

2023 -- H 5264

LC000526

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: Representatives McEntee, Carson, Caldwell, Dawson, Craven, Batista,
Finkelman, Vella-Wilkinson, Morales, and Cortvriend

Date Introduced: January 27, 2023

Referred To: House Small Business

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-24-46.5 of the General Laws in Chapter 45-24 entitled "Zoning
2 Ordinances" is hereby amended to read as follows:

3 ~~45-24-46.5. Special provisions — Emergency declaration modifications~~ **Special**
4 **provisions — Emergency declaration for COVID-19 modifications.**

5 (a) A moratorium is hereby imposed on the enforcement of any [statute, regulation or](#)
6 municipal ordinance ~~or zoning regulation~~ that would penalize any food business or food service
7 establishment, as defined in § 21-27-1, or bar as defined in § 23-20.10-2, for any alterations or
8 modifications to its business made in order to comply with any directives, executive orders, or
9 restrictions issued by the governor, principal executive officer of a political subdivision, or the
10 director of the department of health based upon an emergency declaration issued pursuant to § 30-
11 15-9 or § 30-15-13 [related to the COVID-19 pandemic](#).

12 (b) The moratorium imposed pursuant to this section shall continue throughout the
13 emergency declaration and shall remain effective until ~~April 1, 2023~~ [December 31, 2023](#). During
14 this period, all approved nonconforming uses adopted to comply with ~~the~~ [any COVID-19](#)
15 emergency declaration shall be permitted to continue. [The moratorium shall include, but not be](#)
16 [limited to, alterations or modification related to or concerning outdoor dining, physical structure](#)
17 [alterations, and/or parking capacity standards.](#)

18 (c) [During the moratorium, all towns and cities shall conduct a comprehensive review of](#)
19 [any relevant ordinances, regulations or rules, which need to be amended that apply to outdoor](#)

1 dining specifically to reflect the compelling public purpose for businesses and the public to
2 continue outdoor dining as a permanent feature of dining in this state.

3 SECTION 2. Title 45 of the General Laws entitled "TOWNS AND CITIES" is hereby
4 amended by adding thereto the following chapter:

5 CHAPTER 24.7

6 OUTDOOR DINING ACT

7 **45-24.7-1. Title.**

8 This chapter shall be known and may be cited as "Outdoor Dining Act."

9 **45-24.7-2. Definitions.**

10 As used in the chapter, the following words and terms shall have the following meanings:

11 (1) "Food service establishment" mean any fixed or mobile restaurant, coffee shop,
12 cafeteria, short-order café, luncheonette, grill, tea room, sandwich shop, soda fountain, tavern, bar,
13 cocktail lounge, night club, roadside stand, industrial feeding establishment, cultural heritage
14 education facility, private, public or nonprofit organization or institution routinely serving food,
15 catering kitchen, commissary or similar place in which food or drink is prepared for sale or for
16 service on the premises or elsewhere, and any other eating or drinking establishment or operation
17 where food is served or provided for the public with or without charge.

18 (2) "Outdoor dining" means the use of an adjacent, outside area by a food service
19 establishment for the same eating and drinking activities that occur within the establishment.

20 (3) "Outdoor dining area" means any designated area outside the principal building of a
21 food service establishment which is designed, established, or regularly used for consuming food or
22 drink. Outdoor dining areas do not include an unenclosed dining area at a private residence.

23 (4) "Restaurant" means eating establishment, including, but not limited to, coffee shops,
24 cafeterias, and private and public school cafeterias, that gives or offers for sale food to the public,
25 guest or employees, as well as kitchens and catering facilities in which food is prepared on the
26 premises for serving elsewhere. The term "restaurant" shall include a bar area within the restaurant.

27 **45-24.7-3. Outdoor dining compliance.**

28 A food service establishment that offers outdoor dining shall comply with all accessibility
29 requirements to which places of public accommodations are subject.

30 **45-24.7-4. Regulation of outdoor dining.**

31 (a) The state or a municipality may enforce any statutes, regulations or ordinances that
32 relate to public safety or excessive noise.

33 (b) No state agency, department or any municipality shall:

34 (1) Adopt any rule, regulation or ordinance prohibiting outdoor dining;

- 1 (2) Adopt any rule, regulation or ordinance limiting the time of year when outdoor dining
2 may be offered; or
- 3 (3) Require a food service establishment to remove any alterations, modifications or
4 physical structures built on private property made for outdoor dining in compliance with § 45-24-
5 46.5.

6 SECTION 3. 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 extend the moratorium imposed on the enforcement of statutes, regulations
2 or ordinances by municipalities or state agencies regarding food service establishment alterations
3 or modifications made in order to comply with the emergency declaration(s) issued as a result of
4 the COVID-19 pandemic. The moratorium would remain in place until the earlier of either
5 December 31, 2023, or until terminated by joint resolution of the assembly. This act would also
6 require cities and towns to conduct a comprehensive review of all ordinances which may need to
7 be amended that apply to outdoor dining specifically to reflect the desire for businesses and the
8 public to continue outdoor dining as a permanent feature of dining in this state. The act would also
9 establish a new chapter in title 45 for outdoor dining. Municipalities and state agencies would be
10 prevented from prohibiting outdoor dining.

11 This act would take effect upon passage.

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