**The local section of the zoning ordinance that identifies the process and requirements for a comprehensive permit will need to be amended to reflect changes to the legislation. The template language provided reflects the minimum requirements and municipalities can be more permissive but cannot be more restrictive than the language provided below. The language in red is directly from state law and must be inserted into the comprehensive permit section as written. The additional language in black represents optional sections for inclusion. Those sections are recommended for consideration by the municipality to accompany the required text and provide guidance to the applicant and municipality**.

**TEMPLATE SECTIONS FOR INSERTION INTO THE COMPREHENSIVE PERMIT SECTION OF THE DEVELOPMENT REGULATIONS.**

* 1. *Definitions.*

“Adjustment(s)” means a request, or requests by the application to seek relief from the literal use and dimensional requirements of the zoning ordinance and/or the design standards or requirements of the [land development and subdivision regulations]. The standard for the local view board’s consideration of adjustments is set forth in [INSERT SECTION] and RIGL §45-53-4(d)(2)(iii)(E)(II).

“Consistent with local needs”**[[1]](#footnote-1)** means reasonable in view of the state need for low- and moderate-income housing, considered with the number of low-income persons in the [CITY/TOWN] affected and the need to protect the health and safety of the occupants of the proposed housing or of the residents of the [CITY/TOWN], to promote better site and building design in relation to the surroundings, or to preserve open spaces, and if the zoning ordinance, requirements, and regulations are applied as equally as possible to both subsidized and unsubsidized housing.

“Infeasible” means any condition brought about by any single factor or combination of factors, as a result of limitations imposed on the development by conditions attached to the approval of the comprehensive permit, to the extent that it makes it financially or logistically impracticable for any applicant to proceed in building or operating low- or moderate-income housing, within the limitations set by the subsidizing agency of government or local review [planning board], on the size or character of the development, on the amount or nature of the subsidy, or on the tenants, rentals, and income permissible, and without substantially changing the rent levels and unit sizes proposed by the applicant.

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

“Local review board” means the planning board.

“Low- or moderate-income housing” shall be synonymous with “affordable housing” as defined in R.I. Gen. Laws § 42-128-8.1, and further means any housing whether built or operated by any public agency or any nonprofit organization or by any limited equity housing cooperative or any private developer, that is subsidized by a federal, state, or municipal government subsidy under any program to assist the construction or rehabilitation of affordable housing and that will remain affordable through a land lease and/or deed restriction for ninety-nine (99) years or such other period that is either agreed to by the applicant and town or prescribed by the federal, state, or municipal government subsidy program but that is not less than thirty (30) years from initial occupancy.

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

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

## *Applicability and eligibility.*

1. Any applicant proposing to build low- or moderate-income housing may submit to the local review board a single application for a comprehensive permit to build that housing in lieu of separate applications to the applicable local boards. This procedure is only available for proposals in which at least twenty five percent (25%) of the housing is low- or moderate-income housing.
2. Notwithstanding the foregoing, in accordance with RIGL §45-53-4(d)(10), the [CITY/TOWN] Council limits the annual total number of dwelling units in comprehensive permit applications from for-profit developers to an aggregate of one percent (1%) of the total number of year-round housing units in the [CITY/TOWN], as recognized in the affordable housing plan, andnotwithstanding the timetables set elsewhere in this section, the [planning board] shall consider comprehensive permit applications from for-profit developers sequentially in the order in which they are submitted.**[[2]](#footnote-2)2**
	1. *Municipal Subsidies.***[[3]](#footnote-3)3** In order to offset the differential cost of the low- or moderate-income housing units in the section, the following municipal subsides shall be provided:
3. Adjustments, meaning a request, or requests by the application to seek relief from the literal use and dimensional requirements of the zoning ordinance and/or the design standards or requirements of the [land development and subdivision regulations]. The standard for the [planning board’s] consideration of adjustments is set forth in [INSERT LOCAL SECTION REFERENCE] and RIGL §45-53-4(d)(2)(iii)(E)(II).
4. Density bonus. The [CITY/TOWN] shall provide the following density bonuses for projects submitted under this section provided that the total land utilized under in the density calculation shall exclude wetlands, wetland buffers, area devoted to infrastructure necessary for development, and easements or rights of way of record.
5. For projects connected to public water and sewer, or eligible to be connected to public water and sewer, demonstrated through written confirmation from each respective service provider the following density bonuses are provided:
6. For projects providing at least twenty-five (25%) low- and moderate-income housing the density bonus shall be five (5) units per acre.
7. For projects providing at least fifty percent (50%) low- and moderate-income housing the density bonus shall be nine (9) units per acre.
8. For projects providing at least 100 percent (100%) low- and moderate-income housing the density bonus shall be twelve (12) units per acre.
9. For properties not connected to either public water or sewer or both, but which provide competent evidence as to the availability of water to service the development and/or a permit for on-site wastewater treatment system to service the dwelling units from the applicable state agency the following density bonuses are provided:
10. For projects providing at least twenty-five (25%) low- and moderate-income housing the density bonus shall be three (3) units per acre.
11. For projects providing at least fifty percent (50%) low- and moderate-income housing the density bonus shall be five (5) units per acre.
12. For projects providing at least 100 percent (100%) low- and moderate-income housing the density bonus shall be eight (8) units per acre.
13. Parking. For comprehensive permit applications one (1) off-street parking space per dwelling unit is required for units up to and including two (2) bedrooms. Bedrooms. The bedroom count of units for a comprehensive permit are not limited to any count less than three (3) bedrooms for single family dwelling units, Floor area. There are no floor area limitations for comprehensive permit applications other than those provided by §45-24.3-11.

## *1.4 Application Procedure. The application and review process for a comprehensive permit shall be as follows:*

1. Pre-application conference. A pre-application conference may be required by the [administrative officer or planning board] or requested by the applicant. The preapplication conference may be with the [planning board], technical review committee, or administrative officer as determined appropriate by the administrative officer.**[[4]](#footnote-4)4**
2. In advance of the pre-application conference, the applicant shall submit a short written description of the project including the number of units, type of housing, density analysis, preliminary list of adjustments requested, a location map, and a conceptual site plan.
3. Upon request of the applicant for a pre-application conference, such conference will be scheduled and held within thirty (30) days of the request, unless a different timeframe is agreed to by the applicant in writing.
4. If thirty (30) days has elapsed from the filing of the pre-application submission, and no pre-application submission has taken place, nothing shall be deemed to preclude the applicant from thereafter filing and proceeding with an application for preliminary plan review.
5. Preliminary plan.
6. Submission requirements. Applications for preliminary plan under this section shall include:
7. A letter of eligibility issued by the Rhode Island Housing Mortgage Finance Corporation, or in the case of projects primarily funded by the U.S. Department of Housing and Urban Development or other state or federal agencies, an award letter indicating the subsidy, or application in such form as may be prescribed for a municipal government subsidy; and
8. A letter signed by the authorized representative of the applicant, setting forth the specific sections and provisions of applicable local ordinances and regulations from which the applicant is seeking adjustments; and
9. A proposed timetable for the commencement of construction and completion of the project; and
10. Those items included in the checklist for preliminary plan review with the exception of evidence of state or federal permits.**[[5]](#footnote-5)5**
11. Notwithstanding the submission requirements set forth above, the [planning board or commission]may request additional, reasonable documentation throughout the public hearing, including, but not limited to, opinions of experts, credible evidence of application for necessary federal and or state permits, and advice from other local boards and officials.
12. Certification of completeness. The preliminary plan must be certified complete or incomplete by the administrative officer according to the provisions of [INSERT LOCAL SECTION REFERENCE], provided, however, that the certificate shall be granted within twenty-five (25) days of submission of an application. The running of the time period set forth herein will be deemed stopped upon the issuance of a written certificate of incompleteness of the application by the administrative officer and will recommence upon the resubmission of a correct application by the applicant. However, in no event will the administrative officer be required to certify a corrected submission as complete or incomplete less than ten (10) days after its resubmission. If the administrative officer certifies the application as incomplete, the officer shall set forth in writing with specificity the missing or incomplete items.
13. Public hearing. A public hearing shall be noticed and held as soon as practicable after the issuance of a certificate of completeness.
14. Notice. Public notice for the public hearing will be the same notice required under local regulations for a public hearing for a master plan**[[6]](#footnote-6)6.** The cost of notice shall be paid by the applicant.
15. Timeframe for review. The [planning board] shall render a decision on the preliminary plan application within ninety (90) days of the date the application is certified complete, or within a further amount of time that may be consented to by the applicant through the submission of written consent.
16. Failure to act. Failure of the [planning board] to act within the prescribed period constitutes approval of the preliminary plan and a certificate of the administrative officer as to the failure of the [planning board] to act within the required time and the resulting approval shall be issued on request of the applicant. Further, if the public hearing is not convened or a

decision is not rendered within the time allowed in [INSERT LOCAL SECTION REFERENCE], the application is deemed to have allowed and the preliminary plan approval shall be issued immediately.

1. Vesting. The approved preliminary plan is vested for a period of two (2) years with the right to extend for two (2), one-year extension upon written request by the applicant, who must appear before the [planning board] for each annual review and provide proof of valid state or federal permits as applicable. Thereafter, vesting may be extended for a longer period, for good cause shown, if requested, in writing by the applicant, and approved by the [planning board]. The vesting for the preliminary plan approval includes all ordinances and provisions and regulations at the time of the approval, general and specific conditions shown on the approved preliminary plan drawings and support material.
2. Final plan. The second and final stage of review for the comprehensive permit project shall be done administratively, unless an applicant has requested and been granted any waivers from the submission of checklist items for preliminary plan review, and then, at the [planning board’s] discretion, it may vote to require the applicant to return for final plan review and approval.
3. The following items shall be submitted as part of the final plan submission:
4. All required state and federal permits must be obtained prior to the final plan approval.
5. A draft monitoring agreement which identifies an approved entity that will monitor the long-term affordability of the low- and moderate-income units pursuant to RIGL §45-53-3.2.
6. A sample land lease or deed restriction with affordability liens that will restrict use as low- and moderate-income housing in conformance with the guidelines of the agency providing the subsidy for the low- and moderate-income housing, but for a period of not less than thirty (30) years.
7. Those items included in the checklist for final plan review.
8. Arrangements for completion of the required public improvements, including construction schedule and/or financial guarantees.
9. Certification by the tax collector that all property taxes are current.
10. For phased projects, the final plan for phases following the first phase, shall be accompanied by copies of as-built drawings not previously submitted of all existing public improvements for prior phases.
11. Certificate of completeness. The final plan application must be certified complete or incomplete by the administrative officer according to the provisions of § 45-23-36; provided however, that, the certificate shall be granted within twenty-five (25) days of submission of the application. The running of the time period set forth herein will be deemed stopped upon the issuance of a written certificate of incompleteness of the application by the administrative officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event will the administrative officer be required to certify a corrected submission as complete or incomplete less than ten (10) days after its resubmission. If the administrative officer certifies the application as incomplete, the officer shall set forth in writing with specificity the missing or incomplete items.
12. Timeframe for review. The reviewing authority shall render a decision on the final plan application within forty-five (45) days of the date the application is certified complete.
13. Decision on final plan. An application filed in accordance with this article shall be approved by the administrative officer unless such application does not satisfy conditions set forth in the preliminary plan approval decision or such application does not have the requisite state and/or federal approval or other required submissions, does not post the required improvement bonds, or such application is a major modification of the plans approved at preliminary plan.
14. Failure to act. Failure of the reviewing authority to act within the prescribed period constitutes approval of the final plan and a certificate of the administrative officer as to the failure to act within the required time and the resulting approval shall be issued on request of the applicant.
15. Vesting. The approved final plan is vested for a period of two (2) years with the right to extend for one one-year extension upon written request by the applicant, who must appear before the planning board for the extension request. Thereafter, vesting may be extended for a longer period, for good cause shown, if requested, in writing by the applicant, and approved by the local review board.
	1. *Modifications and changes to plans.*
16. Minor changes, as defined in the local regulations, to the plans approved at preliminary plan may be approved administratively, by the administrative officer, whereupon final plan approval may be issued. The changes may be authorized without additional public hearings, at the discretion of the administrative officer. All changes shall be made part of the permanent record of the project application. This provision does not prohibit the administrative officer from requesting a recommendation from either the technical review committee or the local review board. Denial of the proposed change(s) shall be referred to the local review board for review as a major change.
17. Major changes, as defined in the local regulations, to the plans approved at preliminary plan may be approved only by the local review board and must follow the same review and public

*1.6 Required findings.*

1. Required findings for approval. In approving a preliminary plan application for a comprehensive permit, the local review board shall make positive findings, supported by legally competent evidence on the record which discloses the nature and character of the observations upon which the fact finders acted, on each of the following standard provisions, where applicable:
2. The proposed development is consistent with local needs as identified in the comprehensive plan with particular emphasis on the affordable housing plan and/or has satisfactorily addressed the issues where there may be inconsistencies.
3. The proposed development is in compliance with the standards and provisions of the zoning ordinance and subdivision regulations, and/or where adjustments are requested by the applicant, that local concerns that have been affected by the relief granted do not outweigh the state and local need for low- and moderate-income housing.
4. All low- and moderate-income housing units proposed are integrated throughout the development; are compatible in scale and architectural style to the market rate units within the project; and will be built and occupied prior to, or simultaneous with the construction and occupancy of any market rate units.
5. There will be no significant negative impacts on the health and safety of current or future residents of the community, in areas including but not limited to, safe circulation of pedestrian and vehicular traffic, provision of emergency services, sewerage disposal, availability of potable water, adequate surface water runoff, and the preservation of natural, historical, or cultural features that contribute to the attractiveness of the community.
6. All proposed land development and all subdivision lots will have adequate and permanent physical access to a public street in accordance with the requirements of [INSERT LOCAL SECTION REFERENCE].
7. The proposed development will not result in the creation of individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable, unless created only as permanent open space or permanently reserved for a public purpose on the approved, recorded plans.
8. Required findings for denial. In reviewing the comprehensive permit request, the local review board may deny the request for any of the following reasons:
9. The [CITY/TOWN] has an approved affordable housing plan and is meeting housing needs, and the proposal is inconsistent with the affordable housing plan; provided that, the local review board also finds that the municipality has made significant progress in implementing the housing plan;
10. The proposal is not consistent with local needs, including, but not limited to, the needs identified in an approved comprehensive plan, and/or local zoning ordinance and procedures promulgated in conformance with the comprehensive plan;
11. The proposal is not in conformance with the comprehensive plan;
12. The community has met or has plans to meet the goal of ten percent (10%) of the year-round units,[or, in the case of an urban town or city, fifteen percent (15%) of the occupied rental housing units as defined in RIGL 45-53-3(4)(i) being low- and moderate-income housing]**[[7]](#footnote-7)7**  provided that, the local review board also finds that the community has achieved or has made significant progress towards meeting the goals of the affordable housing plan; or**[[8]](#footnote-8)8**
13. Concerns for the environment and the health and safety of current residents have not been adequately addressed.
14. Infeasibility of Conditions of Approval. The burden is on the applicant to show, by competent evidence before the local review board, that proposed conditions of approval are infeasible, as defined in R.I. Gen. Laws § 45-53-3. Upon request, the applicant shall be provided a reasonable opportunity to respond to such proposed conditions prior to a final vote on the application.
1. RIGL §45-53-3(5) includes additional language for this definition that should be reviewed and potentially included in this definition as applicable. [↑](#footnote-ref-1)
2. 2 This provision to limit for-profit applications is optional and is predicated on the city/town meeting local housing needs. Changes to RIGL §45-53-3(10) altered the meaning of “meeting local housing needs” to require a showing that at least twenty percent (20%) of the total residential units approved by a local review board or any other municipal board in a calendar year are for low- and moderate-income housing as defined in RIGL §42-128-8.1. This restricts the use of this provision to only those that can meet the new definition. It is provided in this template as optional language. If this provision is included in a local ordinance it needs to be consistent with state law as written here. [↑](#footnote-ref-2)
3. 3 Amended RIGL §45-53-4 sets minimum subsidies that must be provided for comprehensive permit applications. Those minimum subsidies are provided in this section. Municipalities are permitted to give more by way of a municipal subsidy but cannot provide less than what is outlined here. These can include but are not limited to direct financial support, abatement of taxes, waivers of fees and charges, and approval of density bonuses and/or internal subsidies, zoning incentives, and adjustments as defined in RIGL §45-53-4 [↑](#footnote-ref-3)
4. 4 RIGL 45-53-4(d)(1) indicates that a pre-application is optional at the request of the municipality and/or the applicant. The language for a pre-application from the enabling legislation is provided for this section but is represented as optional language. If the municipality chose to insert the pre-application language it should be inserted as represented in this template. This section of the enabling legislation does not identify who makes a determination as to who conducts the pre-application review and only indicates “as determined appropriate”. This template inserts the administrative officer as the determining authority. Municipalities should confer with their solicitor on this issue. [↑](#footnote-ref-4)
5. 5 Amended RIGL §45-53-4(d)(3)(i)(A) allows for all required state and federal permits to be obtained prior to the final plan approval or the issuance of a building permit. [↑](#footnote-ref-5)
6. 6 RIGL 45-53-4(d)(2)(iii)(B) states that the public hearing notice shall be the same as required under the local regulations for a public hearing for preliminary plan. RIGL 45-23-39(c)(4) states that the master plan stage of review is when the public hearing is held. Municipalities should consult with their solicitor for a determination on how to comply with the enabling legislation in this section. [↑](#footnote-ref-6)
7. 7 RIGL 45-53-4(d)(2)(iii)(F)(IV) provides these two criteria dependent upon the municipality. The local ordinance should only reflect the applicable provision. [↑](#footnote-ref-7)
8. 8 See Amended RIGL §45-53-4(d)(iii)(F)(IV) [↑](#footnote-ref-8)