Municipal Technical Assistance Program:

2023 Housing Bill Summaries

Bill Title	Zoning Enabling Act
House Number	H 6059 Substitute A
Senate Number	S 1032 Substitute A
Effective Date	January 1, 2024
Bill Overview	Amends provisions of the Zoning Enabling Act of 1991 related to variances, special-use permits, modifications, notice provisions, substandard lots of record, and lot merger.
Summary of Key Changes	• Amends the standards for granting a dimensional variance; specifically, eliminates the requirements that the hardship doesn't result primarily from the applicant's desire to realize greater financial gain, and the requirement that the relief granted is the least relief necessary. Clarifies the requirement that the applicant would suffer more than a mere inconvenience if the variance were denied by providing that this means "relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted." • Requires municipalities to allow for the granting of a special-use permit in conjunction with a dimensional variance. Previously this was optional, but with this change it is mandatory that it is allowed. • Zoning ordinances must now provide for a procedure under which a proposed use that is not specifically listed may be presented to either the zoning board or a local official or agency who is charged with the administration and enforcement of the ordinance for an evaluation and determination of whether the proposed use is of similar type, character, and intensity as a listed use requiring a special-use permit. This was previously optional. • Requires the zoning ordinances to provide for specific and objective criteria for the issuance of each use category of special-use permit. ○ If a local zoning ordinance does not provide for such criteria, the use is considered to be a permitted use. ○ Requires for specific and objective criteria to be by use category with associated uses identified. ○ The specific and objective criteria for any category or use cannot include a determination of consistency with the comprehensive plan. It is assumed to be consistent with the comprehensive plan with the passage of the

	zoning ordinance allowing the special use.
	• Requires municipalities to provide for the issuance of dimensional modifications, which was previously optional, and amends standards for granting the dimensional modification.
	  ○ Dimensional modifications of up to 15% of the dimensional requirement must be allowed and modifications between 15% and 25% of the dimensional requirement may be allowed.
	  ○ Modifications of less than 5% of the dimensional requirement may be granted without notice.
	  ○ Changes notification requirements to be consistent with those outlined in bill summary H 6068
	  ○ Standards for granting a modification were amended to remove the requirement that the modification be in harmony with the purposes and intent of the comprehensive plan and zoning ordinance and adds a requirement that the request does not violate any rules or regulations with respect to freshwater or coastal wetlands.
	  ○ Reduces the public comment period from 30 days to 14 days.
	• Requires that substandard lots of record have proportionally reduced dimensional standards that are equivalent to the proportion of the lot area of the substandard lot to the minimum lot area requirements for the district in which the lot is located. Any lot exceeding such reduced requirements must apply with a modification request or a dimensional variance.
	• Prohibits the merger of lots when the substandard lot of record has an area equal to or greater than the area of 50% of the lots within 200 feet of the subject lot, as confirmed by the zoning enforcement officer.
	• Allows municipalities to permit the alteration of nonconforming development that is established by variance or special-use permit by either special-use permit or by right.

Municipal Technical Assistance Program:

2023 Housing Bill Summaries

Bill Title	Adaptive Reuse
House Number	H 6090 Substitute A
Senate Number	S 1035 Substitute A
Effective Date	January 1, 2024
Bill Overview	Encourages the conversion of existing commercial buildings to residential and mixed-use as a permitted use, placing limitations on a municipality's authority to restrict density and dimensional requirements for adaptive reuse projects.

Summary of Key Changes	• Requires that adaptive reuse for the conversion of any commercial building, including offices, schools, religious facilities, medical buildings, and malls into residential units or mixed-use developments shall be a permitted use by right and allowed by specific and objective provisions of a zoning ordinance.
	  ○ Adaptive reuse developments must include the development of at least 50% of the existing gross floor area into residential units.
	  ○ The only exception to the permitted use is related to environmental land use restrictions recorded on the property preventing the conversion to residential use by RIDEM or the US EPA.
	• Such developments shall be exempt from off-street parking requirements of over one space per dwelling unit.
	• Curtails municipal authority to limit the density of such developments, as follows:
	  ○ High density development of at least 15 dwelling units per acre allowed for projects that are limited to the building's footprint, include at least 20% affordable housing, and have access to public utilities, or approved alternative water service/wastewater systems.
	  ○ All other adaptive reuse projects, the residential density permitted shall be the maximum allowed that otherwise meets all standards of minimum housing.
	  ○ Provides that existing building setbacks and height shall remain and be considered legally nonconforming.

Municipal Technical Assistance Program:

2023 Housing Bill Summaries

Bill Title	Transit-Oriented Development
House Number	H 6084 Substitute B
Senate Number	S 1052 Substitute A
Effective Date	January 1, 2024
Bill Overview	Create a transit-oriented development pilot (TOD) program to encourage residential housing near convenient public transportation.
Summary of Key Changes	• The program will allow municipalities to apply for funds for residential development that qualifies under the program. This is an optional program for municipalities to participate in. • To qualify the municipality must have developable land or properties within one-quarter mile radius of a regional mobility hub or one-eighth of a mile radius of a frequent transit stop as such terms are defined in the 2020 Rhode Island Transit Master Plan. • Provides increased density for residential development at a minimum of 10 units per acre along with more permissive dimensional and parking requirements. • The Department of Housing, in conjunction with input and data from the Department of Transportation and the Division of Statewide Planning is authorized to promulgate rules and regulations that establish the criteria to qualify, the process for application, submission requirements, reporting requirements, and penalties for lack of compliance. • As of today, there is no information publicly available on how the program will be organized or administered.

Municipal Technical Assistance Program:

2023 Housing Bill Summaries

Bill Title	Comprehensive Plan Implementation
House Number	H 6085 Substitute A
Senate Number	S 1033 Substitute A
Effective Date	March 1, 2024
Bill Overview	Requires a more specific implementation program through the creation of a strategic plan, including specific goals, implementation actions, and time frames for development of low-to-moderate-income housing. Requires annual reporting on the status of implementation of the strategic plan by the planning department and planning board to the city or town council for public review and discussion. This will not affect current valid comprehensive plans within their 10-year approval.
Summary of Key Changes	• Provides that comprehensive plans shall include "specific goals, implementation actions, and time frames for development of low- and moderate-income housing." • Establishes an 18-month deadline for a municipality to bring its zoning map into compliance with the future land use map set forth in the comprehensive plan and states that a valid comprehensive plan future land use map governs all local municipal land use decisions. • Provides that the implementation program in the comprehensive plan must contain a concise strategic plan that details the actions to be accomplished annually to achieve the goals and policies of the plan. Requires that the strategic plan be reviewed annually by the municipality by the submission of a report by the Planning Department to the Planning Board for their review, comment, and findings. The report summarizing the status of implementation must be submitted to the City or Town Council and reviewed at a public meeting. • Provides that if a municipality fails to fully update and re-adopt its comprehensive plan within 12 years from the date of the previous plan's adoption, the plan cannot serve as the basis for a denial of a municipal land use decision.

Municipal Technical Assistance Program:

2023 Housing Bill Summaries

Bill Title	Land Development and Subdivision
House Number	H 6061 Substitute Aaa
Senate Number	S 1034 Substitute A
Effective Date	January 1, 2024
Bill Overview	Amends the Land Development and Subdivision Review Enabling Act of 1992 related to the role of the planning board, technical review committee, and administrative officer. Amends the definition and processes for land development projects and development plan review and requires unified development review.
Summary of Key Changes	• Eliminates the Zoning Board as the Planning Board of Appeal with respect to all development approvals (retained only for non-permitting decisions of Administrative Officer (AO)). Appeals from Planning Board decisions will now go directly to Superior Court. • Broadens the authority of the AO to review and approve qualified applications. Expands who can be considered an AO and permits more than one person to be designated as the AO. • Development Plan Review (DPR) remains optional and provides a list of development types they can choose from to permit to be reviewed under DPR. • Defines and standardizes the process for DPR. Some developments that are now subject to land development project review (multi-stage review process with multiple public hearings) could be reviewed under the DPR framework. o DPR is defined as follows: "Design or site plan review of a development of a permitted use. A municipality may utilize [DPR] under limited circumstances to encourage development to comply with design and/or performance standards of the community under specific and objective guidelines, for developments including, but not limited to: - A change in use at the property where no extensive construction of improvements is sought. - An adaptive reuse project located in a commercial zone where no extensive exterior construction of

improvements is sought.

- An adaptive reuse project located in a residential zone which results in less than nine (9) residential units.
- Development in a designated urban or growth center.
- Institutional development design review for educational or hospital facilities.
- Development in a historic district.

- Standardizes the review and approval process for projects subject to DPR. Municipalities must identify the permitting authority for DPR: either the administrative officer, planning board, or technical review committee. Further, municipalities must specify the categories of projects that are eligible for administrative review and the project categories that are required to be heard by the planning board or Technical Review Committee.
  - Administrative DPR: single-stage review.
  - Formal DPR: preliminary and final.
- A municipality can no longer require both DPR and land development review for the same project.
- Provides a standardized and specific definition for a land development project (LDP).
  - A land development project is defined as follows: "A project in which one or more lots, tracts, or parcels of land or a portion thereof are developed or redeveloped as a coordinated site for one or more uses, units, or structures, including but not limited to, planned development or cluster development for residential, commercial, institutional, recreational, open space, or mixed uses.
  - A minor LDP is defined as a land development project involving any of the following:
    - Seven thousand five hundred (7,500) gross square feet of floor area of new commercial manufacturing or industrial development; or less.
    - An expansion of up to fifty percent (50%) of existing floor area or up to ten thousand (10,000) square feet for commercial, manufacturing, or industrial structures.
    - Mixed-use development consisting of up to six (6) dwelling units and two thousand five hundred (2,500)

	gross square feet of commercial space or less. - Multi-family residential or residential condominium development of nine (9) units or less. - Change in use at the property where no extensive construction of improvements are being sought. - An adaptive reuse project of up to twenty-five thousand (25,000) square feet of gross floor area located in a commercial zone where no extensive exterior construction of improvements is sought. - An adaptive reuse project located in a residential zone which results in less than nine (9) residential units. ○ A community can increase, but not decrease the thresholds for minor land development set forth above if specifically set forth in the local ordinance and/or regulations. The process by which minor land development projects are reviewed by the local planning board, commission, technical review committee and/or administrative officer is set forth in § 45-23-38." ○ The definition for a major LDP is as follows: "A land development project which exceeds the thresholds for a minor land development project as set forth in this section and local ordinance or regulation. The process by which major land development projects are reviewed by the local planning board, commission, technical review committee or administrative officer is set forth in § 45-23-39." • Revises the definition of a subdivision and changes the definition of a major and minor subdivision. ○ A minor subdivision is now considered any subdivision creating nine or fewer buildable lots. ○ A major subdivision is now defined as a subdivision creating 10 or more buildable lots. • Alters the review and approval process for all application types (DPR, subdivisions, and land development projects). ○ Minor subdivisions and land development project changes are as follows: - Final plan review is required to be conducted administratively by either the administrative officer or the TRC. - For applications requiring zoning relief, the process depends on the degree of zoning relief required. If a

	dimensional modification is requested the application can be reviewed administratively through the process amended in §45-24-46. - If a variance or special-use permit is required, the planning board shall be the review authority and the application shall be reviewed under unified development review. - For applications requiring a street creation or extension the planning board shall be the review authority and is required to hold a public hearing. - For applications not involving zoning relief, the administrative officer is authorized to review and grant limited waivers of design standards. - The deadline for recertification of completeness is reduced from 14 days to 10 (consistent with major applications) and a 25-day period is added for final plan review. - The vesting period for final plan is now one year instead of 90 days. ○ Major subdivision and land development project changes are as follows: - The requirement for a public informational meeting at the master plan stage has been removed and replaced with a public hearing requirement at this stage. The preliminary plan stage no longer requires a public hearing, but does require public notice prior to the first hearing is required for abutters. - The administrative officer is empowered to combine review phases. - The deadline for certification of completeness for final plan applications is reduced from 25 days to 15 days, with an extension to 25 days if needed, and the deadline for recertification of completeness is reduced from 14 days to 10 days. • Requires municipalities to adopt unified development review which empowers the Planning Board to grant zoning relief as part of an application for land development. This procedure was adopted in 2016 as an option for municipalities and is now required.

Municipal Technical Assistance Program:

2023 Housing Bill Summaries

Bill Title	LMI Housing
House Number	H 6081 Substitute A
Senate Number	S 1037 Substitute A
Effective Date	January 1, 2024
Bill Overview	Amends the Low and Moderate Income (LMI) Act as it relates to density and parking requirements, the definition of meeting local needs, appeals of approvals with conditions for for-profit developers, eliminates the master plan stage of review and alters the findings of fact required for a decision.
Summary of Key Changes	• Amends the definition of "Infeasible" by removing the words "impossible for a public agency, nonprofit, or limited equity housing cooperative" and replacing it with "financially or logistically impracticable for any applicant" to proceed in building or operating low- or moderate-income housing. This allows for-profit developers to appeal an approval with conditions that make the development financially or logistically impracticable. Previously, only nonprofit developers were allowed to appeal an approval with conditions and had to show that such conditions made it impossible to proceed with the development without financial loss. o The amended language provides for an applicant to submit evidence of this impracticability upon knowing of the proposed conditions but prior to vote. • Amends the definition of "meeting local housing needs" to include a showing that at least 20% of the total residential housing units approved by the municipality in a calendar year be considered low- and moderate-income as defined by law. This is relevant to one of the basis for denial already in the statute, as well as the 1% limitation by for-profit developers, which can only now be utilized if this is met. • Revises the definition of a "municipal government subsidy" (which is required for comprehensive permit developments) to offset the differential costs of the low- or moderate- income housing units in a development and sets forth the minimum subsidy provisions that must be provided. The minimum subsidy provisions required are as follows: o For properties connected or eligible for connection to public utilities, a density bonus of at least: - Five units per acre for proposals where at least 25% of the dwelling units are affordable.

	- Nine units per acre for proposals where at least 50% of the dwelling units are affordable. - Twelve units per acre for proposals where 100% of the dwelling units are affordable. ○ For properties not connected to either public water or sewer or both, a density bonus of at least: - Three units per acre for proposals where at least 25% of the dwelling units are affordable. - Five units per acre for proposals where at least 50% of the dwelling units are affordable. - Eight units per acre for proposals where 100% of the dwelling units are affordable. ○ A restriction that municipalities cannot require more than 1 parking space per dwelling unit for units up to and including two bedrooms. ○ A restriction that municipalities cannot utilize floor area ratios to limit applications. ○ A restriction that a municipality cannot limit the number of bedrooms for applications to anything less than three bedrooms per dwelling unit for single-family dwellings. • Prohibits municipalities from adopting any ordinance or policy that operates as a limit or moratorium with respect to comprehensive permits. • Eliminates the master plan stage of review and amends the requirements for a pre- application conference and preliminary plan application. The review and approval process will now consist of a preapplication conference, preliminary plan public hearing, and final plan at the administrative level (with an allowance for final plan review by the planning board if a waiver of checklist items was required at the preliminary stage). • Eliminates one of the required findings for approval, so that a finding of “no significant negative environmental impacts” is no longer required to approve an application.

Municipal Technical Assistance Program:

2023 Housing Bill Summaries

Bill Title	Inclusionary Zoning
House Number	H 6058 Substitute A
Senate Number	S 1051 Substitute A
Effective Date	January 1, 2024
Bill Overview	Amends the provisions of the Zoning Enabling Act related to inclusionary zoning by setting minimum density requirements, requiring a minimum percentage of LMI units, setting a minimum number of units as a trigger, and alters the fee-in-lieu provision.

Summary of Key Changes	• Amends the requirement that an inclusionary zoning ordinance shall require a minimum percentage of the total units in the development to be low- and moderate- income from 10% to at least 25%.
	• Requires the minimum threshold over which inclusionary zoning is triggered to be no greater than 10 units (i.e., a municipality cannot adopt an inclusionary zoning requirement that is triggered only for developments containing more than 10 units).
	• Defines and sets a minimum threshold for density bonuses, zoning incentives, and municipal subsidies, which were previously not defined.
	  ○ Subject to applicable setback, frontage, and lot width requirements, unless relief is granted, the minimum density bonus shall be at least two market rate units for each affordable unit with an allowance for larger density bonuses for the provision of an increased percentage of affordable housing if provided for in the zoning ordinance.
	  ○ There shall be no requirement to seek relief from the minimum lot area per dwelling unit.
	  ○ Requires that available zoning incentives and municipal government subsidies are listed in the zoning ordinance.
	• Permits applicants to request additional zoning incentives and/or municipal government subsidies to offset the differential costs of affordable units. Provides that developments requesting to pay a fee-in-lieu of the construction or provision of affordable housing shall not be eligible for a density bonus and shall not be eligible

	for administrative review under the Development Review Act and must be approved by the planning board. • Requires municipalities to allocate in-lieu payments within three years of collection (rather than two before this amendment) and requires municipalities to pass by ordinance the process it will use to allocate the funds. • Provides that all in-lieu payments not allocated within three years of collection, including fees held as of July 1, 2024, shall transfer to RI Housing. In lieu of municipal process to allocate the funds, such funds can be turned over to RIHMFC for use in developing affordable housing in that same community.

Municipal Technical Assistance Program:

2023 Housing Bill Summaries

Bill Title	Judicial Proceedings – Land Use
House Number	H 6060 Substitute A / H 6083 Substitute A
Senate Number	S 1053 Substitute A / S 1050 Substitute A
Effective Date	January 1, 2024, except for some provisions related to the State Housing Appeals Board
Bill Overview	These two bills together consolidate all permitting approval appeals related to land use matters directly to Superior Court, abolishing the State Housing Appeals Board (SHAB), and establishing a separate calendar for such appeals.
Summary of Key Changes	• Establishes a calendar in the Rhode Island Superior Court that is dedicated solely to the administration and determination of all land use matters, including appeals from zoning boards, planning boards, administrative officers, zoning officials, and those applications that previously went to SHAB (comprehensive permits). • Eliminates SHAB. • Provides for expedited decisions of these matters. • All appeals are still filed with SHAB until December 31, 2023, and applicants must transfer any pending appeals to superior court by way of filing a complaint within 60 days of January 1, 2024. • Sets forth the Superior Court's standard of review for appeals related to comprehensive permit applications, which generally aligns with the standard that SHAB has employed.

Municipal Technical Assistance Program:

2023 Housing Bill Summaries

Bill Title	Notice Requirements
House Number	H 6086 Substitute A
Senate Number	S 1038 Substitute A
Effective Date	Takes effect upon passage
Bill Overview	This bill amends the notice requirements in the comprehensive planning and land use act, the zoning enabling act, and the subdivision and land development act. This applies to notice requirements for comprehensive plan amendment and adoption, zoning applications, and land development and subdivision applications.
Summary of Key Changes	• Provides that required newspaper notices shall be given in a newspaper of local rather than general circulation in the municipality (the distinction is not defined or explained in the legislation) and requires the same notice to be posted (or to be made available) on the municipality's website. • Provides that notice to abutters shall be sent by first class mail instead of the previously required certified mail. • Standardizes notices across all types of applications (zoning, planning, etc.) which now have the same methods and time frames.