Comprehensive Permit Applications – Frequently Asked Questions

Q. What is a comprehensive permit application?

Comprehensive permit applications are governed by Title 45, Chapter 53 of the Rhode Island General Laws, entitled 'Low and Moderate Income Housing' (the "LMI Housing Act"). The LMI Housing Act provides that "any applicant proposing to build low- or moderate-income housing may submit to the local review board a single application for a comprehensive permit to build that housing in lieu of separate applications to the applicable local boards. This procedure is only available for proposals in which at least twenty-five percent (25%) of the housing is low- or moderate-income housing."

The LMI Housing Act is available at the link below, which includes legislation enacted through the 2025 legislative session.

https://webserver.rilegislature.gov/Statutes/TITLE45/45-53/INDEX.htm

Q. What is low- or moderate-income [LMI] housing?

The LMI Housing Act provides that LMI housing shall be synonymous with "affordable housing" as defined under a separate section of state law, § 42-128-8.1, known as the "Comprehensive Housing Production and Rehabilitation Act of 2004." That law's definition of affordable housing is set forth below. The LMI Housing Act adds on to the definition, stating that LMI housing "further means any type of housing whether built or operated by any public agency or any nonprofit organization or by any limited equity housing cooperative or any private developer, that is subsidized by a federal, state, or municipal government subsidy under any program to assist the construction or rehabilitation of affordable housing and that will remain affordable through a land lease and/or deed restriction for ninety-nine (99) years or such other period that is either agreed to by the applicant and town or prescribed by the federal, state, or municipal government subsidy program but that is not less than thirty (30) years from initial occupancy."

Definition of "affordable housing" from § 42-128-8.1:

> "Affordable housing" means residential housing that has a sales price or rental amount that is within the means of a household that is moderate income or less. In the case of dwelling units for sale, housing that is affordable means housing in which principal, interest, taxes, which may be adjusted by state and local programs for property tax relief, and insurance constitute no more than thirty percent (30%) of the gross household income for a household with less than one hundred and twenty percent (120%) of area median income, adjusted for family size. Provided, however, that exclusively for the residents of New Shoreham, their affordable housing eligibility standards shall include households whose adjusted gross income is less than one hundred forty percent (140%) of their

residents' median income, adjusted for family size. In the case of dwelling units for rent, housing that is affordable means housing for which the rent, heat, and utilities other than telephone constitute no more than thirty percent (30%) of the gross annual household income for a household with eighty percent (80%) or less of area median income, adjusted for family size.[1]

(i) Affordable housing shall include all types of year-round housing, including, but not limited to: manufactured housing; housing originally constructed for workers and their families; accessory dwelling units; housing accepting rental vouchers and/or tenant-based certificates under Section 8 of the United States Housing Act of 1937, as amended; and assisted living housing, where the sales or rental amount of such housing, adjusted for any federal, state, or municipal government subsidy, is less than or equal to thirty percent (30%) of the gross household income of the low and/or moderate income occupants of the housing.

(ii) Mobile and manufactured homes shall be included as affordable housing if such home constitutes a primary residence of the occupant or occupants; and such home is located within a community owned by the residents or the land containing the home is owned by the occupant or occupants; and such home was constructed after June 15, 1976; and such home complies with the Manufactured Home Construction and Safety Standards of the United States Department of Housing and Urban Development."

Q. What is the difference between a comprehensive permit and a comprehensive plan?

A **comprehensive permit**, as defined above, is an application for development in which at least 25 percent of the dwelling units are deed restricted as affordable housing.

A **comprehensive plan** is defined and governed by the Rhode Island Comprehensive Planning and Land Use Act, codified at Title 45, Chapter 22.2 of the General Laws. A comprehensive plan is a regulatory document that functions alongside state law, the Zoning Ordinance, and local regulations, and that guides land use decisions in a municipality.

[1] Area median income for low- and moderate-income households annually is calculated by RI Housing based on US HUD's 2008 income limits policy. The FY2025 income limits, by household size, can be found here: https://www.rihousing.com/wp-content/uploads/FY-25-HUD-Income-Limits.pdf. Note that the "area" used to calculate median income for Barrington is the "Providence-Fall River, RI-MA HMFA 2025". HMFA means HUD Metro Fair Market Rents Area.

Q. What Town officials or boards make decisions with respect to comprehensive permit applications?

The LMI Housing Act provides that the Planning Board shall serve as the local review board for comprehensive permit applications. The Zoning Board has no role in comprehensive permit applications. Depending on the specifics of the proposed development, the Town Council may have a limited role in the application (for example, accepting a public road or other infrastructure that is part of the development) but does not play a role in reviewing or approving the development proposal itself.

Q. What is the procedure for comprehensive permit applications?

As set forth in the LMI Housing Act, the developer has the option to begin the process at either the master plan stage of review or the preliminary plan stage of review. Those terms are defined in a separate section of state law, § 45-23-32, as follows:

> "**(22) Master plan.** An overall plan for a proposed project site outlining general, rather than detailed, development intentions. It describes the basic parameters of a major development proposal, rather than giving full engineering details. Required in major land development or major subdivision review only. It is the first formal review step of the major land development or major subdivision process and the step in the process in which the public hearing is held. See § 45-23-39.
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> **(32) Preliminary plan.** A required stage of land development and subdivision review that generally requires detailed engineered drawings. See § 45-23-39."

Turning back to the LMI Housing Act, the two tracks for review are as follows:

Master Plan Track	Preliminary Plan Track
• Pre-application not required, but developer can request it • Public hearing at master plan only if adjustments are requested; if not, master plan is a public meeting but legal notice in newspaper and abutters not required • Preliminary plan stage requires a public hearing • Final plan stage is administrative	• Pre-application may be required • Preliminary plan stage requires a public hearing • Final plan stage is administrative

Q. What are the required findings for comprehensive permit applications?

A. The LMI Housing Act states that the Planning Board shall make findings on the following standards:

> **"(I)** Whether the proposed development is consistent with local needs as identified in the community's affordable housing plan and/or has satisfactorily addressed the issues where there may be inconsistencies. If the local board finds that the proposed development is inconsistent with the community's affordable housing plan, it must also find that the municipality has made significant progress in implementing its housing plan.
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> **(II)** Whether the proposed development is in compliance with the standards and provisions of the municipality's zoning ordinance and subdivision regulations, and/or where adjustments are requested by the applicant, whether local concerns that have been affected by the relief granted do not outweigh the state and local need for low- and moderate-income housing.
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> **(III)** Whether the low- and moderate-income housing units proposed are integrated throughout the development; are compatible in scale, meaning that: (1) The size of the low- and moderate-income units shall not be less than seventy-five percent (75%) of the size of the market rate units, unless otherwise allowed by the local board; (2) The affordable units are of similar architectural style to the market rate units within the project so that the exterior of the units look like an integrated neighborhood with similar rooflines, window patterns, materials and colors; and (3) The affordable units will be built and occupied in a proportional manner with the construction and occupancy of the market rate units. Except that for housing units that are intended to be occupied by persons fifty-five (55) years of age or older, or sixty-two (62) years of age or older, as permitted by the federal Fair Housing Act pursuant to 42 U.S.C. § 3607(b) and 24 C.F.R. §§ 100.300-308 and the Rhode Island fair housing practices act pursuant to § 34-37-4.1, such units need not be integrated in any building or phase within the development that contains housing units that are not age-restricted, and neither age-restricted housing units nor any building or phase containing age-restricted housing units must be compatible in scale and architectural style to other housing unit types to the extent the age-restricted housing units are designed to meet the physical or social needs of older persons or necessary to provide housing opportunities for older persons.
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> **(IV)** Whether there will be significant negative impacts on the health and safety of current or future residents of the community, in areas including, but not limited to, safe circulation of pedestrian and vehicular traffic, provision of emergency services, sewerage disposal, availability of potable water, adequate surface water run-off, and the preservation of natural, historical, or cultural features.
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> **(V)** Whether the proposed land developments or subdivisions lots will have adequate and permanent physical access to a public street in accordance with the requirements of

§ 45-23-60(a)(5), or the local review board has approved other access, such as a private road.

(VI) Whether the proposed development will result in the creation of individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable, unless created only as permanent open space or permanently reserved for a public purpose on the approved, recorded plans."

Q. Is a comprehensive permit application required to comply with the Zoning Ordinance?

Comprehensive permit applications are subject to the Zoning Ordinance, but the application may include requests for adjustments, defined as "a request or requests by the applicant to seek relief from the literal use and dimensional requirements of the municipal zoning ordinance and/or the design standards or requirements of the municipal land development and subdivision regulations."

Ordinarily, a request for zoning relief in the form of a use variance, dimensional variance, or special use permit, would be subject to the standards for relief set forth in state law and the Zoning Ordinance. For comprehensive permits, adjustments are not considered separately but are considered as part of the development application. The standard for adjustments is incorporated into one of the required findings, as follows: "whether local concerns that have been affected by the relief granted do not outweigh the state and local need for low- and moderate-income housing."

Q. What is the permitted density for a comprehensive permit application?

State law provides that for comprehensive permit applications "a municipality shall provide an applicant with more dwelling units than allowed by right under its zoning ordinance in the form of a density bonus to allow an increase in the allowed dwelling units per acre (DU/A)." Wetlands, area devoted to roadway infrastructure, and easements/rights of way are all excluded from the density calculation.

The law sets forth minimum density bonuses that apply over and above what the base zoning would allow, as follows:

	Connected/Eligible for Public Sewer & Water	Not connected to public sewer/water
25% LMI	5 units additional per acre	3 units additional per acre
50% LMI	9 units additional per acre	5 units additional per acre
100% LMI	12 units additional per acre	8 units additional per acre

Q. Does the law place limits on how the Town can regulate comprehensive permit developments?

The law constrains the Town's ability to regulate comprehensive permit developments. For example, the Town cannot require more than one off-street parking space for one and two-bedroom units within such developments. Further, the Town cannot limit the number of bedrooms to anything less than three bedrooms per dwelling unit for single-family dwelling units.

Q. Is the Town required to accept applications for comprehensive permits?

Effective January 1, 2026, the comprehensive permit process "is not available in cities and towns that have low- or moderate-income housing in excess of ten percent (10%) of its year-round housing units which also have an inclusionary zoning ordinance which complies with § 45-24-46.1." The Town has an inclusionary zoning ordinance in place. Once the Town has achieved the 10% goal, and is certified by the State as having 10% of its housing stock deed-restricted as affordable housing, the comprehensive permit process will not be available for development applications.

Q. What happens if the Planning Board decision is appealed?

Decisions on comprehensive permit applications are subject to appellate review by the Rhode Island Superior Court.