

2021 -- S 0116

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

Introduced By: Senators Seveney, Coyne, Euer, Sosnowski, and DiPalma

Date Introduced: January 26, 2021

Referred To: Senate Housing & Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-24-37 and 45-24-42 of the General Laws in Chapter 45-24
2 entitled "Zoning Ordinances" are hereby amended to read as follows:

3 **45-24-37. General provisions -- Permitted uses.**

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

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

- 14 (1) Households;
15 (2) Community residences; and
16 (3) Family day care homes.

17 (c) Any time a building or other structure used for residential purposes, or a portion of a
18 building containing residential units, is rendered uninhabitable by virtue of a casualty such as fire
19 or flood, the owner of the property is allowed to park, temporarily, mobile and manufactured home,

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

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

10 (e) Notwithstanding any other provision of this chapter, an accessory family dwelling unit
11 in an owner-occupied, single-family residence shall be permitted as a reasonable accommodation
12 for family members with disabilities or who are sixty-two (62) years of age or older, or to
13 accommodate other family members. The appearance of the structure shall remain that of a single-
14 family residence and there shall be an internal means of egress between the principal unit and the
15 accessory family dwelling unit. If possible, no additional exterior entrances should be added. Where
16 additional entrance is required, placement should generally be in the rear or side of the structure.
17 When the structure is serviced by an individual, sewage-disposal system, the applicant shall have
18 the existing or any new system approved by the department of environmental management. The
19 zoning-enforcement officer shall require that a declaration of the accessory family dwelling unit
20 for the family member, or members, and its restrictions be recorded in the land-evidence records
21 and filed with the zoning-enforcement officer and the building official. Once the family members
22 with disabilities or who are sixty-two (62) years of age or older, or any other family member, no
23 longer reside(s) in the premises on a permanent basis, or the title is transferred, the property owner
24 shall notify the zoning official in writing, and the accessory family-dwelling unit shall no longer
25 be permitted, unless there is a subsequent, valid application.

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

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

33 **45-24-42. General provisions -- Special-use permits.**

34 (a) A zoning ordinance shall provide for the issuance of special-use permits approved by

1 the zoning board of review, or, where unified development review is enabled pursuant to § 45-24-
2 46.4, the planning board or commission.

3 (b) The ordinance shall:

4 (1) Specify the uses requiring special-use permits in each district; the ordinance may
5 provide for a procedure under which a proposed land use that is not specifically listed may be
6 presented by the property owner to the zoning board of review or to a local official or agency
7 charged with administration and enforcement of the ordinance for an evaluation and determination
8 of whether the proposed use is of a similar type, character and intensity as a listed use requiring a
9 special-use permit. Upon such determination, the proposed use may be considered to be a use
10 requiring a special-use permit;

11 (2) Describe the conditions and procedures under which special-use permits, of each or the
12 various categories of special-use permits established in the zoning ordinance, may be issued;

13 (3) Establish criteria for the issuance of each category of special-use permit that shall be in
14 conformance with the purposes and intent of the comprehensive plan and the zoning ordinance of
15 the city or town;

16 (4) Provide for public hearings and notification of the date, time, place, and purpose of
17 those hearings to interested parties. Special-use permit requests submitted under a zoning
18 ordinance's unified development review provisions shall be heard and noticed in conjunction with
19 the subdivision or land-development application, according to the requirements of § 45-23-50.1.
20 Public notice for special-use permits that are not submitted under a zoning ordinance's unified
21 development review provisions shall be given at least fourteen (14) days prior to the date of the
22 hearing in a newspaper of general circulation in the city or town. Notice of hearing shall be sent by
23 first-class mail to the applicant, and to all those who would require notice under § 45-24-53. The
24 notice shall also include the street address of the subject property. A zoning ordinance may require
25 that a supplemental notice, that an application for a special-use permit is under consideration, be
26 posted at the location in question. The posting is for information purposes only and does not
27 constitute required notice of a public hearing. The cost of notification shall be borne by the
28 applicant;

29 (5) Provide for the recording of findings of fact and written decisions; and

30 (6) Provide that appeals may be taken pursuant to §§ 45-24-70 or 45-23-66, dependent on
31 the board to which application was made.

32 (c) The ordinance additionally may provide that an applicant may apply for, and be issued,
33 a dimensional variance in conjunction with a special-use permit. If the special use could not exist
34 without the dimensional variance, the zoning board of review, or, where unified development

1 review is enabled pursuant to § 45-24-46.4(b), the planning board or commission shall consider the
2 special-use permit and the dimensional variance together to determine if granting the special use is
3 appropriate based on both the special use criteria and the dimensional variance evidentiary
4 standards.

5 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

- 1 This act would provide a procedure for homeowners to submit to a municipal zoning board
- 2 of review or municipal official or agency for a review to determine whether or not a proposed use
- 3 under this chapter requires a special use permit.
- 4 This act would take effect upon passage.

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