

2023 -- S 1006

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

Introduced By: Senators Gu, Kallman, Lombardo, Sosnowski, Mack, Pearson, Ruggerio,  
and Valverde

Date Introduced: May 15, 2023

Referred To: Senate Housing & Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-24-31, 45-24-37 and 45-24-73 of the General Laws in Chapter  
2 45-24 entitled "Zoning Ordinances" are hereby amended to read as follows:

3 **45-24-31. Definitions.**

4 Where words or terms used in this chapter are defined in § 45-22.2-4 or 45-23-32, they  
5 have the meanings stated in that section. In addition, the following words have the following  
6 meanings. Additional words and phrases may be used in developing local ordinances under this  
7 chapter; however, the words and phrases defined in this section are controlling in all local  
8 ordinances created under this chapter:

9 (1) Abutter. One whose property abuts, that is, adjoins at a border, boundary, or point with  
10 no intervening land.

11 (2) Accessory dwelling unit (ADU). A residential living unit on the same ~~parcel~~ lot where  
12 the ~~primary~~ principal use is a legally established single-dwelling unit or multi-unit dwelling units.  
13 An ADU provides complete independent living facilities for one or more persons. It may take  
14 various forms including, but not limited to: a detached unit; a unit that is part of an accessory  
15 structure, such as a detached garage; or a unit that is part of an expanded or remodeled primary  
16 dwelling.

17 (3) Accessory use. A use of land or of a building, or portion thereof, customarily incidental  
18 and subordinate to the principal use of the land or building. An accessory use may be restricted to  
19 the same lot as the principal use. An accessory use shall not be permitted without the principal use

1 to which it is related.

2 (4) Aggrieved party. An aggrieved party, for purposes of this chapter, shall be:

3 (i) Any person, or persons, or entity, or entities, who or that can demonstrate that his, her,  
4 or its property will be injured by a decision of any officer or agency responsible for administering  
5 the zoning ordinance of a city or town; or

6 (ii) Anyone requiring notice pursuant to this chapter.

7 (5) Agricultural land. "Agricultural land," as defined in § 45-22.2-4.

8 (6) Airport hazard area. "Airport hazard area," as defined in § 1-3-2.

9 (7) Applicant. An owner, or authorized agent of the owner, submitting an application or  
10 appealing an action of any official, board, or agency.

11 (8) Application. The completed form, or forms, and all accompanying documents, exhibits,  
12 and fees required of an applicant by an approving authority for development review, approval, or  
13 permitting purposes.

14 (9) Buffer. Land that is maintained in either a natural or landscaped state, and is used to  
15 screen or mitigate the impacts of development on surrounding areas, properties, or rights-of-way.

16 (10) Building. Any structure used or intended for supporting or sheltering any use or  
17 occupancy.

18 (11) Building envelope. The three-dimensional space within which a structure is permitted  
19 to be built on a lot and that is defined by regulations governing building setbacks, maximum height,  
20 and bulk; by other regulations; or by any combination thereof.

21 (12) Building height. For a vacant parcel of land, building height shall be measured from  
22 the average, existing-grade elevation where the foundation of the structure is proposed. For an  
23 existing structure, building height shall be measured from average grade taken from the outermost  
24 four (4) corners of the existing foundation. In all cases, building height shall be measured to the top  
25 of the highest point of the existing or proposed roof or structure. This distance shall exclude spires,  
26 chimneys, flag poles, and the like. For any property or structure located in a special flood hazard  
27 area, as shown on the official FEMA Flood Insurance Rate Maps (FIRMs), or depicted on the  
28 Rhode Island coastal resources management council (CRMC) suggested design elevation three foot  
29 (3') sea level rise (CRMC SDE 3 SLR) map as being inundated during a one-hundred-year (100)  
30 storm, the greater of the following amounts, expressed in feet, shall be excluded from the building  
31 height calculation:

32 (i) The base flood elevation on the FEMA FIRM plus up to five feet (5') of any utilized or  
33 proposed freeboard, less the average existing grade elevation; or

34 (ii) The suggested design elevation as depicted on the CRMC SDE 3 SLR map during a

1 one-hundred-year (100) storm, less the average existing grade elevation. CRMC shall reevaluate  
2 the appropriate suggested design elevation map for the exclusion every ten (10) years, or as  
3 otherwise necessary.

4 (13) Cluster. A site-planning technique that concentrates buildings in specific areas on the  
5 site to allow the remaining land to be used for recreation, common open space, and/or preservation  
6 of environmentally, historically, culturally, or other sensitive features and/or structures. The  
7 techniques used to concentrate buildings shall be specified in the ordinance and may include, but  
8 are not limited to, reduction in lot areas, setback requirements, and/or bulk requirements, with the  
9 resultant open land being devoted by deed restrictions for one or more uses. Under cluster  
10 development, there is no increase in the number of lots that would be permitted under conventional  
11 development except where ordinance provisions include incentive bonuses for certain types or  
12 conditions of development.

13 (14) Common ownership. Either:

14 (i) Ownership by one or more individuals or entities in any form of ownership of two (2)  
15 or more contiguous lots; or

16 (ii) Ownership by any association (ownership may also include a municipality) of one or  
17 more lots under specific development techniques.

18 (15) Community residence. A home or residential facility where children and/or adults  
19 reside in a family setting and may or may not receive supervised care. This does not include halfway  
20 houses or substance-use-disorder-treatment facilities. This does include, but is not limited to, the  
21 following:

22 (i) Whenever six (6) or fewer children or adults with intellectual and/or developmental  
23 disability reside in any type of residence in the community, as licensed by the state pursuant to  
24 chapter 24 of title 40.1. All requirements pertaining to local zoning are waived for these community  
25 residences;

26 (ii) A group home providing care or supervision, or both, to not more than eight (8) persons  
27 with disabilities, and licensed by the state pursuant to chapter 24 of title 40.1;

28 (iii) A residence for children providing care or supervision, or both, to not more than eight  
29 (8) children, including those of the caregiver, and licensed by the state pursuant to chapter 72.1 of  
30 title 42;

31 (iv) A community transitional residence providing care or assistance, or both, to no more  
32 than six (6) unrelated persons or no more than three (3) families, not to exceed a total of eight (8)  
33 persons, requiring temporary financial assistance, and/or to persons who are victims of crimes,  
34 abuse, or neglect, and who are expected to reside in that residence not less than sixty (60) days nor

1 more than two (2) years. Residents will have access to, and use of, all common areas, including  
2 eating areas and living rooms, and will receive appropriate social services for the purpose of  
3 fostering independence, self-sufficiency, and eventual transition to a permanent living situation.

4 (16) Comprehensive plan. The comprehensive plan adopted and approved pursuant to  
5 chapter 22.2 of this title and to which any zoning adopted pursuant to this chapter shall be in  
6 compliance.

7 (17) Day care — Daycare center. Any other daycare center that is not a family daycare  
8 home.

9 (18) Day care — Family daycare home. Any home, other than the individual's home, in  
10 which day care in lieu of parental care or supervision is offered at the same time to six (6) or less  
11 individuals who are not relatives of the caregiver, but may not contain more than a total of eight  
12 (8) individuals receiving day care.

13 (19) Density, residential. The number of dwelling units per unit of land.

14 (20) Development. The construction, reconstruction, conversion, structural alteration,  
15 relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance;  
16 or any change in use, or alteration or extension of the use, of land.

17 (21) Development plan review. The process whereby authorized, local officials review the  
18 site plans, maps, and other documentation of a development to determine the compliance with the  
19 stated purposes and standards of the ordinance.

20 (22) District. See "zoning-use district."

21 (23) Drainage system. A system for the removal of water from land by drains, grading, or  
22 other appropriate means. These techniques may include runoff controls to minimize erosion and  
23 sedimentation during and after construction or development; the means for preserving surface and  
24 groundwaters; and the prevention and/or alleviation of flooding.

25 (24) Dwelling unit. A structure, or portion of a structure, providing complete, independent  
26 living facilities for one or more persons, including permanent provisions for living, sleeping, eating,  
27 cooking, and sanitation, and containing a separate means of ingress and egress.

28 (25) Extractive industry. The extraction of minerals, including: solids, such as coal and  
29 ores; liquids, such as crude petroleum; and gases, such as natural gases. The term also includes  
30 quarrying; well operation; milling, such as crushing, screening, washing, and flotation; and other  
31 preparation customarily done at the extraction site or as a part of the extractive activity.

32 (26) Family member. A person, or persons, related by blood, marriage, or other legal  
33 means, including, but not limited to, a child, parent, spouse, mother-in-law, father-in-law,  
34 grandparents, grandchildren, domestic partner, sibling, care recipient, or member of the household.

1 (27) Floating zone. An unmapped zoning district adopted within the ordinance that is  
2 established on the zoning map only when an application for development, meeting the zone  
3 requirements, is approved.

4 (28) Floodplains, or Flood hazard area. As defined in § 45-22.2-4.

5 (29) Freeboard. A factor of safety expressed in feet above the base flood elevation of a  
6 flood hazard area for purposes of floodplain management. Freeboard compensates for the many  
7 unknown factors that could contribute to flood heights, such as wave action, bridge openings, and  
8 the hydrological effect of urbanization of the watershed.

9 (30) Groundwater. "Groundwater" and associated terms, as defined in § 46-13.1-3.

10 (31) Halfway house. A residential facility for adults or children who have been  
11 institutionalized for criminal conduct and who require a group setting to facilitate the transition to  
12 a functional member of society.

13 (32) Hardship. See § 45-24-41.

14 (33) Historic district or historic site. As defined in § 45-22.2-4.

15 (34) Home occupation. Any activity customarily carried out for gain by a resident,  
16 conducted as an accessory use in the resident's dwelling unit.

17 (35) Household. One or more persons living together in a single-dwelling unit, with  
18 common access to, and common use of, all living and eating areas and all areas and facilities for  
19 the preparation and storage of food within the dwelling unit. The term "household unit" is  
20 synonymous with the term "dwelling unit" for determining the number of units allowed within any  
21 structure on any lot in a zoning district. An individual household shall consist of any one of the  
22 following:

23 (i) A family, which may also include servants and employees living with the family; or

24 (ii) A person or group of unrelated persons living together. The maximum number may be  
25 set by local ordinance, but this maximum shall not be less than three (3).

26 (36) Incentive zoning. The process whereby the local authority may grant additional  
27 development capacity in exchange for the developer's provision of a public benefit or amenity as  
28 specified in local ordinances.

29 (37) Infrastructure. Facilities and services needed to sustain residential, commercial,  
30 industrial, institutional, and other activities.

31 (38) Land-development project. A project in which one or more lots, tracts, or parcels of  
32 land are developed or redeveloped as a coordinated site for one or more uses, units, or structures,  
33 including, but not limited to, planned development or cluster development for residential,  
34 commercial, institutional, recreational, open space, or mixed uses as provided in the zoning

1 ordinance.

2 (39) Lot. Either:

3 (i) The basic development unit for determination of lot area, depth, and other dimensional  
4 regulations; or

5 (ii) A parcel of land whose boundaries have been established by some legal instrument,  
6 such as a recorded deed or recorded map, and that is recognized as a separate legal entity for  
7 purposes of transfer of title.

8 (40) Lot area. The total area within the boundaries of a lot, excluding any street right-of-  
9 way, usually reported in acres or square feet.

10 (41) Lot area, minimum. The smallest land area established by the local zoning ordinance  
11 upon which a use, building, or structure may be located in a particular zoning district.

12 (42) Lot building coverage. That portion of the lot that is, or may be, covered by buildings  
13 and accessory buildings.

14 (43) Lot depth. The distance measured from the front lot line to the rear lot line. For lots  
15 where the front and rear lot lines are not parallel, the lot depth is an average of the depth.

16 (44) Lot frontage. That portion of a lot abutting a street. A zoning ordinance shall specify  
17 how noncontiguous frontage will be considered with regard to minimum frontage requirements.

18 (45) Lot line. A line of record, bounding a lot, that divides one lot from another lot or from  
19 a public or private street or any other public or private space and shall include:

20 (i) Front: the lot line separating a lot from a street right-of-way. A zoning ordinance shall  
21 specify the method to be used to determine the front lot line on lots fronting on more than one  
22 street, for example, corner and through lots;

23 (ii) Rear: the lot line opposite and most distant from the front lot line, or in the case of  
24 triangular or otherwise irregularly shaped lots, an assumed line at least ten feet (10') in length  
25 entirely within the lot, parallel to and at a maximum distance from, the front lot line; and

26 (iii) Side: any lot line other than a front or rear lot line. On a corner lot, a side lot line may  
27 be a street lot line, depending on requirements of the local zoning ordinance.

28 (46) Lot size, minimum. Shall have the same meaning as "minimum lot area" defined  
29 herein.

30 (47) Lot, through. A lot that fronts upon two (2) parallel streets, or that fronts upon two  
31 (2) streets that do not intersect at the boundaries of the lot.

32 (48) Lot width. The horizontal distance between the side lines of a lot measured at right  
33 angles to its depth along a straight line parallel to the front lot line at the minimum front setback  
34 line.

1 (49) Mere inconvenience. See § 45-24-41.

2 (50) Mixed use. A mixture of land uses within a single development, building, or tract.

3 (51) Modification. Permission granted and administered by the zoning enforcement officer  
4 of the city or town, and pursuant to the provisions of this chapter to grant a dimensional variance  
5 other than lot area requirements from the zoning ordinance to a limited degree as determined by  
6 the zoning ordinance of the city or town, but not to exceed twenty-five percent (25%) of each of  
7 the applicable dimensional requirements.

8 (52) Nonconformance. A building, structure, or parcel of land, or use thereof, lawfully  
9 existing at the time of the adoption or amendment of a zoning ordinance and not in conformity with  
10 the provisions of that ordinance or amendment. Nonconformance is of only two (2) types:

11 (i) Nonconforming by use: a lawfully established use of land, building, or structure that is  
12 not a permitted use in that zoning district. A building or structure containing more dwelling units  
13 than are permitted by the use regulations of a zoning ordinance is nonconformity by use; or

14 (ii) Nonconforming by dimension: a building, structure, or parcel of land not in compliance  
15 with the dimensional regulations of the zoning ordinance. Dimensional regulations include all  
16 regulations of the zoning ordinance, other than those pertaining to the permitted uses. A building  
17 or structure containing more dwelling units than are permitted by the use regulations of a zoning  
18 ordinance is nonconforming by use; a building or structure containing a permitted number of  
19 dwelling units by the use regulations of the zoning ordinance, but not meeting the lot area per  
20 dwelling unit regulations, is nonconforming by dimension.

21 (53) Overlay district. A district established in a zoning ordinance that is superimposed on  
22 one or more districts or parts of districts. The standards and requirements associated with an overlay  
23 district may be more or less restrictive than those in the underlying districts consistent with other  
24 applicable state and federal laws.

25 (54) Performance standards. A set of criteria or limits relating to elements that a particular  
26 use or process must either meet or may not exceed.

27 (55) Permitted use. A use by right that is specifically authorized in a particular zoning  
28 district.

29 (56) Planned development. A “land-development project,” as defined in subsection (38),  
30 and developed according to plan as a single entity and containing one or more structures or uses  
31 with appurtenant common areas.

32 (57) Plant agriculture. The growing of plants for food or fiber, to sell or consume.

33 (58) Preapplication conference. A review meeting of a proposed development held  
34 between applicants and reviewing agencies as permitted by law and municipal ordinance, before

1 formal submission of an application for a permit or for development approval.

2 (59) Setback line or lines. A line, or lines, parallel to a lot line at the minimum distance of  
3 the required setback for the zoning district in which the lot is located that establishes the area within  
4 which the principal structure must be erected or placed.

5 (60) Site plan. The development plan for one or more lots on which is shown the existing  
6 and/or the proposed conditions of the lot.

7 (61) Slope of land. The grade, pitch, rise, or incline of the topographic landform or surface  
8 of the ground.

9 (62) Special use. A regulated use that is permitted pursuant to the special-use permit issued  
10 by the authorized governmental entity, pursuant to § 45-24-42. Formerly referred to as a special  
11 exception.

12 (63) Structure. A combination of materials to form a construction for use, occupancy, or  
13 ornamentation, whether installed on, above, or below the surface of land or water.

14 (64) Substandard lot of record. Any lot lawfully existing at the time of adoption or  
15 amendment of a zoning ordinance and not in conformance with the dimensional or area provisions  
16 of that ordinance.

17 (65) Use. The purpose or activity for which land or buildings are designed, arranged, or  
18 intended, or for which land or buildings are occupied or maintained.

19 (66) Variance. Permission to depart from the literal requirements of a zoning ordinance.  
20 An authorization for the construction or maintenance of a building or structure, or for the  
21 establishment or maintenance of a use of land, that is prohibited by a zoning ordinance. There are  
22 only two (2) categories of variance, a use variance or a dimensional variance.

23 (i) Use variance. Permission to depart from the use requirements of a zoning ordinance  
24 where the applicant for the requested variance has shown by evidence upon the record that the  
25 subject land or structure cannot yield any beneficial use if it is to conform to the provisions of the  
26 zoning ordinance.

27 (ii) Dimensional variance. Permission to depart from the dimensional requirements of a  
28 zoning ordinance, where the applicant for the requested relief has shown, by evidence upon the  
29 record, that there is no other reasonable alternative way to enjoy a legally permitted beneficial use  
30 of the subject property unless granted the requested relief from the dimensional regulations.  
31 However, the fact that a use may be more profitable or that a structure may be more valuable after  
32 the relief is granted are not grounds for relief.

33 (67) Waters. As defined in § 46-12-1(23).

34 (68) Wetland, coastal. As defined in § 45-22.2-4.



1 (69) Wetland, freshwater. As defined in § 2-1-20.

2 (70) Zoning certificate. A document signed by the zoning-enforcement officer, as required  
3 in the zoning ordinance, that acknowledges that a use, structure, building, or lot either complies  
4 with, or is legally nonconforming to, the provisions of the municipal zoning ordinance or is an  
5 authorized variance or modification therefrom.

6 (71) Zoning map. The map, or maps, that are a part of the zoning ordinance and that  
7 delineate the boundaries of all mapped zoning districts within the physical boundary of the city or  
8 town.

9 (72) Zoning ordinance. An ordinance enacted by the legislative body of the city or town  
10 pursuant to this chapter and in the manner providing for the adoption of ordinances in the city or  
11 town's legislative or home rule charter, if any, that establish regulations and standards relating to  
12 the nature and extent of uses of land and structures; that is consistent with the comprehensive plan  
13 of the city or town as defined in chapter 22.2 of this title; that includes a zoning map; and that  
14 complies with the provisions of this chapter.

15 (73) Zoning-use district. The basic unit in zoning, either mapped or unmapped, to which  
16 a uniform set of regulations applies, or a uniform set of regulations for a specified use. Zoning-use  
17 districts include, but are not limited to: agricultural, commercial, industrial, institutional, open  
18 space, and residential. Each district may include sub-districts. Districts may be combined.

19 **45-24-37. General provisions — Permitted uses.**

20 (a) The zoning ordinance shall provide a listing of all land uses and/or performance  
21 standards for uses that are permitted within the zoning use districts of the municipality. The  
22 ordinance may provide for a procedure under which a proposed land use that is not specifically  
23 listed may be presented by the property owner to the zoning board of review or to a local official  
24 or agency charged with administration and enforcement of the ordinance for an evaluation and  
25 determination of whether the proposed use is of a similar type, character, and intensity as a listed  
26 permitted use. Upon such determination, the proposed use may be considered to be a permitted use.

27 (b) Notwithstanding any other provision of this chapter, the following uses are permitted  
28 uses within all residential zoning use districts of a municipality and all industrial and commercial  
29 zoning use districts except where residential use is prohibited for public health or safety reasons:

- 30 (1) Households;
- 31 (2) Community residences; and
- 32 (3) Family daycare homes.

33 (c) Any time a building or other structure used for residential purposes, or a portion of a  
34 building containing residential units, is rendered uninhabitable by virtue of a casualty such as fire

1 or flood, the owner of the property is allowed to park, temporarily, mobile and manufactured home,  
2 or homes, as the need may be, elsewhere upon the land, for use and occupancy of the former  
3 occupants for a period of up to twelve (12) months, or until the building or structure is rehabilitated  
4 and otherwise made fit for occupancy. The property owner, or a properly designated agent of the  
5 owner, is only allowed to cause the mobile and manufactured home, or homes, to remain  
6 temporarily upon the land by making timely application to the local building official for the  
7 purposes of obtaining the necessary permits to repair or rebuild the structure.

8 (d) Notwithstanding any other provision of this chapter, appropriate access for people with  
9 disabilities to residential structures is allowed as a reasonable accommodation for any person(s)  
10 residing, or intending to reside, in the residential structure.

11 (e) Notwithstanding any other provision of this chapter, ~~an~~ accessory dwelling ~~unit~~ units  
12 shall be permitted in accordance in an owner-occupied residence that complies with §§ 45-24-31  
13 and 45-24-73 ~~shall be permitted as a reasonable accommodation for family members with~~  
14 ~~disabilities or who are sixty two (62) years of age or older, or to accommodate other family~~  
15 ~~members.~~

16 (f) When used in this section the terms “people with disabilities” or “member, or members,  
17 with disabilities” means a person(s) who has a physical or mental impairment that substantially  
18 limits one or more major life activities, as defined in § 42-87-1(7).

19 (g) Notwithstanding any other provisions of this chapter, plant agriculture is a permitted  
20 use within all zoning districts of a municipality, including all industrial and commercial zoning  
21 districts, except where prohibited for public health or safety reasons or the protection of wildlife  
22 habitat.

23 **45-24-73. Consistent statewide treatment of accessory dwelling units required Design**  
24 **standards required for accessory dwelling units -- Consistent statewide treatment of**  
25 **accessory dwelling units required.**

26 ~~(a) Any municipality that chooses to permit accessory dwelling units (ADUs) within the~~  
27 ~~municipality, shall not impose any excessive restrictions on accessory dwelling units (ADUs).~~  
28 ~~More specifically, a municipality that permits ADUs shall not:~~ (1) Uniform zoning standards for  
29 accessory dwelling units;

30 (i) One accessory dwelling unit (ADU) shall be allowed by right on any owner-occupied  
31 lot with a total lot area of twenty thousand square feet (20,000 sq. ft.) or more; provided that, the  
32 lot is zoned to allow single-family or multi-family dwelling residential use.

33 (ii) One accessory dwelling unit (ADU) shall be allowed by right on any owner-occupied  
34 lot with a total lot area less than twenty thousand square feet (20,000 sq. ft.) where the proposed

1 ADU is located within the existing footprint of the primary structure or legally permitted secondary  
2 attached or detached structure and does not expand the footprint of the structure; provided that, the  
3 lot is zoned to allow single-family or multi-family dwelling residential use.

4 (2) For all existing ADUs and all ADU applications submitted after July 1, 2023, a  
5 municipality may not:

6 ~~(1)~~(i) Restrict tenants based on familial ~~relationship~~ relationships or age unless such  
7 restriction is necessary to comply with the terms of ~~the federal subsidy~~ municipal, state, or federal  
8 subsidies or tax incentives related to affordability;

9 ~~(2)~~(ii) Charge ~~unique or unreasonable~~ application, impact, or permitting fees for the  
10 creation of an ADU that in any instance exceed those that would be charged for a new single-family  
11 dwelling;

12 ~~(3)~~(iii) Require infrastructure improvements in connection with the ADU, including, but  
13 not limited to, separate water or sewer service lines or expanded septic system capacity; provided,  
14 however, ~~municipalities may require modification~~ unless such improvements and/or modifications  
15 are required for compliance under state law or ~~regulation~~ regulations provided in subsection (12)  
16 of this section;

17 ~~(4)~~(iv) Discriminate against populations protected under state and federal fair housing  
18 laws;

19 ~~(5)~~(v) Impose ~~unreasonable~~ dimensional requirements or other development standards on  
20 ADUs that effectively preclude their development or utilization in any instance are more restrictive  
21 than the dimensional requirements or development standards for accessory structures in the same  
22 zoning district;

23 (A) Provided, an ADU shall be allowed up to the height of the primary dwelling unit,  
24 inclusive of the roof.

25 (B) Provided, an ADU qualifies by right under subsection (1) of this section, whose  
26 application is submitted after July 1, 2023, shall be allowed up to nine hundred square feet (900 sq.  
27 ft.) in floor area, and shall not exceed nine hundred square feet (900 sq. ft.) in floor area.

28 ~~(6)~~(vi) Require a larger minimum lot size for a property with an ADU over that required  
29 for a property without an ADU in the same zone;

30 ~~(7)~~(vii) Require more than one off-street parking space beyond what is already required for  
31 the primary ~~use; or~~ dwelling;

32 ~~(8)~~(viii) Limit ADUs to lots with preexisting ~~homes; provided, a municipality shall allow~~  
33 ~~ADUs dwellings, or otherwise prohibit ADUs~~ as part of applications for new primary dwelling  
34 units or subdivisions;

1           (ix) Limit the number of bedrooms that may be provided in an ADU, unless such limits are  
2 required for compliance under state law or regulations provided in this section;

3           (x) Impose floor area requirements on an ADU or the primary dwellings associated with  
4 an ADU beyond what is required by the state housing maintenance and occupancy code pursuant  
5 to § 45-24.3-11;

6           (xi) Require all ADUs to be low-and moderate-income housing as defined by § 45-53-3;  
7 or

8           (xii) Revoke the permitted status or otherwise require the disassembly of a legally  
9 established ADU upon transfer of title or occupancy.

10          (3) Applications for ADUs that qualify by right under § 45-24-73(1) shall be approved  
11 without requiring:

12           (i) A public hearing;

13           (ii) A use variance or special use permit;

14           (iii) Major or minor land development review; or

15           (iv) Other discretionary action of the zoning or planning boards or officials of a  
16 municipality, other than review by the zoning officer to ensure compliance with applicable zoning  
17 ordinances and § 45-24-31 and this section.

18          (4) Applications for ADUs that are not part of a larger development proposal and do not  
19 qualify by right under subsection (1) of this section shall be reviewed through an administrative  
20 officer or development plan review process. They shall not, by themselves, be reviewed as minor  
21 land development, major land development, or special use permits.

22          (5) Municipalities may utilize a unified development review process for any application  
23 that includes ADUs, regardless of whether a city or town has opted into the current unified  
24 development review statute.

25          (6) As part of the approval process, municipalities may exempt ADUs from all or part of  
26 utility assessment and/or tie in fees.

27          (7) For any ADUs constructed prior to January 1, 2023 that are not legally permitted,  
28 municipalities shall allow a grace period of one year for the owner to bring the ADU into  
29 compliance with building code regulations (title 510 of the Rhode Island code of regulations) and  
30 shall issue a permit for the ADU if all building code regulations are satisfied at the end of the grace  
31 period.

32          (8) Before obtaining a building permit for an ADU, the property owner shall record, with  
33 the municipality, a declaration of restrictions containing a reference to the deed under which the  
34 property was acquired by the present owner and stating that the ADU cannot be sold separately

1 from the primary dwelling.

2 ~~(b) To further enable the use of ADUs and to remove barriers to utilization, municipalities~~  
3 ~~may allow ADUs in primary or accessory structures that are lawfully established preexisting non-~~  
4 ~~conforming through a special use permit and not require a variance, notwithstanding any provision~~  
5 ~~of this chapter to the contrary that would require a variance.~~

6 ~~(e)(9)~~ Private restrictions on ADUs imposed by condominium associations, homeowner  
7 associations, or similar residential property governing bodies, which conflict with the provisions  
8 of this section or the definition of an ADU as set forth in § 45-24-31, shall be void as against public  
9 policy. Provided, however, if ADUs are allowed by condominium association covenants,  
10 homeowner association covenants, or similar residential property governing bodies, they shall be  
11 deemed in compliance with this subsection.

12 ~~(f)(10)~~ The development of ADUs shall not be restricted by any locally adopted ordinance  
13 or policy that places a limit or moratorium on the development of residential units in land zoned  
14 for residential use.

15 (11) ADUs shall not be offered or rented for tourist or transient use or through a hosting  
16 platform, as such terms are defined in § 42-63.1-2.

17 (12) Nothing contained in § 45-24-37 and this section shall be construed to supersede or in  
18 any way alter or lessen the effect or application of state regulations, including, but not limited to:

19 (i) Title 250 of the Rhode Island code of regulation;

20 (ii) Title 510 of the Rhode Island code of regulation; and

21 (iii) Title 650 of the Rhode Island code of regulation.

22 SECTION 2. Section 45-24-74 of the General Laws in Chapter 45-24 entitled "Zoning  
23 Ordinances" is hereby repealed.

24 ~~**45-24-74. Additional zoning provisions for applications for accessory dwelling units.**~~

25 ~~(a) Applications for accessory dwelling units (ADUs) that are not part of a larger~~  
26 ~~development proposal shall be reviewed through an administrative officer or development plan~~  
27 ~~review process. They shall not, by themselves, be reviewed as minor land development, major land~~  
28 ~~development, or special use permits.~~

29 ~~(b) ADUs shall be a permitted use in any residential district with a minimum lot size of~~  
30 ~~twenty thousand square feet (20,000 sq. ft.) or more, and where the proposed ADU is located within~~  
31 ~~the existing footprint of the primary structure or existing secondary attached or detached structure~~  
32 ~~and does not expand the footprint of the structure.~~

33 ~~(c) Municipalities may utilize a unified development review process for any application~~  
34 ~~that includes ADUs, regardless of whether a city or town has opted into the current unified~~

1 ~~development review statute.~~

2 ~~(d) As part of the approval process, municipalities may exempt ADUs from all or part of~~  
3 ~~utility assessment and/or tie-in fees.~~

4 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

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- 1           This act would amend several sections of law relating to zoning ordinances to provide
- 2 uniform zoning standards for accessory dwelling units.
- 3           This act would take effect upon passage.

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