committee, the board shall adopt~~
24 ~~written procedures establishing the committee's responsibilities.~~

25 ~~-(c) Reports of the technical review committee to the planning board shall be in writing~~
26 ~~and kept as part of the permanent documentation on the development application. In no case shall~~
27 ~~the recommendations of the technical review committee be binding on the planning board in its~~
28 ~~activities or decisions. All reports of the technical review committee shall be made available to~~
29 ~~the applicant prior to the meeting of the planning board meeting at which the reports are first~~
30 ~~considered.~~

31 ~~**45-23-57. Administration -- The board of appeal.**~~ The city or town council shall
32 ~~establish the city or town zoning board of review as the board of appeal to hear appeals of~~
33 ~~decisions of the planning board or the administrative officer on matters of review and approval of~~
34 ~~land development and subdivision projects.~~

1 ~~**45-23-58. Administration -- Administrative fees.**~~ Local regulations adopted pursuant
2 to this chapter may provide for reasonable fees, in an amount not to exceed actual costs incurred,
3 to be paid by the applicant for the adequate review and hearing of applications, issuance of
4 permits and recordings of subsequent decisions.

5 ~~**45-23-59. Administration -- Violations and penalties.**~~ (a) Local regulations adopted
6 pursuant to this chapter shall provide for a penalty for any violation of the local regulations, or for
7 a violation of any terms or conditions of any action imposed by the planning board or of any other
8 agency or officer charged in the regulations with enforcement of any of the provisions.

9 ~~(b) Violation of the regulations include any action related to the transfer or sale of land
10 in unapproved subdivisions. Any owner, or agent of the owner, who transfers, sells or negotiates
11 to sell any land by reference to or exhibition of, or by other use, a plat of the subdivision before
12 the plat has been approved by the planning board and recorded in the municipal land evidence
13 records, is in violation of the local regulations and subject to the penalties described in this
14 chapter.~~

15 ~~(c) The penalty for violation shall reasonably relate to the seriousness of the offense, and
16 shall not exceed five hundred dollars (\$500) for each violation, and each day of existence of any
17 violation is deemed to be a separate offense. Any fine shall inure to the municipality.~~

18 ~~(d) The municipality may also cause suit to be brought in the supreme or superior court,
19 or any municipal court, including a municipal housing court having jurisdiction in the name of the
20 municipality, to restrain the violation of, or to compel compliance with, the provisions of its local
21 regulations. A municipality may consolidate an action for injunctive relief and/or fines under the
22 local regulations in the superior court of the county in which the subject property is located.~~

23 ~~**45-23-60. Procedure -- Required findings.**~~ (a) All local regulations shall require that
24 for all administrative, minor, and major development applications the approving authorities
25 responsible for land development and subdivision review and approval shall address each of the
26 general purposes stated in section 45-23-30 and make positive findings on the following standard
27 provisions, as part of the proposed project's record prior to approval:

28 ~~(1) The proposed development is consistent with the comprehensive community plan
29 and/or has satisfactorily addressed the issues where there may be inconsistencies;~~

30 ~~(2) The proposed development is in compliance with the standards and provisions of the
31 municipality's zoning ordinance;~~

32 ~~(3) There will be no significant negative environmental impacts from the proposed
33 development as shown on the final plan, with all required conditions for approval;~~

34 ~~(4) The subdivision, as proposed, will not result in the creation of individual lots with~~

1 ~~any physical constraints to development that building on those lots according to pertinent~~
2 ~~regulations and building standards would be impracticable. (See definition of Buildable lot). Lots~~
3 ~~with physical constraints to development may be created only if identified as permanent open~~
4 ~~space or permanently reserved for a public purpose on the approved, recorded plans; and~~

5 ~~(5) All proposed land developments and all subdivision lots have adequate and~~
6 ~~permanent physical access to a public street. Lot frontage on a public street without physical~~
7 ~~access shall not be considered in compliance with this requirement.~~

8 ~~(b) Except for administrative subdivisions, findings of fact must be supported by legally~~
9 ~~competent evidence on the record which discloses the nature and character of the observations~~
10 ~~upon which the fact finders acted.~~

11 ~~**45-23-61. Procedure -- Precedence of approvals between planning board and other**~~
12 ~~**local permitting authorities.** -- (a) Zoning board.~~

13 ~~(1) Where an applicant requires both a variance from the local zoning ordinance and~~
14 ~~planning board approval, the applicant shall first obtain an advisory recommendation from the~~
15 ~~planning board, as well as conditional planning board approval for the first approval stage for the~~
16 ~~proposed project, which may be simultaneous, then obtain conditional zoning board relief, and~~
17 ~~then return to the planning board for subsequent required approval(s).~~

18 ~~(2) Where an applicant requires both a special use permit under the local zoning~~
19 ~~ordinance and planning board approval, the applicant shall first obtain an advisory~~
20 ~~recommendation from the planning board, as well as conditional planning board approval for the~~
21 ~~first approval stage for the proposed project, which may be simultaneous, then obtain a~~
22 ~~conditional special use permit from the zoning board, and then return to the planning board for~~
23 ~~subsequent required approval(s).~~

24 ~~(b) City or town council. -- Where an applicant requires both planning board approval~~
25 ~~and council approval for a zoning ordinance or zoning map change, the applicant shall first obtain~~
26 ~~an advisory recommendation on the zoning change from the planning board, as well as~~
27 ~~conditional planning board approval for the first approval stage for the proposed project, which~~
28 ~~may be simultaneous, then obtain a conditional zoning change from the council, and then return~~
29 ~~to the planning board for subsequent required approval(s).~~

30 ~~**45-23-62. Procedure -- Waivers -- Modifications and reinstatement of plans.** -- (a)~~
31 ~~Waiver of development plan approval.~~

32 ~~(1) A planning board may waive requirements for development plan approval where~~
33 ~~there is a change in use or occupancy and no extensive construction of improvements is sought.~~
34 ~~The waiver may be granted only by a decision by the planning board finding that the use will not~~

1 ~~affect existing drainage, circulation, relationship of buildings to each other, landscaping,~~
2 ~~buffering, lighting and other considerations of development plan approval, and that the existing~~
3 ~~facilities do not require upgraded or additional site improvements.~~

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

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

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

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

23 ~~**45-23-63. Procedure -- Meetings -- Votes -- Decisions and records.** -- (a) All records~~
24 ~~of the planning board proceedings and decisions shall be written and kept permanently available~~
25 ~~for public review. Completed applications for proposed land development and subdivisions~~
26 ~~projects under review by the planning board shall be available for public review.~~

27 ~~-(b) Participation in a planning board meeting or other proceedings by any party is not a~~
28 ~~cause for civil action or liability except for acts not in good faith, intentional misconduct,~~
29 ~~knowing violation of law, transactions where there is an improper personal benefit, or malicious,~~
30 ~~wanton, or willful misconduct.~~

31 ~~-(c) All final written comments to the planning board from the administrative officer,~~
32 ~~municipal departments, the technical review committee, state and federal agencies, and local~~
33 ~~commissions are part of the permanent record of the development application.~~

34 ~~-(d) Votes. — All votes of the planning board shall be made part of the permanent record~~

1 ~~and show the members present and their votes. A decision by the planning board to approve any~~
2 ~~land development or subdivision application requires a vote for approval by a majority of the~~
3 ~~current planning board membership.~~

4 ~~-(e) All written decisions of the planning board shall be recorded in the land evidence~~
5 ~~records within thirty five (35) days after the planning board vote. A copy of the recorded decision~~
6 ~~shall be mailed within one business day of recording, by any method that provides confirmation~~
7 ~~of receipt, to the applicant and to any objector who has filed a written request for notice with the~~
8 ~~administrative officer.~~

9 ~~**45-23-63.1. Procedure -- Tolling of expiration periods.** -- (a) Notwithstanding any~~
10 ~~other provision set forth in this chapter, all periods pertaining to the expiration of any approval~~
11 ~~issued pursuant to the local regulations promulgated under this chapter shall be tolled until June~~
12 ~~30, 2011.~~

13 ~~-(b) Said tolling need not be recorded in the land evidence records to be valid, however, a~~
14 ~~notice of the tolling must be posted in both the municipal planning department, the municipal~~
15 ~~clerk's office, and the office of the recorder of deeds, or near the land evidence records.~~

16 ~~-(c) The tolling shall apply only to approvals or permits in effect at the time of passage~~
17 ~~and shall not revive expired approvals.~~

18 ~~**45-23-64. Procedure -- Signing and recording of plats and plans.** -- (a) All approved~~
19 ~~final plans and plats for land development and subdivision projects are signed by the appropriate~~
20 ~~planning board official with the date of approval. Plans and plats for major land developments~~
21 ~~and subdivisions are signed by the planning board chairperson or the secretary of the planning~~
22 ~~board attesting to the approval by the planning board. All minor land development or subdivision~~
23 ~~plans and plats and administrative plats are signed by the planning board chairperson or secretary~~
24 ~~or the board's designated agent.~~

25 ~~-(b) Upon signature, all plans and plats are submitted to the administrative officer prior to~~
26 ~~recording and filing in the appropriate municipal departments. The material to be recorded for all~~
27 ~~plans and plats include all pertinent plans with notes thereon concerning all the essential aspects~~
28 ~~of the approved project design, the implementation schedule, special conditions placed on the~~
29 ~~development by the municipality, permits and agreements with state and federal reviewing~~
30 ~~agencies, and other information required by the planning board.~~

31 ~~-(c) Other parts of the applications record for subdivisions and land development projects,~~
32 ~~including all meeting records, approved master plan and preliminary plans, site analyses, impact~~
33 ~~analyses, all legal agreements, records of the public hearing and the entire final approval set of~~
34 ~~drawings are permanently kept by the municipal departments responsible for implementation and~~

1 enforcement.

2 ~~-(d) The administrative officer shall notify the statewide "911" emergency authority and~~
3 ~~the local police and fire authorities servicing the new plat with the information required by each~~
4 ~~of the authorities.~~

5 ~~**45-23-65. Procedure -- Changes to recorded plats and plans.**~~ (a) For all changes to
6 ~~the approved plans of land development projects or subdivisions subject to this act, an~~
7 ~~amendment of the final development plans is required prior to the issuance of any building~~
8 ~~permits. Any changes approved in the final plan shall be recorded as amendments to the final plan~~
9 ~~in accordance with the procedure established for recording of plats in section 45-23-64.~~

10 ~~-(b) Minor changes, as defined in the local regulations, to a land development or~~
11 ~~subdivision plan may be approved administratively, by the administrative officer, whereupon a~~
12 ~~permit may be issued. The changes may be authorized without additional public hearings, at the~~
13 ~~discretion of the administrative officer. All changes shall be made part of the permanent record of~~
14 ~~the project application. This provision does not prohibit the administrative officer from requesting~~
15 ~~a recommendation from either the technical review committee or the planning board. Denial of~~
16 ~~the proposed change(s) shall be referred to the planning board for review as a major change.~~

17 ~~-(c) Major changes, as defined in the local regulations, to a land development or~~
18 ~~subdivision plan may be approved, only by the planning board and must follow the same review~~
19 ~~and public hearing process required for approval of preliminary plans as described in section 45-~~
20 ~~23-41.~~

21 ~~-(d) Rescission procedure.~~ The planning board, only upon application by all landowners
22 ~~of the plat to be affected, may determine that the application for plat rescission is not consistent~~
23 ~~with the comprehensive community plan and is not in compliance with the standards and~~
24 ~~provisions of the municipality's zoning ordinance and/or land development and subdivision~~
25 ~~review regulations and shall hold a public hearing, which adheres to the requirements for notice~~
26 ~~described in section 45-23-42. The planning board shall approve, approve with conditions or~~
27 ~~modifications, or deny the application for rescission of the plat according to the requirements of~~
28 ~~section 45-23-63. If it is necessary to abandon any street covered under chapter 6 of title 24, the~~
29 ~~planning board shall submit to the city or town council the documents necessary for the~~
30 ~~abandonment process. Once the required process for rescission or for rescission and abandonment~~
31 ~~has been completed, the revised plat shall be signed and recorded as specified in section 45-23-~~
32 ~~64.~~

33 ~~**45-23-66. Appeals -- Right of appeal.**~~ (a) Local regulations adopted pursuant to this
34 ~~chapter shall provide that an appeal from any decision of the planning board, or administrative~~

1 ~~officer charged in the regulations with enforcement of any provisions, except as provided in this~~
2 ~~section, may be taken to the board of appeal by an aggrieved party. Appeals from a decision~~
3 ~~granting or denying approval of a final plan shall be limited to elements of the approval or~~
4 ~~disapproval not contained in the decision reached by the planning board at the preliminary stage,~~
5 ~~providing that a public hearing has been held on the plan pursuant to section 45-23-42.~~

6 ~~(b) Local regulations adopted pursuant to this chapter shall provide that an appeal from a~~
7 ~~decision of the board of appeal may be taken by an aggrieved party to the superior court for the~~
8 ~~county in which the municipality is situated.~~

9 ~~**45-23-67. Appeals -- Process of appeal.** -- (a) An appeal to the board of appeal from a~~
10 ~~decision or action of the planning board or administrative officer may be taken by an aggrieved~~
11 ~~party to the extent provided in section 45-23-66. The appeal must be taken within twenty (20)~~
12 ~~days after the decision has been filed and posted in the office of the city or town clerk.~~

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

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

21 ~~**45-23-68. Appeals -- Stay of proceedings.** -- An appeal stays all proceedings in~~
22 ~~furtherance of the action being appealed.~~

23 ~~**45-23-69. Appeals -- Public hearing.** -- (a) The board of appeal shall hold a public~~
24 ~~hearing on the appeal within forty five (45) days of the receipt of the appeal, give public notice of~~
25 ~~the hearing, as well as due notice to the parties of interest. At the hearing any party may appear in~~
26 ~~person, or be represented by an agent or attorney. The board shall render a decision within ten~~
27 ~~(10) days of the close of the public hearing. The cost of any notice required for the hearing shall~~
28 ~~be borne by the applicant.~~

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

32 ~~(c) The hearing, which may be held on the same date and at the same place as a meeting~~
33 ~~of the zoning board of review, must be held as a separate meeting from any zoning board of~~
34 ~~review meeting. Separate minutes and records of votes as required by section 45-23-70(d) shall~~

1 ~~be maintained by the board of appeal.~~

2 ~~**45-23-70. Appeals -- Standards of review.** (a) As established by this chapter, in~~
3 ~~instances of a board of appeal's review of a planning board or administrative officer's decision on~~
4 ~~matters subject to this chapter, the board of appeal shall not substitute its own judgment for that~~
5 ~~of the planning board or the administrative officer but must consider the issue upon the findings~~
6 ~~and record of the planning board or administrative officer. The board of appeal shall not reverse a~~
7 ~~decision of the planning board or administrative officer except on a finding of prejudicial~~
8 ~~procedural error, clear error, or lack of support by the weight of the evidence in the record.~~

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

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

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

19 ~~**45-23-71. Appeals to the superior court.** (a) An aggrieved party may appeal a~~
20 ~~decision of the board of appeal, to the superior court for the county in which the municipality is~~
21 ~~situated by filing a complaint stating the reasons of appeal within twenty (20) days after the~~
22 ~~decision has been recorded and posted in the office of the city or town clerk. The board of appeal~~
23 ~~shall file the original documents acted upon by it and constituting the record of the case appealed~~
24 ~~from, or certified copies of the original documents, together with any other facts that may be~~
25 ~~pertinent, with the clerk of the court within thirty (30) days after being served with a copy of the~~
26 ~~complaint. When the complaint is filed by someone other than the original applicant or appellant,~~
27 ~~the original applicant or appellant and the members of the planning board shall be made parties to~~
28 ~~the proceedings. The appeal does not stay proceedings upon the decision appealed from, but the~~
29 ~~court may, in its discretion, grant a stay on appropriate terms and make any other orders that it~~
30 ~~deems necessary for an equitable disposition of the appeal.~~

31 ~~(b) The review shall be conducted by the superior court without a jury. The court shall~~
32 ~~consider the record of the hearing before the planning board and, if it appear to the court that~~
33 ~~additional evidence is necessary for the proper disposition of the matter, it may allow any party to~~
34 ~~the appeal to present evidence in open court, which evidence, along with the report, shall~~

1 ~~constitute the record upon which the determination of the court shall be made.~~

2 ~~-(e) The court shall not substitute its judgment for that of the planning board as to the~~
3 ~~weight of the evidence on questions of fact. The court may affirm the decision of the board of~~
4 ~~appeal or remand the case for further proceedings, or may reverse or modify the decision if~~
5 ~~substantial rights of the appellant have been prejudiced because of findings, inferences,~~
6 ~~conclusions or decisions which are:~~

7 ~~-(1) In violation of constitutional, statutory, ordinance or planning board regulations~~
8 ~~provisions;~~

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

10 ~~-(3) Made upon unlawful procedure;~~

11 ~~-(4) Affected by other error of law;~~

12 ~~-(5) Clearly erroneous in view of the reliable, probative, and substantial evidence of the~~
13 ~~whole record; or~~

14 ~~-(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted~~
15 ~~exercise of discretion.~~

16 ~~**45-23-72. Appeals to the superior court --- Enactment of or amendment of local**~~

17 ~~**regulations.** --- (a) Any appeal of an enactment of or an amendment of local regulations may be~~
18 ~~taken to the superior court for the county in which the municipality is situated by filing a~~
19 ~~complaint, as stated in this section, within thirty (30) days after the enactment, or amendment has~~
20 ~~become effective. The appeal may be taken by any legal resident or landowner of the~~
21 ~~municipality or by any association of residents or landowners of the municipality. The appeal~~
22 ~~does not stay the enforcement of the local regulations, as enacted or amended, but the court may,~~
23 ~~in its discretion, grant a stay on appropriate terms, which may include the filing of a bond, and~~
24 ~~make any other orders that it deems necessary for an equitable disposition of the appeal.~~

25 ~~-(b) The complaint shall state with specificity the area or areas in which the enactment or~~
26 ~~amendment is not consistent with the Comprehensive Planning Act, chapter 22.2 of this title; the~~
27 ~~Rhode Island Zoning Enabling Act of 1991, section 45-24-27 et seq.; the municipality's~~
28 ~~comprehensive plan; or the municipality's zoning ordinance.~~

29 ~~-(c) The review shall be conducted by the court without a jury. The court shall consider~~
30 ~~whether the enactment or amendment of the local regulations is consistent with the~~
31 ~~Comprehensive Planning Act, chapter 22.2 of this title; the Rhode Island Zoning Enabling Act of~~
32 ~~1991, section 45-24-27 et seq.; the municipality's comprehensive plan; or the municipality's~~
33 ~~zoning ordinance. If the enactment or amendment is not consistent, then the court shall invalidate~~
34 ~~the enactment or the amendment, or those parts of the enactment or amendment which are not~~

1 ~~consistent. The court shall not revise the local regulations to be consistent, but may suggest~~
2 ~~appropriate language as part of the court decision.~~

3 ~~-(d) The court may in its discretion, upon motion of the parties or on its own motion,~~
4 ~~award reasonable attorney's fees to any party to an appeal, as stated herein, including a~~
5 ~~municipality.~~

6 ~~**45-23-73. Appeals to the superior court -- Priority in judicial proceedings.** -- Upon~~
7 ~~the entry of any case or proceeding brought under the provisions of this chapter, including~~
8 ~~pending and future appeals taken to the court, the court shall, at the request of either party,~~
9 ~~advance the case, so that the matter is afforded precedence on the calendar and be heard and~~
10 ~~determined with as little delay as possible.~~

11 ~~**45-23-74. Severability.** -- If any provision of this chapter or of any rule, regulation or~~
12 ~~determination made under this chapter, or the application of the provisions to any person, agency~~
13 ~~or circumstances, is held invalid by a court of competent jurisdiction, the remainder of the~~
14 ~~chapter, rule, regulation, or determination and the application of the provisions to other persons,~~
15 ~~agencies, or circumstances shall not be affected by the invalidity. The invalidity of any section or~~
16 ~~sections of this chapter shall not affect the validity of the remainder of the chapter.~~

17 SECTION 2. This act shall take effect upon passage and apply prospectively.

=====
LC01228
=====

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

1 This act would repeal “The Rhode Island Land Development and Subdivision Review
2 Enabling Act of 1992” which required municipalities to adopt land development review
3 regulations.

4 This act would take effect upon passage and apply prospectively.

=====
LC01228
=====