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**RUGGIERO, BROCHU & PETRARCA**

## **Memo**

**To:** Municipal Clients  
**From:** Peter D. Ruggiero, Esq.  
Wyatt A. Brochu, Esq.  
David R. Petrarca, Jr., Esq.  
**Date:** July 5, 2023  
**Re:** 2023 Land Use Public Laws Digest

The Rhode Island General Assembly passed over a dozen items of legislation to amend the land use, zoning, planning, housing, and subdivision statutes in Rhode Island. Some of these amendments are effective immediately and others in January of 2024. All amendments require amendments to local ordinances and regulations which are not in harmony with the new statutory provisions. During the course of our representation to specific municipal entities we will present the specific requirements needed to be addressed by the particular public entity and timeframes for compliance.

A summary of the salient public laws concerning local ordinances, project review processes, and procedures are as follows<sup>1</sup>:

[2023-H 6081A, 2023-S 1037A Low and Moderate Income Housing Act \[§ 45-53-1 et seq.\]](#)

The permitting procedure is reduced to two steps after a pre-application and includes application submission requirements and new standards of review for applications.

EFFECTIVE DATE: January 1, 2024

2023-H 6061aa, 2023-S 1034A Subdivision and Land Development Regulation Act [§ 45-23-25 et seq.]

Significant and material amendments regarding the definition of and regulatory process for land development projects and subdivisions are contained in this amendment. Of note, a minor subdivision has now been defined as 9 or fewer lots (without a road creation/extension) and is now evaluated by the administrative officer in a process similar to an administrative subdivision. Likewise, a minor land development (now defined as up to 7,500 sq. ft. of new non-residential floor area, an expansion of 50% of floor area up to 10,000 sq. ft., mixed use of 6 residential units and 2,500 sq. ft. of commercial space, multi-family development or adaptive reuse with 9 or fewer units, and adaptive reuse of up to 25,000 sq. ft. of a structure in a commercial zone with no extensive exterior improvements) will also be reviewed by the administrative officer and not the planning board or commission. A further change is that all appeals of the administrative officer, planner and the planning board or commission will be heard directly by the Superior Court, rather than an intermediate appeal by a zoning board. Lastly, any development that requires zoning relief must now use unified development review, which was previously optional, with all review before the planning board or commission.

EFFECTIVE DATE: January 1, 2024

2023-H 6085A, 2023-S 1033A R.I. Comprehensive Planning and Land Use Act [§ 45-22.2-1 et seq.]

Requires all municipal land use approvals to be consistent with the local future land use map and that all local comprehensive plans must be updated at least every 10 years. Local comprehensive plans more than 12 years old cannot be used as the basis for denial.

EFFECTIVE DATE: March 1, 2024

2023-H 6058A, 2023-S 1051A Zoning Ordinances [§ 45-24-27 et seq.]

Increases the percent of inclusionary affordable housing units from 10 to 25 percent of the total units proposed in a housing development. Density bonus and fee-in-lieu of providing affordable housing units provisions are also included in this amendment.

EFFECTIVE DATE: January 1, 2024

2023-H 6059A, 2023-S 1032A Zoning Ordinances [§ 45-24-27 et seq.]

The regulations and standards of review for special use permits and dimensional variances are amended. For dimensional variances, previous standards requiring the hardship not primarily resulting from an applicant's desire to realize grate financial gain and that the relief to be granted is the least relief necessary *have been eliminated*. Likewise, previously optional dimensional modifications (for minor relief from dimensional standards up to 15 percent) are now mandated to be handled by the zoning officer administratively. For special use permits, zoning ordinances must now contain specific and objective criteria for each category of special use—the absence of specific and objective criteria in the ordinance shall make the use permitted by right. Lastly, this amendment prohibits automatic merger of substandard lots of record if the subject lot has an area that is equal to or greater than 50 percent of lots within 200 feet.

EFFECTIVE DATE: January 1, 2024

2023-H 6087aa, 2023-S 311A Residential Landlord and Tenant Act [§ 34-18-1 et seq.]

Rental application fees are prohibited.

EFFECTIVE DATE: January 1, 2024

2023-H 6086A, 2023-S 1038A Comprehensive Planning, Subdivision Regulation, and Zoning [§ 45-22.2-1 et seq.; § 45-23-25 et seq.; § 45-24-27 et seq.]

Advertisement and notice provisions for certain land use permitting applications are amended and standardized.

EFFECTIVE DATE: Upon passage (In effect)

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<sup>i</sup> This listing is not intended as a comprehensive list of the 2023 land use laws. This digest is offered as a guide to municipal government authorities of recent select amendments to land use statutes and regulations. Specific information and guidance on course of conduct is not intended or offered in this digest.