

2013 -- H 5425

=====
LC01220
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

—————
A N A C T

RELATING TO TOWNS AND CITIES -- THE DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT--JURISDICTION

Introduced By: Representatives Serpa, Fellela, Nunes, Shekarchi, and Chippendale

Date Introduced: February 13, 2013

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-6-1 of the General Laws in Chapter 45-6 entitled "Ordinances"
2 is hereby amended to read as follows:
3 **45-6-1. Scope of ordinances permissible.** -- (a) Town and city councils may, from time
4 to time, make and ordain all ordinances and regulations for their respective towns and cities, not
5 repugnant to law, which they deem necessary for the safety of their inhabitants from fire,
6 firearms, and fireworks; to prevent persons standing on any footwalk, sidewalk, doorstep, or in
7 any doorway, or riding, driving, fastening, or leaving any horse or other animal or any carriage,
8 team, or other vehicle on any footwalk, sidewalk, doorstep, or doorway within the town or city, to
9 the obstruction, hindrance, delay, disturbance, or annoyance of passersby or of persons residing
10 or doing business in this vicinity; to regulate the putting up and maintenance of telegraph and
11 other wires and their appurtenances; to prevent the indecent exposure of any one bathing in any of
12 the waters within their respective towns and cities; against breakers of the Sabbath; against
13 habitual drunkenness; respecting the purchase and sale of merchandise or commodities within
14 their respective towns and cities; to protect burial grounds and the graves in these burial grounds
15 from trespassers; and, generally, all other ordinances, regulations and bylaws for the well
16 ordering, managing, and directing of the prudential affairs and police of their respective towns
17 and cities, not repugnant to the constitution and laws of this state, or of the United States;
18 provided, however, that local ordinances, regulations and bylaws shall not set forth any standards

1 and/or requirements for the location, design, construction, or maintenance of on-site sewage
2 disposal systems and/or wetland setbacks or requirements which are inconsistent with or in
3 excess of the standards imposed: (1) By the director of the department of environmental
4 management ("director") under authority given to the director as set forth in section 42-17.1-2; or
5 (2) By the coastal resources management council pursuant to its authority to regulate coastal
6 wetlands and freshwater wetlands in the vicinity of the coast pursuant to and in accordance with
7 subparagraph 46-23-6(2)(iii)(E). Current state regulations governing septic systems and wetlands
8 shall be deemed exclusive and adequate for the protection of the state's water resources,
9 notwithstanding any local regulations to the contrary.

10 (b) Town and city councils shall furnish to their senators and representatives, upon
11 request and at no charge, copies and updates of all ordinances and regulations.

12 (c) In lieu of newspaper publication, advance notice of proposed adoption, amendment,
13 or repeal of any ordinance or regulation by a municipality may be provided via electronic media
14 on a website maintained by the office of the secretary of state.

15 SECTION 2. Section 45-23-30 of the General Laws in Chapter 45-23 entitled
16 "Subdivision of Land" is hereby amended to read as follows:

17 **45-23-30. General purposes of land development and subdivision review ordinances,**
18 **regulations and rules.** -- Land development and subdivision review ordinances, regulations and
19 rules shall be developed and maintained in accordance with this chapter and with a
20 comprehensive plan which complies with chapter 22.2 of this title and a zoning ordinance which
21 complies with section 45-24-27 et seq. Local regulations shall address the following purposes:

22 (1) Providing for the orderly, thorough and expeditious review and approval of land
23 developments and subdivisions;

24 (2) Promoting high quality and appropriate design and construction of land
25 developments and subdivisions;

26 (3) Promoting the protection of the existing natural and built environment and the
27 mitigation of all significant negative impacts of any proposed development on the existing
28 environment;

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

33 (5) Encouraging local design and improvement standards to reflect the intent of the
34 community comprehensive plans with regard to the physical character of the various

1 neighborhoods and districts of the municipality;

2 (6) Promoting thorough technical review of all proposed land developments and
3 subdivisions by appropriate local officials;

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

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

10 (9) Local regulations shall not set forth any standards and/or requirements for the
11 location, design, construction, or maintenance of on-site sewage disposal systems and/or wetland
12 setbacks or requirements, which are inconsistent with or in excess of the standards imposed: (i)
13 By the director of the department of environmental management ("director"), under the authority
14 given to the director as set forth in section 42-17.1-2; or (ii) By the costal resources management
15 council pursuant to its authority to regulate coastal wetlands and freshwater wetlands in the
16 vicinity of the coast pursuant to and in accordance with subparagraph 46-23-6(2)(iii)(E). Current
17 state regulations governing septic systems and wetlands shall be deemed exclusive and adequate
18 for the protection of the state's water resources, notwithstanding any local regulations to the
19 contrary.

20 SECTION 3. Section 45-24-30 of the General Laws in Chapter 45-24 entitled "Zoning
21 Ordinances" is hereby amended to read as follows:

22 **45-24-30. General purposes of zoning ordinances.** -- Zoning regulations shall be
23 developed and maintained in accordance with a comprehensive plan prepared, adopted, and as
24 may be amended, in accordance with chapter 22.2 of this title and shall be designed to address the
25 following purposes. The general assembly recognizes these purposes, each with equal priority and
26 numbered for reference purposes only.

27 (1) Promoting the public health, safety, and general welfare.

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

30 (3) Providing for orderly growth and development which recognizes:

31 (i) The goals and patterns of land use contained in the comprehensive plan of the city or
32 town adopted pursuant to chapter 22.2 of this title;

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

- 1 (iii) The values and dynamic nature of coastal and freshwater ponds, the shoreline, and
2 freshwater and coastal wetlands;
- 3 (iv) The values of unique or valuable natural resources and features;
- 4 (v) The availability and capacity of existing and planned public and/or private services
5 and facilities;
- 6 (vi) The need to shape and balance urban and rural development; and
- 7 (vii) The use of innovative development regulations and techniques.
- 8 (4) Providing for the control, protection, and/or abatement of air, water, groundwater,
9 and noise pollution, and soil erosion and sedimentation.
- 10 (5) Providing for the protection of the natural, historic, cultural, and scenic character of
11 the city or town or areas in the municipality.
- 12 (6) Providing for the preservation and promotion of agricultural production, forest,
13 silviculture, aquaculture, timber resources, and open space.
- 14 (7) Providing for the protection of public investment in transportation, water, stormwater
15 management systems, sewage treatment and disposal, solid waste treatment and disposal, schools,
16 recreation, public facilities, open space, and other public requirements.
- 17 (8) Promoting a balance of housing choices, for all income levels and groups, to assure
18 the health, safety and welfare of all citizens and their rights to affordable, accessible, safe, and
19 sanitary housing.
- 20 (9) Providing opportunities for the establishment of low and moderate income housing.
- 21 (10) Promoting safety from fire, flood, and other natural or unnatural disasters.
- 22 (11) Promoting a high level of quality in design in the development of private and public
23 facilities.
- 24 (12) Promoting implementation of the comprehensive plan of the city or town adopted
25 pursuant to chapter 22.2 of this title.
- 26 (13) Providing for coordination of land uses with contiguous municipalities, other
27 municipalities, the state, and other agencies, as appropriate, especially with regard to resources
28 and facilities that extend beyond municipal boundaries or have a direct impact on that
29 municipality.
- 30 (14) Providing for efficient review of development proposals, to clarify and expedite the
31 zoning approval process.
- 32 (15) Providing for procedures for the administration of the zoning ordinance, including,
33 but not limited to, variances, special-use permits, and, where adopted, procedures for
34 modifications.

1 (16) Providing opportunities for reasonable accommodations in order to comply with the
2 Rhode Island Fair Housing Practices Act, chapter 37 of title 34, the United States Fair Housing
3 Amendments Act of 1988 (FHAA), the Rhode Island Civil Rights of Persons with Disabilities
4 Act, chapter 87 of title 42, and the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C.
5 section 12101 et seq.

6 Provided, however, that any zoning ordinance ~~in which a community~~ shall not ~~sets~~ set
7 forth any standards and/or requirements for the location, design, construction, or maintenance of
8 on-site sewage disposal systems and/or wetland setbacks or requirements, which are inconsistent
9 with or in excess of the standards imposed: (i) By the director of the department of environmental
10 management ("director"), under the authority given to the director as set forth in section 42-17.1-
11 2; or (ii) By the costal resources management council pursuant to its authority to regulate coastal
12 wetlands and freshwater wetlands in the vicinity of the coast pursuant to and in accordance with
13 subparagraph 46-23-6(2)(iii)(E). ~~shall first be submitted to the director of the department of~~
14 ~~environmental management and the department of health for approval as to the technical merits of~~
15 ~~the ordinance. In addition, any zoning ordinance in which a municipality sets forth standards~~
16 ~~regarding wetland setbacks or requirements, shall first be submitted to the director of the~~
17 ~~department of environmental management for approval as to the technical merits of the~~
18 ~~ordinance.~~ Current state regulations governing septic systems and wetlands shall be deemed
19 exclusive and adequate for the protection of the state's water resources, notwithstanding any local
20 regulations to the contrary.

21 SECTION 4. This act shall take effect two (2) years following the date of its passage to
22 allow the department of environmental management time to determine whether any of the
23 standards set forth in its regulations pertaining to wetlands or on-site sewage disposal systems
24 require modification and to allow the coastal resources management council time to determine
25 whether any of the standards set forth in its regulations pertaining to wetlands require
26 modification.

=====
LC01220
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES -- THE DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT--JURISDICTION

1 This act would empower the department of environmental management as the central
2 review agency for review of land development and subdivision proposals.

3 This act would take effect two (2) years following the date of its passage to allow the
4 department of environmental management time to determine whether any of the standards set
5 forth in its regulations pertaining to wetlands or on-site sewage disposal systems require
6 modification and to allow the coastal resources management council time to determine whether
7 any of the standards set forth in its regulations pertaining to wetlands require modification.

8 This act would take effect upon passage.

=====
LC01220
=====