

**ADDENDUM - FEBRUARY 14, 2001
(AMENDED SEPTEMBER 14, 2005)**

Article VII, Section 15: Administrative Procedures: Comprehensive Permit for Low and Moderate Income Housing

A. Authority to Grant Comprehensive Permit.

In accordance with Title 45, Chapter 53 of the Rhode Island General Laws, the Low and Moderate Income Housing Act (as amended) the local review board shall have the power to issue a comprehensive permit for a qualifying low or moderate income housing project, which relief shall include all permits or approvals from any local board or official who would otherwise act with respect to such application including, but not limited to, the power to attach to the permit or approval conditions and requirements with respect to setbacks, height, site plan, size, shape, building materials, landscaping, and parking consistent with the terms of the Act.

B. Designation of Local Review Board.

The Town Planning Board is hereby designated as the local review board and all references in this ordinance to local review board shall be to the Planning Board.

C. Definitions.

(1) "Affordable housing plan" means that component of the Housing Element of the Town Comprehensive Plan designed to meet the housing needs in the town.

(2) "Approved affordable housing plan" means the affordable housing plan that has been approved by the Director of Administration as meeting the guidelines for the local comprehensive plan as promulgated by the State Planning Council.

(3) "Comprehensive plan" means the Comprehensive Plan of the Town adopted and approved by the Town pursuant to Chapters 22.2 and 22.3 of the Rhode Island General Laws.

(4) "Consistent with local needs" means reasonable in view of the state need for low or moderate income housing, considered with the number of low income persons in the town affected and the need (a) to protect the health and safety of the occupants of the proposed housing or of the residents of the town, (b) to promote better site and building design in relation to the surroundings, or (c) to preserve open spaces, and if the local zoning or land use ordinances, requirements, and regulations are applied as equally as possible to both subsidized and unsubsidized housing.

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

(6) "Low or moderate income housing" 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 housing affordable to low or moderate income households, as defined in the applicable federal or state statute, or local ordinance 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.

D. 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(a)(xiii) the West Greenwich 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 town, as recognized in the affordable housing plan. This provision shall not become effective until the Town receives State approval of its locally adopted Affordable Housing Plan.

(3) Notwithstanding the timetables set forth elsewhere in this ordinance, the local review board shall have the authority to consider comprehensive permit applications from for-profit developers, which are made pursuant to this paragraph, sequentially in the order in which they are submitted. This provision shall not become effective until the Town receives State approval of its locally adopted Affordable Housing Plan.

E. Application and Review Procedures.

Application and review procedures shall be set forth in the Town of West Greenwich Subdivision and Land Development Regulations.

F. Criteria for Approval.

In approving an 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:

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

(2) The proposed development is in compliance with the standards and provisions of the municipality's zoning ordinance and subdivision regulations, and/or where expressly varied or waived local concerns that have been affected by the relief granted do not outweigh the state and local need for low and moderate income housing.

(3) 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.

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

(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 run-off, and the preservation of natural, historical or cultural features that contribute to the attractiveness of the community.

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

(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.

G. Criteria for denial.

The local review board may deny the request for any of the following reasons:

(1) The Town has an approved affordable housing plan and is meeting housing needs, and the proposal is inconsistent with the affordable housing plan. In this section "meeting housing needs" means adoption of the implementation program of an approved affordable housing plan and 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.

(2) 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 ordinances and procedures promulgated in conformance with the comprehensive plan. Local zoning and land use ordinances, requirements, or regulations are consistent with local needs when imposed by the Town Council after comprehensive hearing, and, the Town either has existing low or moderate income housing units in excess of ten percent (10%) of the year-round housing units reported in the latest decennial census of the town, or the Town has promulgated zoning or land use ordinances, requirements, and regulations to implement a comprehensive plan which has been adopted and approved pursuant to state law, and the housing element of the comprehensive plan provides for low and moderate income housing in excess of ten percent (10%) of the year-round housing units.

(3) The proposal is not in conformance with the Comprehensive Plan.

(4) The Town has met or has plans to meet the goal of ten percent (10%) of the year-round units being low and moderate income housing.

(5) Concerns for the environment and the health and safety of current residents have not been adequately addressed.

In the case of a denial, if the applicant fails to meet one or more of the criteria for approval, where applicable, then the local review board shall make negative findings on those provisions as part of its decision.

H. Voting and Appeal.

All decisions on comprehensive permits shall be by majority vote of the membership of the local review board and may be appealed by the applicant to the State Housing Appeals Board. Any person aggrieved by the issuance of an approval may appeal to the R.I. Supreme Court.

I. Expiration of Approval and Construction.

A comprehensive permit shall expire unless construction is started within twelve (12) months and completed within sixty (60) months of Final Plan approval unless a longer and/or phased period for development is agreed to by the local review board and the applicant. Low and moderate income housing units shall be built and occupied prior to, or simultaneous with the construction and occupancy of market rate units.