2009 -- H 5593

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S T A T E O F R H O D E I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2009

A N A C T

RELATING TO TOWNS AND CITIES -- ZONING

Introduced By: Representatives Gallison, and San Bento

Date Introduced: February 25, 2009

Referred To: House Municipal Government

It is enacted by the General Assembly as follows:

SECTION 1. Sections 45-24-29, 45-24-34 and 45-24-50 of the General Laws in Chapter 45-24 entitled "Zoning Ordinances" are hereby amended to read as follows:

45-24-29. Legislative findings and intent. -- (a) (1) The general assembly recognizes and affirms in sections 45-24-27 through 45-24-72 that the findings and goals stated in section 45-22.2-3 present findings and goals with which zoning must be consistent.

(2) The general assembly further finds that:

(i) The zoning enabling statutes contained in sections 45-24-1 through 45-24-26, repealed as of December 31, 1994, were largely enacted in 1921;

(ii) The character of land development and related public and private services have changed substantially in the intervening years;

(iii) It is necessary to provide for innovative land development practices to enable cities and towns to adequately regulate the use of land and employ modern land development practices;

(iv) It is necessary to take full account of the requirement that each city and town amend its zoning ordinance to conform to and be consistent with its comprehensive plan adopted pursuant to chapter 22.2 of this title, and to all the elements contained therein; and

(v) A substantial updating and revision of the original statutory zoning enabling authority is required to meet these changed conditions.

(3) It is therefore found that the preparation and implementation of zoning ordinances is necessary to address the findings and needs identified in this section; to protect the public health,

safety, and general welfare; to allow the general assembly to carry out its duty to provide for the conservation of the natural resources of the state and to adopt all means necessary and proper by law for the preservation, regeneration, and restoration of the natural environment of the state in accordance with R.I. Const., art. 1, sections 16 and 17; to promote good planning practice; and to provide for sustainable economic growth in the state.

(b) Therefore, it is the intent of the general assembly:

(1) That the zoning enabling authority contained in this chapter provide all cities and towns with adequate opportunity to address current and future community and statewide needs;

(2) That the zoning enabling authority contained in this chapter require each city and town to conform its zoning ordinance and zoning map to be consistent with its comprehensive plan developed pursuant to chapter 22.2 of this title;

(3) That the zoning enabling authority contained in this chapter empower each city and town with the capability to establish and enforce standards and procedures for the proper management and protection of land, air, and water as natural resources, and to employ contemporary concepts, methods, and criteria in regulating the type, intensity, and arrangement of land uses, and provides authority to employ new concepts as they may become available and feasible;

(4) That the zoning enabling authority contained in this chapter permit each city and town to establish an economic impact commission whose duties would be to advise municipalities on the economic impact new zoning changes would have on cities and towns and private property owners, and to assist municipalities in determining financial impacts when new or changed zoning adversely affects business climate, land use, property value, natural and historic resources, industrial use, or development of private property; and may permit the use of land and buildings within the groundwater protection zones for agricultural purposes and shall encourage the use of farmland in a manner which is consistent with the protection of groundwater resources; and

(5) That each city and town amend its zoning ordinance to comply with the terms of this chapter~~.~~ ; and

(6) That in cases when each city and town has not yet amended its zoning ordinances to reflect amendments to the city or town's comprehensive plan, any conflicts or inconsistencies contained therein be resolved in favor of the provisions of the current zoning ordinances and zoning map.

45-24-34. General provisions – Purpose and consistency with comprehensive plan. -- (a) A zoning ordinance adopted pursuant to this chapter shall provide a statement of its purposes.

Those purposes shall be consistent with section 45-24-30. A zoning ordinance adopted or amended pursuant to this chapter shall include a statement that the zoning ordinance is consistent with the comprehensive plan of the city or town adopted pursuant to chapter 22.2 of this title, or as otherwise provided below and shall provide that in the instance of uncertainty in the construction or application of any section of the ordinance, the ordinance shall be construed in a manner that will further the implementation of, and not be contrary to, the goals and policies and applicable elements of the comprehensive plan.

(b) The city or town shall bring the zoning ordinance or amendment into conformance with its comprehensive plan as approved by the director of administration, the state comprehensive plan appeal board, or the Supreme Court not more than eighteen (18) months after approval is given. A zoning ordinance shall address and specify requirements for the coordination between contiguous communities, the state, and other agencies, as required by chapter 22.2 of this title.

(c) That in cases when each city and town has not yet amended its zoning ordinances to reflect amendments to the city or town's comprehensive plan, that any conflicts or inconsistencies contained therein be resolved in favor of the provisions of the current zoning ordinances and zoning map.

45-24-50. Adoption -- Power of council to adopt -- Consistency with comprehensive plan. -- (a) For the purpose of promoting the public health, safety, morals, and general welfare, a city or town council has the power, in accordance with the provisions of this chapter, to adopt, amend, or repeal, and to provide for the administration, interpretation, and enforcement of, a zoning ordinance. The provisions of a zoning ordinance are stated in text and map(s), and may incorporate charts or other material.

(b) A zoning ordinance, and all amendments to it, must be consistent with the city or town's comprehensive plan, as described in chapter 22.2 of this title, and provide for the implementation of the city or town comprehensive plan.

(c) A zoning ordinance adopted or amended during the pendency of the approval of a municipality's comprehensive plan must be consistent with that plan, until the zoning ordinance is brought into full compliance with the Comprehensive Planning Act, section 45-22.2-5(a)(4).

(d) The city or town must bring the zoning ordinance or amendment into conformance with its comprehensive plan as approved by the director of administration, the state comprehensive plan appeal board, or the supreme court not more than eighteen (18) months after approval is given.

(e) That in cases when each city and town has not yet amended its zoning ordinances to

reflect amendments to the city or town's comprehensive plan, that any conflicts or inconsistencies contained therein be resolved in favor of the provisions of the current zoning ordinances and zoning map.

SECTION 2. This act shall take effect upon passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

A N A C T

RELATING TO TOWNS AND CITIES -- ZONING

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This act would provide that in instances where a city and town has not yet amended its zoning ordinances to reflect amendments to the city or town's comprehensive plan, any conflicts or inconsistencies contained therein would be resolved in favor of the provisions of the current zoning ordinances and zoning map.

This act would take effect upon passage.

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