



# PLANNERS' ROUNDTABLE DISCUSSION: 2023 LEGISLATION

RI Division of Statewide Planning  
RI Chapter of the American Planning Association

June 2, 2023



*Wish you were  
here!*

# TODAY'S AGENDA

1. Introductions
2. Vote – approve minutes of the November Technical Committee Meeting
3. Overview – 2023 Session – Housing and Land Use bills
4. Review – Bills that will have the most impact for municipalities/planners
5. Questions/Discussion – ask along the way and/or at the end

This presentation will be shared with all municipal planners and posted on the Statewide Planning and APA RI websites

# THE ROLE WE ALL PLAY

## APA RI

- Legislative Committee reviews and comments on bills (letters and testimony)
- Chapter representatives have been meeting with the Speaker's Staff for specific edits and comments

## RI League of Cities and Towns

- Tracks legislation – shares with affiliate members
- Coordinates with APA RI for planning/land use related legislative comments/concerns

## Statewide Planning

- Tracks legislation
- Provides training

# HOUSE BILLS OF INTEREST

- **6058 SUB A** – Amends requirements for inclusionary zoning and fee-in-lieu of.
- **6059 SUB A** – Amends sections of the Zoning Enabling Act regarding substandard lots, mergers, special use permits and modifications.
- **6061 SUB A** – Changes to major and minor subdivision and land development.

# HOUSE BILLS OF INTEREST

- **6081 SUB A** – Amends the LMH Act to modify the procedures for review and approval of comprehensive permits (eliminates master plan phase).
- **6082 SUB A, as amended** – Expands the provisions for establishment of accessory dwelling units (ADUs).
- **6085 SUB A** – Amends the Comprehensive Planning Act to require zoning compliance within eighteen months of adoption.

# ADDITIONAL BILLS IN SPEAKER'S PACKAGE

- 6060 SUB A – Establishes a land use court within Superior Court.
- 6083 SUB A – Eliminates the State Housing Appeals Board (SHAB).
- 6084 SUB A, as amended – Establishes a transit-oriented development (TOD) pilot program.
- 6086 SUB A – Changes the public hearing notice requirements for adoption of comprehensive plans, zoning regulations and subdivision ordinances.
- 6090 SUB A – Allows the adaptive reuse of commercial and institutional buildings to residential as a permitted use.

# ADDITIONAL HOUSE BILLS

Two bills extending the House special commissions:

- **H-6088** – Extends the Low and Moderate Income Housing Commission to June 28, 2025.
- **H-6089** – Extends the Land Use Commission to June 30, 2025.

# SENATE COMPANION BILLS

- **1006\***- ADUs, companion to **H-6082A**
- **1032\***- Companion to **H-6059** (as originally drafted)
- **1033\***- Comprehensive Planning Act, companion to **H-6085** as originally drafted
- **1034\***- Subdivision Enabling Act amendments, companion to **H-6061**, as originally drafted
- **1035\***- By right adaptive reuse of commercial buildings, companion to **H-6090A**
- **1036\***- ADUs, companion to **H-6082**

*\* Status: Introduced/heard by the Senate Housing & Municipal Government Committee: held for further study.*



# SENATE COMPANION BILLS

- **1037\***- Amends the LMH Act regarding comprehensive permits, companion to **H-6081A**
- **1038\***- Public hearing notice requirements, companion to **H-6086A**
- **1050\***- Eliminates SHAB, companion to **H-6083A**
- **1051\***- Inclusionary zoning and fee-in-lieu-of allocation, companion to **H-6058** (as originally drafted)
- **1052\***- TOD pilot program, companion to **H-6084A**
- **1053\***- Land use court, companion to **H-6060A**

*\* Status: Introduced/heard by the Senate Housing & Municipal Government Committee: held for further study.*

# HIGH IMPACT BILLS



## A deeper dive:

1. **H 6085 Sub A** – Amends section of the Comprehensive Plan Act (effective March 1, 2024)
2. **H 6059 Sub A** – Amends sections of the Zoning Enabling Act (ZEA)
3. **H 6081 Sub A** – Amends the Low- & Moderate-Income Housing Act (LMIH)
4. **H 6058 Sub A** - Amends Inclusionary Zoning
5. **H 6082 Sub A** – Amends the Accessory Dwelling Unit provisions (effective July 1, 2023)
6. **H 6061 Sub A** – Amends sections of the Subdivision Enabling Act (SEA)

***All go into effect on January 1, 2024, except where noted.***

# #1: H 6085 SUB A- Comprehensive Plan Bill

- Addition to a comprehensive plan's Housing section:
  - Specific goals, implementation actions, and time frames for development of low- and moderate-income housing.
- Cannot take longer than eighteen months for a zoning map to be brought into compliance with the future land use map (FLUM).
- The FLUM shall govern all local municipal land use decisions.
- If a municipality fails to fully update and re-adopt its comp plan within twelve years from the date of the previous plan's adoption, it cannot use the comp plan as a basis for denial of a municipal land use decision.

# #1: H 6085 SUB A- Comprehensive Plan Bill

*"The implementation program [of a comprehensive plan] shall contain a concise strategic plan that details the actions to be taken annually to achieve the goals and policies of the plan."*

- The strategic plan shall be reviewed annually by a municipality.
- The planning department must submit a report to the municipal planning board for the board's review, comment, and findings.
- The planning board must submit to the respective city or town council a report that summarizes the status of implementation of the strategic plan.
- The implementation report shall be reviewed by the city or town council at a public meeting.

## #2: H 6059 SUB A- Amends Sections of the ZEA

- Allows lots substandard in area to have reduced dimensional requirements in proportion to the degree of non-conformity.
- Requires specific and objective criteria for each use allowed by special use permit or the use is deemed to be a use by right.
- Lot mergers cannot be required if the substandard lot has an area equal to or greater than 50% of the lots within 200 feet.
- Requires provision for modifications for dimensional variances of 15% or less, but allows use of modification for variances up to 25%, eliminates notice for variances 5% or less, and reduces number of response days from 30 to 14. Four required findings must be met. Modifications may not move lot lines.

## #3: H 6081 SUB A- Amends the LMIH Act

- "Meeting local housing needs" is equivalent to 20% of approved housing units in one calendar year as LMI units. Affects ability to limit for profit developments to 1%.
- Changes comprehensive permit procedures to mandate specific density bonuses based upon the percentage of LMI units in the development.
- Puts limits on a municipality's ability to require parking, restrict the number of bedrooms per unit, or apply moratoriums to comp permit units.
- Master plan phase is eliminated – preliminary plan decision within 90 days, and final plan review is administrative.

## #4: H 6058 SUB A- Inclusionary Zoning

- Inclusionary zoning remains optional, but IF you have IZ:
  - 25% of the units must be affordable (up from 10%) for 30-years
  - Local control when IZ applies but must apply at & above 10 units.
  - Mandated density bonus of 2 market rate units per affordable unit provided and mandated reduction in lot area requirements to accommodate the density bonus.
  - Requires the allocation of all fee-in-lieu funds within 3 years or funds are transferred to RI Housing (up from 2 years).

## #5: H 6082 SUB A, as amended- ADU's

- **Last year** – ADUs by right no longer restricted to family members, allowed to be detached units or attached to accessory structures, and can be added to multi-family dwellings as well.
- ADU on a lot in a residential district with minimum lot size of 20,000 SF AND within an existing building footprint also allowed by right.
- All other ADUs assumed to be optional but subject to a number of restrictions (limitations on how a municipality can regulate them).
- **This year** – ADU for family member with disability, on a lot of 20,000 SF OR located within an existing footprint are all allowed by right.
- By-right ADUs allowed for at least 900 SF for one-bedroom or 1,200 SF for two-bedrooms, but not-to-exceed 60% of the floor space of the principal dwelling.



## #5: H 6082 SUB A, as amended- ADU's

- Allowed by right under the following circumstances:
  - On an owner-occupied property as a reasonable accommodation for family members with disabilities;
  - On a lot with a total lot area of 20,000 SF or more for which the primary use is residential; or
  - Where the proposed ADU is located within the existing footprint of the primary structure or existing accessory attached or detached structure and does not expand the footprint of the structure.

Note: owner-occupancy removed as a requirement under the last two conditions

## #5: H-6082 SUB A, as amended- ADU's

For all ADUs there are a number of limitations put on a municipality's ability to:

- Impose dimensional requirements/other development standards on ADUs that exceed the requirements for an accessory structure in the same zoning district
- Require additional lot frontage or lot width for conforming lots or legal nonconforming lots of record solely to accommodate an ADU
- Require zoning relief for ADU applications proposed within an existing footprint of the primary or accessory structure which is a legal nonconforming structure
- Require more than one off-street parking space per bedroom of the ADU

## #5: H-6082 SUB A, as amended- ADU Bill

In addition, limits a municipality's ability to:

- Limit ADUs to lots with preexisting dwellings, or otherwise prohibit ADUs as part of applications for new primary dwelling units or subdivisions
- Prohibit an ADU that otherwise complies with applicable dimensional regulations from having up to two (2) bedrooms
- Require an ADU to be exclusively occupied by a household that is low- or moderate income or less, unless such ADU is part of an inclusionary zoning or comprehensive permit application
- Revoke the permitted status or otherwise require the disassembly of a legally established ADU upon transfer of title or occupancy

## #5: H-6082 SUB A, as amended- ADU Bill

- It is assumed that an ordinance governing optional ADUs can otherwise regulate them except that – unless the units are part of a new subdivision – they shall be reviewed and approved administratively.
- However, for ADUs that are part of a larger development, a municipality shall not count such ADUs as part of the allowable density for that development.
- Prohibition against the use of ADUs for tourist or transient use is added to the law but without a penalty.
- The section of last year's law that allows the counting of ADUs as LMI units (as a half unit on an annual basis for renters meeting 80% of AMI) and the section requiring annual reporting remain with no amendments.

# #6: H 6061 SUB A, as amended- Subdivisions

## Overview

- Changes to minor subdivision and minor land development
- Changes to major subdivision and major land development
- Changes to Development Plan Review (DPR)
- Consolidates definitions
- Requires Unified Development Review
- Changes the authority of the Administrative Officer and the Zoning Official
- Changes the role of the Zoning Board of Review
- Changes the applicability of a “modification” by the Zoning Official
- TRC can issue approvals, make findings, and provide recommendations as enabled

# #6: H 6061 SUB A, as amended- Subdivisions

## Minor Subdivision

- Nine lots or less
- Applications that do not require zoning relief and meet all the applicable requirements are reviewed and approved administratively (with the support of the TRC). Administrative waivers are a local decision.
- Any application requiring dimensional relief or street creation requires a public hearing and Preliminary plan is reviewed and approved by the Planning Board. Unified Development Review is required
- Final is administrative

# #6: H 6061 SUB A, as amended- Subdivisions

**Minor Land Development:** land development project involving any one of the following

- 7,500 s.f. or less of new floor area of commercial, manufacturing, or industrial
- Expansion of up to 50% of existing floor area or up to 10,000 s.f. for commercial, manufacturing, or industrial
- Mixed use of 6 units of residential and 2,500 s.f. or less of commercial
- Multifamily residential (or condo) of 9 units or less
- Change of use where no extensive construction improvements are sought
- Adaptive reuse of up to 25,000 s.f. of gross floor area commercial with no extensive exterior improvements
- Adaptive reuse in a residential zone that results in less than 9 units

A community can increase, but not decrease the thresholds for minor land development in the local ordinance and/or regulations

# #6: H 6061 SUB A, as amended- Subdivisions

## Major Subdivision

- Ten lots or more
- Public hearing occurs at master plan stage
- Preliminary plan stage contains an advertised and noticed meeting (not a “public hearing”)
- State permits are due prior to a decision on the preliminary plan (RIDOT exception)
- Administrative officer may combine the review stages
- Unified Development Review is required



# #6: H 6061 SUB A, as amended- Subdivisions

Development Plan Review: Development of a permitted use for . . .

- Change of use with no extensive construction improvements
- Adaptive reuse in a commercial zone with no extensive exterior construction
- Adaptive reuse in a residential zone of less than 9 units
- Development in a designated urban or growth center
- Institutional development design review for educational or hospital facilities
- Development in a historic district

# #6: H 6061 SUB A, as amended- Subdivisions

## Development Plan Review

- Administrative DPR – one stage of review (modifications allowed)
- Formal DPR – Preliminary and final
- Local regulation/ordinance shall identify the permitting authority (planning board, TRC, administrative officer)
- Local regulation/ordinance shall provide for specific categories of projects that may review and approve an application administratively as well as those required to be heard by the planning board or designated permitting authority
- Permitting authority may waive design standards or the requirement for DPR for change of use with no extensive construction
- Any application requesting relief from the zoning ordinance requires planning board approval under Unified Development Review

## DISCUSSION

- What changes will be required by January 1, 2024?
- Where will resources/assistance come from?
- How can Statewide Planning and APA RI focus our efforts in a meaningful way with our limited resources?
- How can municipal planners and their boards be more involved in legislation – now and in future sessions?

**Thank you from Statewide Planning and APA RI!**



**QUESTIONS?**