

Rules implementing
The Rhode Island Low and Moderate Income Housing Act
established pursuant to R.I.G.L. 45-53
Amended February 2003

1.00

Purpose and Authority

1.01

The General Assembly hereby finds and declares that there exists an acute shortage of affordable, accessible, safe and sanitary housing for its citizens of low and moderate income, both individuals and families; that it is imperative that action be taken immediately to assure the availability of affordable, accessible, safe and sanitary housing for these persons; that it is necessary that each city and town provide opportunities for the establishment of low and moderate income housing; and that the provisions of this chapter are necessary to assure the health, safety and welfare of all citizens of this state and that each citizen enjoys the right to affordable, accessible, safe and sanitary housing. It is further declared to be the purpose of this chapter to provide for housing opportunities for low and moderate income individuals and families in each city and town of the state.

1.02

Authority to establish rules and regulations is given to the chair of the State Housing Appeals Board pursuant to R.I.G.L. 45-53.

2.00

Definitions

Whenever used in these rules, the following terms shall be construed as follows:

2.01

Aggrieved person means:

- (i) any person or persons or entity or entities who can demonstrate that their property will be injured by a decision of any officer or agency responsible for administering the zoning ordinance of a city or town; or
- (ii) anyone requiring notice pursuant to R.I.G.L. 45-53.

2.02

Calculation of the percentage of low and moderate income housing units means the calculation of low and moderate income housing units that shall be made annually by Rhode Island Housing and Mortgage Finance Corporation. The Executive Director of the Corporation shall determine and certify such percentages. The percentage determination for each city and town shall be revised annually to accurately reflect the percentage of low and moderate income units in each city and town. In addition to the percentage calculation for each community, the Executive Director shall publish a chart showing the number of eligible units for each community, the basis for the determination of each type of unit and any other information the Executive Director deems relevant. The chart shall then be forwarded for review to each community, which shall then have thirty days to

suggest modifications or revisions. Thereafter, and after review of any proposed modifications, the Executive Director shall, in writing, certify the chart for that year. The chart, together with supporting documentation, shall be kept in the possession of the Rhode Island Housing and Mortgage Finance Corporation, and shall be available for public inspection and copying.

2.03

Community residence means a home or residential facility where children and/or adults reside in a family setting and may or may not receive supervised care as defined in R.I.G.L. 45-24-31.15.

2.04

Completed application means a single application consisting of all forms, accompanying documents, exhibits and fees required pursuant to these rules submitted to request relief from the provisions of local ordinances in lieu of separate applications to the applicable local boards.

2.05

Comprehensive permit means a single application for a special exception to build low and moderate income housing in lieu of separate applications to applicable boards.

2.06

Comprehensive plan means a comprehensive plan adopted and approved by a city or town pursuant to R.I.G.L. 45-22.2 and 45-22.3

2.07

Consistent with local needs means:

- (i) consistent with local zoning and land use ordinances and other requirements and regulations which are reasonable in view of:
 - (a) the State's need for low and moderate income housing;
 - (b) the number of low income persons in the city or town affected;
 - (c) the need to protect the health and safety of the occupants of the proposed housing or of the residents of the city or town;
 - (d) the need to promote better site and building design in relation to the surroundings or to preserve open space; and if
 - (e) local zoning or land use ordinances, requirements and regulations are applied as equally as possible to both subsidized and unsubsidized housing.
- (ii) local zoning and land use ordinances, requirements or regulations for a particular city or town are deemed reasonable if that particular city or town has:
 - a) as reported in the latest decennial census of the city or town, low and moderate income units in excess of ten percent (10%) of the housing units or in excess of fifteen percent (15%) of the occupied rental units as provided in R.I.G.L. 45-53-3(2)(i)(A) or
 - (b) the comprehensive plan of the city or town and the zoning and land use ordinances, requirements and regulations to implement the comprehensive plan provide for low and moderate income units in excess

of the ten percent (10%) of the housing units or in excess of fifteen percent (15%) of the occupied rental units as provided in R.I.G.L. 45-53-3(2)(i)(A) as provided in (ii)(a) above.

2.08

Denial means the Zoning Board of Review:

- (i) refuses to grant a comprehensive permit; or
- (ii) extends the hearing without reasonable cause.

2.09

Final plan means the final plan as defined in R.I.G.L. 45-23.

2.10

Housing unit means a house, an apartment, a group of rooms or a single room occupied as a separate living quarters and as the occupants' usual place of residence or, if vacant, intended for occupancy as a separate living quarters. Separate living quarters are those in which the occupants live and eat separately from other persons in the building and which have direct access from the outside of the building or through a common hall. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements. (U.S. Census Bureau definition.)

2.11

Infeasible means any conditions attached to the zoning approval, which make it impossible for a public agency or non-profit organization or limited equity housing cooperative to build or operate low or moderate income housing:

- (i) without financial loss due to the requirements of the subsidizing state or federal agency in regard to the size and character of the development or the nature of the subsidy or limits imposed on tenant eligibility, rent levels or permissible income and
- (ii) without substantially changing the proposed rent levels and unit sizes.

2.12

Limited equity housing cooperative means a cooperative housing association or corporation organized and operated primarily for the benefit of low and moderate income persons, having articles of incorporation and whose equity, after allowance for maximum transfer value of its stock, is permanently dedicated to providing housing to persons of low and moderate income or to a charitable purpose.

2.13

Local board means any town or city zoning board of review, planning board or commission, platting board of review, building inspector or the officer or board having supervision of the construction of buildings or the power of enforcing municipal building, subdivision or zoning laws or city or town council or any other boards with similar authority.

2.14

Low and moderate income means low and moderate income as those terms are defined by the state or federal government program providing the subsidy for the proposed low or moderate income housing.

2.15

- Low and Moderate income housing** means any housing or community residence:
- (i) subsidized by the federal or state government under any program to assist the construction or rehabilitation of low and moderate income housing as defined in the applicable federal or state statute and
 - (ii) built or operated by:
 - (a) any public agency or nonprofit organization or limited equity housing cooperative or
 - (b) private developer of low or moderate income housing that remains low and moderate income housing for a period of not less than thirty (30) years from initial occupancy;
 - (iii) in which any non-residential component of the proposed development is secondary to the overall proposal, but in no event shall the non-residential component exceed the lower of:
 - (a) the non-residential proportion or other measure allowed pursuant to the development's proposed funding sources; or
 - (b) twenty-five percent (25%) of the gross square footage of the proposed development.
 - (iv) except tenant-based rental assistance, mortgages and mortgage insurance where there is no construction or rehabilitation under a state or federal program.

2.16

Major and minor land development plan and major and minor subdivision mean the major and minor land development and major and minor subdivision as defined in R.I.G.L. 45-23.

2.17

Master plan means the requirements for a master plan as defined in R.I.G.L. 45-23.

2.18

Nonprofit organization means a nonprofit corporation which has tax exempt status as determined by the United States Internal Revenue Service.

2.19

Public agency means any state, municipal or other governmental entity or public body or its agency or instrumentality.

2.20

Rehabilitation means substantial upgrade or modification of the interior or exterior of the structure, correction of substandard conditions and/or replacement of major housing systems in danger of failure, but excluding repairs of owner-occupied units and privately-owned rental units unless they, remain as low or moderate income housing for a period of not less than thirty (30) years from initial occupancy after rehabilitation as cited in R.I.G.L. 45-53-4 and section 2.14 of these rules.

2.21

Site control means evidence that the developer has control of the property in question: a copy of a properly executed deed, purchase and sale agreement, option agreement or lease agreement indicating the term of the lease.

2.22

State Housing Appeals Board means the board which hears appeals of denials or conditioned approvals from applicants filing an application for a comprehensive permit to construct or rehabilitate low or moderate income housing under the provisions of R.I.G.L. 45-53. The Board shall consist of nine members and one alternate as follows:

- (i) 1 District Court Judge (Chair)
- (ii) 1 local planning board member
- (iii) 1 local zoning board member
- (iv) 2 city and town council members
- (v) 1 alternate (a city or town council member)
- (vi) 1 affordable housing developer
- (vii) 1 affordable housing advocate
- (viii) 1 Director of the State Division of Planning or designee
- (ix) 1 Director of Rhode Island Housing or designee

2.23

Subsidized housing means housing which receives any direct or indirect state or federal financial assistance which reduces the cost of the development and results in the creation of affordable housing units for low and moderate income families.

NOTE:

THE PROCEDURES AND POWERS IN SECTIONS 3.0, 4.0 and 5.0 OF THESE RULES EITHER ARE REQUIRED BY R.I.G.L. 45-53 OR REFERENCED IN THE STATE ZONING ENABLING ACT, R.I.G.L. 45-24.

3.00

Procedure to Apply to the Zoning Board of Review for a Comprehensive Permit for Low and Moderate Income Housing

3.01

Entities eligible to file a single application for approval of construction or rehabilitation of low or moderate income housing are:

- (i) any public agency, nonprofit organization or limited equity housing cooperative proposing to build or rehabilitate low or moderate income housing; or
- (ii) any private developer proposing a low or moderate income housing which will remain as low and moderate income housing for a period of not less than thirty (30) years from initial occupancy.

3.02

Projects are eligible if sponsored by an eligible entity and:

- (i) are eligible for a subsidy from the state or federal government under any program to assist the construction or rehabilitation of low and moderate income housing; and

- (ii) have at least the minimum number of units reserved for low or moderate income housing as defined by the program providing the subsidy or twenty percent (20%) of the total number of units reserved for low or moderate income housing, whichever is greater.
- (iii) In the case of private developers, a monitoring entity shall be identified with the capacity and the procedures in place to monitor the affordability of the project for a period not less than thirty (30) years from the initial occupancy. Rhode Island Housing and Mortgage Finance Corporation shall publish a list of responsible monitoring entities or approve a monitoring entity not on the list and publish the criteria for monitoring. In the event that the designated entity cannot fulfill the monitoring role, the Rhode Island Housing and Mortgage Finance Corporation shall assume the monitoring responsibility.

3.03

Upon receipt of a completed application, the Zoning Board of Review shall:

- (i) notify each local board, as applicable, including but not limited to, the Planning Board, the city or town council, and the building inspector, of the filing of the application along with a copy of the application;
- (ii) within thirty (30) days of the receipt of a completed application hold a hearing advertised in accordance with R.I.G.L. 45-24-41; and
- (iii) notify all parties entitled to notice of such hearings in accordance with R.I.G.L. 45-24-53.

3.04

If the comprehensive permit application is for a major or minor land development plan or a major or minor subdivision, the entity applying for the comprehensive permit shall submit a copy of the comprehensive permit application directly to the administrative officer of the planning board at the same time the comprehensive permit application is filed with the Zoning Board of Review.

3.05

If the comprehensive permit application is for a major or minor land development plan or a major or minor subdivision, the comprehensive permit application must: (1) include the master plan for a major land development plan or subdivision or a preliminary plan for a minor land development plan or subdivision and (2) identify any waivers from the land development or subdivision regulations that are being requested by the applicant.

3.06

If the comprehensive permit application is for a major or minor land development plan or a major or minor subdivision, the planning board may present its preliminary review of the proposal before any presentation by the applicant at the initial hearing which must take place within thirty (30) days of the receipt of a completed application. The planning board shall make its final recommendations on the proposal before the official termination of the public hearing. The final authority to grant or deny any regulatory waivers remains with the Zoning Board of Review.

3.07

As required by R.I.G.L. 45-24-61, the Zoning Board of Review shall keep:

- (i) written minutes of the proceedings either taken by a stenographer or recorded by a sound-recording device and showing the vote of each member and indicating those members absent or failing to vote and written minutes; and
- (ii) records of its examinations, findings of fact, and other official actions pertaining to the application.

3.08

The Zoning Board of Review shall render a decision by majority vote of the Board within forty (40) days after the official termination of the public hearing. The Zoning Board of Review shall terminate the hearing when all public testimony has been received and all information, requested by the Zoning Board of Review has been received.

4.00

Powers of the Zoning Board of Review

4.01

The Zoning Board of Review shall have the same power to issue permits or approvals as 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 height, site plan, size or shape or building materials.

5.00

Actions of the Zoning Board of Review

5.01

The Zoning Board of Review may dispose of the application in the following manner

- (i) approve a comprehensive permit on the terms and conditions set forth in the application;
- (ii) deny a comprehensive permit as not consistent with local needs; or
- (iii) approve a comprehensive permit with conditions with respect to height, site plan, size, shape or building materials that do not render the construction or operation of such housing infeasible.

5.02

As provided for in R.I.G.L. 45-24-57, the Zoning Board of Review also may provide for issuance of conditional zoning approvals where proposed application would otherwise be approved except that one (1) or more state or federal agency approvals which are necessary are pending.

5.03

In reviewing the request for a comprehensive permit, the Zoning Board of Review may deny the request only if the proposal is inconsistent with local needs, including but not limited to:

- (i) the needs identified in an approved comprehensive plan, local zoning ordinances and procedures promulgated in conformance with the comprehensive plan;
- (ii) the proposal not being in conformance with the comprehensive plan;
- (iii) the community having met or planning to meet the standard of ten percent (10%) of its housing units being low and moderate income

- housing or the standard of fifteen percent (15%) of the occupied rental units being low and moderate income housing as provided in R.I.G.L. 45-53-3(2)(i)(A); or
- (iv) the concerns for the environment and the health and safety of current residents have not been adequately addressed.

5.04

Upon making its decision, The Zoning Board of Review immediately shall issue either:

- (i) a comprehensive permit which includes all conditions imposed; or
- (ii) if the comprehensive permit is denied, a written decision including the reasons for the denial.

5.05

If the hearing is not convened or a decision rendered within the time allowed, the application shall be considered to be allowed and approved. The time may be extended by mutual agreement between the Zoning Board of Review and the applicant.

5.06

In accordance with R.I.G.L. 45-24-61, any decision evidencing the granting of a variance, modification or special use shall also be recorded in the land evidence records of the city or town. If the comprehensive permit application is for a major or minor land development plan or a major or minor subdivision, any decision also must be signed and recorded in accordance with R.I.G.L. 45-23-64.

5.07

Any person aggrieved by the issuance of an approval may appeal to the Supreme Court in accordance with R.I.G.L. 45-53-4.

6.00

General Provisions of the State Housing Appeals Board

6.01

The State Housing Appeals Board shall maintain official records of all proceedings and maintain a file of all papers submitted to it for every proceeding to which these rules apply.

6.02

The principal office of the State Housing Appeals Board is located within the offices of Rhode Island Housing and Mortgage Finance Corporation. The office shall be open from 8:30 am to 5:00 pm daily, except Saturdays, Sundays and legal holidays.

6.03

All communications should be addressed to the State Housing Appeals Board, c/o Rhode Island Housing and Mortgage Finance Corporation.

6.04

All communications shall be deemed to be filed or received on the day on which they are actually received in the offices of Rhode Island Housing and Mortgage Finance Corporation.

6.05

Computation of any period of time referred to in these rules shall begin with the first day following the day upon which the action initiating such time period occurs. The last day of the period being computed is to be included unless it is a day on which the office of Rhode Island Housing and Mortgage Finance Corporation is closed, in which event the period shall run until the end of the next following business day.

6.06

Every application, statement and other document shall be signed by the filing party or at the discretion of the Board it shall not be reviewed.

7.00

Conditions under which an Appeal may be Filed

7.01

An appeal may be filed with the State Housing Appeals Board if the application to the Zoning Appeals Board was filed under the provisions of R.I.G.L. 45-53-4 and in accordance with section 3.0 of these rules and whenever such application is:

- (i) denied or
- (ii) granted with such conditions and requirements as to make the building or operation of such housing infeasible.

8.00

Procedure for Filing an Appeal

8.01

Such appeal shall be taken within twenty (20) days after the date of the notice of the decision of the Zoning Board of Review by filing with the State Housing Appeals Board the following documents and information:

- (i) a statement from the applicant describing the prior proceedings and the reasons upon which the appeal is based; and
- (ii) a copy of a completed application for a comprehensive permit as it was submitted to the Zoning Board of Review and which at a minimum shall consist of:
 - (a) a written request to the Zoning Board of Review to submit a single application to build or rehabilitate low or moderate income housing in lieu of separate applications to the applicable local boards. The written request shall include a list of requested exceptions to local requirements and regulations, including local codes, ordinances, by-laws or regulations, including any requested waivers from the land development or subdivision regulations, and a proposed timetable for completion of the project;
 - (b) evidence of site control;
 - (c) evidence of eligibility for a state or federal government subsidy, including a letter from the funding agency indicating the applicant and the project;
 - (d) evidence of incorporation and non-profit status, if appropriate;
 - (e) site development plans showing the

locations and outlines of proposed buildings; the proposed locations, general dimensions and materials for street, drives, parking areas, walks and paved areas; and proposed landscaping improvements and open areas within the site; plans will be signed whenever required by the Rhode Island State Building Code;

- (f) a report on existing site conditions and a summary of conditions in the surrounding areas, showing the location and nature of existing buildings, existing street elevations, traffic patterns and character of open areas, including wetlands and flood plains, in the neighborhood;
- (g) scaled architectural drawings; for each building the drawings shall be signed in accordance with the Rhode Island State Building Code and shall include typical floor plans, typical elevations and sections and shall identify construction type and exterior finish;
- (h) a tabulation of proposed buildings by type, size (number of bedrooms, floor area) and ground coverage and a summary showing the percentage of the tract to be occupied by buildings, by parking and other paved vehicular areas and by open spaces;
- (i) a utilities plan showing the proposed location and types of sewage, drainage and water facilities, including hydrants; and
- (j) a master plan, if the development proposal is for a major or minor land development plan or a major or minor subdivision;
- (k) a sample land lease or deed restrictions with affordability liens that will restrict use as low and moderate income housing units for a period of not less than thirty (30) years in the case of private developers proposing low and moderate income housing; and
- (l) the list of all persons entitled to notice in accordance with R.I.G.L. 45-24-53.

8.02

The State Housing Appeals Board shall forthwith notify the Zoning Board of Review and all persons on the applicant's list filed pursuant to 8.01(l) of the filing of the appeal. Upon receipt, the Zoning Board of Review shall post the notice of appeal in the City or Town hall in which the Zoning Board of Review is located for a period of not less than 10 days.

8.03

The Zoning Board of Review shall, within ten (10) days of the receipt of such notice, transmit to the State Housing Appeals Board a transcript describing its decision, the reasons for the decision, who was present and a record of their vote and a finding of facts as required in section 5.04 of these rules. The chair of the State Housing Appeals Board may waive submission for good cause.

8.04

Upon timely application any person or persons who can demonstrate that their property will be injured by a reversal or modification of the decision of the Zoning Board of Review shall be permitted to move to intervene. Such person or persons may move to intervene by submitting a letter to the State Housing Appeals Board setting forth the basis for their intervention no later than 10 days after the date of the sending by the State Housing Appeals Board of notice pursuant to 8.02. The State Housing Appeals Board shall rule on all motions to intervene.

8.05

The State Housing Appeals Board may require reasonable fees from the filing party in an amount not to exceed actual costs incurred including, but not limited to, the costs associated with the provision of a stenographic record of its proceedings, postage and photocopying.

9.00

Procedure for Hearing an Appeal

9.01

The appeal shall be heard by the State Housing Appeals Board within twenty (20) days of the receipt of the applicant's statement and completed application as required in section 8.01 of these rules.

9.02

At the hearing, the State Housing Appeals Board shall determine:

- (i) whether the appeal is properly brought before the State Housing Appeals Board, and
- (ii) if the State Housing Appeals Board determines that the appeal is properly brought before the State Housing Appeals Board, it may:
 - (a) review the record as presented to the State Housing Appeals Board and make a decision thereon;
 - (b) request written briefs on points of law raised by the appeal and establish a briefing schedule for their submission by the parties;
 - (c) request further information from the parties to the appeal, including but not limited to a stenographic transcript of the proceedings before the Zoning Board of Review;
 - (d) request a staff analysis of the appeal and its associated documentation from Rhode Island Housing;
 - (e) allow, in its discretion, the presentation by any party to the appeal of additional evidence in open hearing, which shall be added to the record for the purpose of considering the appeal;
 - (f) allow for the appointment of a hearing officer;
 - (g) allow the submission of pre-filed testimony;
 - (h) permit abutters and other interested parties, without being a party to the appeal and to the extent the State Housing Appeals Board allows, to present information pertinent to the appeal;

- (i) order that additional evidence be taken before the Zoning Board of Review upon conditions determined by the State Housing Appeals Board, where the State Housing Appeals Board, either on its own motion or motion of a party, has concluded that additional evidence would be material and there was good cause for the failure to present it at the original hearing before the Zoning Board of Review;
- (j) designate an arbitrator approved by the Superior Court arbitration program to conduct a mediation session between the parties to the appeal and the Zoning Board of Review to determine whether the appeal can be resolved short of a full hearing, and to report on the results of the mediation session to the State Housing Appeals Board.

9.03

A stenographic record of the proceedings shall be kept.

9.04

The State Housing Appeals Board shall render a written decision and order, based upon a majority vote of the membership of the Board, stating the findings of fact, its conclusions and the reasons for its decision within thirty (30) days after the termination of the hearing unless such time is extended by mutual agreement between the State Housing Appeals Board and the applicant.

9.05

Such decision and order may be appealed in the Supreme Court.

10.00

Powers of the State Housing Appeals Board

10.01

In hearing the appeal, the State Housing Appeals Board shall determine whether:

- (i) in the case of a denial of the application, the decision of the Zoning Board of Review was reasonable and consistent with local needs; or
- (ii) in case of the approval of an application with conditions or requirements imposed, whether such conditions and requirements make the construction or operation of such housing infeasible and whether they are consistent with local needs.

10.02

Standard for reviewing the appeal shall include, but not be limited to:

- (i) consistency of the decision to deny or consistency of the decision to condition the permit, with the approved comprehensive plan;
- (ii) the extent to which the community meets or plans to meet the ten percent (10%) standard for existing low and moderate income units or the fifteen percent (15%) standard for occupied rental units as provided in R.I.G.L. 45-53-3(2)(i)(A);
- (iii) the consideration of the health and safety of existing residents;
- (iv) the consideration of environmental protection;

- (v) the extent to which the community applies local zoning ordinances and special exception procedures evenly on subsidized and unsubsidized housing applications alike; and
- (vi) the extent to which the decision is consistent with local needs as defined in section 2.07 of these rules.

10.03

Calculation of the percentage of low and moderate income housing units shall be based on:

- (i) the total housing units from the latest decennial census, excluding military housing; and
- (ii) low and moderate income units completed and available for occupancy as of January 1, 1992.

10.04

If the State Housing Appeals Board finds:

- (i) in the case of a denial, that a decision of the Zoning Board of Review was unreasonable and not consistent with local needs, it shall vacate such decision and order the Zoning Board of Review to approve the application with conditions as appropriate; or
- (ii) in the case of an approval with conditions and requirements imposed, that the decision of Zoning Board of Review is not consistent with local needs, it shall issue a decision and order the Zoning Board of Review to modify or remove any such condition or requirement so as to make the proposal no longer infeasible and approving the application.

10.05

Land development or subdivision regulations not waived by the Zoning Board of Review or the State Housing Appeals Board and not inconsistent with R.I.G.L. 45-53 shall be in effect and governed by the rules, regulations, procedures and codes that would govern such activities in situations not involving a comprehensive permit under R.I.G.L. 45-53, including inspections and certifications by appropriate municipal personnel and the issuance of building permits and certificates of occupancy. Both the chair of the Zoning Board of Review and the chair of the planning board shall sign the final plan.

10.06

The State Housing Appeals Board shall retain jurisdiction over land development and subdivision projects for which it has issued a decision in order to resolve procedural ambiguities and disputes between the municipality and the developer.

10.07

The State Housing Appeals Board shall not issue any decision and order that would permit the building or operation of such housing in accordance with standards less safe than the applicable building and site requirements of the federal Department of Housing and Urban Development or the Rhode Island Housing and Mortgage Finance Corporation, whichever agency is financially assisting such housing or any other agency assisting such housing.

- 10.08 Decisions or conditions and requirements imposed by the Zoning Board of Review that are consistent with local needs shall not be vacated, modified or removed by the State Housing Appeals Board notwithstanding that such decision or conditions and requirements have the effect of denying or making the applicant's proposal infeasible.
- 11.00 Enforcement of the State Housing Appeals Board Decision
- 11.01 The State Housing Appeals Board or the applicant shall have the power to enforce the orders of the State Housing Appeals Board by action brought in Supreme Court.
- 11.02 The State Housing Appeals Board shall immediately notify the Zoning Board of Review of its decision and order and the Zoning Board of Review shall carry out the decision and order of the State Housing Appeals Board within thirty (30) days of its decision.
- 11.03 Upon failure to carry out the decision of the State Housing Appeals Board within the thirty (30) day period cited in section 11.02 of these rules, the decision and order of the State Housing Appeals Board shall, for all purposes, be deemed to be the action of the Zoning Board of Review, unless the applicant consents to a different decision or order by such Zoning Board of Review.
- 11.04 The decision of the State Housing Appeals Board shall be binding on the city or town which shall forthwith issue any and all necessary permits and approvals to allow the construction and operation of the housing as approved by the State Housing Appeals Board.
- 12.00 Terms and Conditions of Membership of the State Housing Appeals Board
- 12.01 All appointments shall be for two (2) year terms, except that the initial terms of members appointed by the Speaker of the House and the Majority Leader of the Senate shall be for a period of one (1) year.
- 12.02 A member shall receive no compensation for his/her services, but shall be reimbursed by the state for all reasonable expenses actually and necessarily incurred in the performance of his/her actual duties.
- 12.03 The State Housing Appeals Board shall hear all petitions for review filed under R.I.G.L. 45-53-5.
- 12.04 Rhode Island Housing and Mortgage Finance Corporation shall provide such space and clerical and other assistance as the State Housing Appeals Board may require.

13.00

Ethics and Conflict of Interest Standards for Members of the State Housing Appeals Board

It is the policy of the state of Rhode Island that public officials and employees must adhere to the highest standards of ethical conduct, respect the public trust and the rights of all persons, be open, accountable and responsive, avoid the appearance of impropriety, and not use their position for private gain or advantage.

13.01

The members of the State Housing Appeals Board are bound by the Rhode Island Code of Ethics, R.I.G.L. 36-14.

13.02

The alternate member of the State Housing Appeals Board shall act in the place of any other municipal member representing a city council, town council, planning board or zoning board who has recused herself or himself from voting or otherwise participating in the State Housing Appeals Board's consideration and disposition of the matter at issue, including but not limited to, consideration of and voting on an appeal brought to the State Housing Appeals Board which involves the city or town where the municipal member resides.

14.00

Changes and Waivers of Regulations

14.01

These rules and regulations may be amended from time to time in accordance with the provisions of the Administrative Procedures Act, R.I.G.L. 42-35-3.

14.02

Provisions of these rules and regulations may be waived for good cause by a two-thirds (2/3) vote of the nine member State Housing Appeals Board. In the event of such waiver, the Chair shall file with the record of the case a statement of the facts on which such a waiver is based. No waiver shall be made if it conflicts with any mandatory provisions of the statute.

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