

2024 -- H 7981 SUBSTITUTE A

LC005509/SUB A/3

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

Introduced By: Representatives Giraldo, Speakman, Biah, Henries, Voas, Kislak, Batista, Diaz, Alzate, and Kazarian

Date Introduced: March 05, 2024

Referred To: House Municipal Government & Housing

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-24-33 and 45-24-37 of the General Laws in Chapter 45-24
2 entitled "Zoning Ordinances" are hereby amended to read as follows:

3 **45-24-33. Standard provisions.**

4 (a) A zoning ordinance addresses each of the purposes stated in § 45-24-30 and addresses,
5 through reasonable objective standards and criteria, the following general provisions which are
6 numbered for reference purposes only except as prohibited by §§ 45-24-30(b), 45-24-30(c), or 45-
7 24-30(d):

8 (1) Permitting, prohibiting, limiting, and restricting the development of land and structures
9 in zoning districts, and regulating those land and structures according to their type and the nature
10 and extent of their use;

11 (2) Regulating the nature and extent of the use of land for residential, commercial,
12 industrial, institutional, recreational, agricultural, open space, or other use or combination of uses,
13 as the need for land for those purposes is determined by the city or town's comprehensive plan;

14 (3) Permitting, prohibiting, limiting, and restricting buildings, structures, land uses, and
15 other development by performance standards, or other requirements, related to air and water and
16 groundwater quality, noise and glare, energy consumption, soil erosion and sedimentation, and/or
17 the availability and capacity of existing and planned public or private services;

18 (4) Regulating within each district and designating requirements for:

19 (i) The height, number of stories, and size of buildings;

- 1 (ii) The dimensions, size, lot coverage, floor area ratios, and layout of lots or development
2 areas;
- 3 (iii) The density and intensity of use;
- 4 (iv) Access to air and light, views, and solar access;
- 5 (v) Open space, yards, courts, and buffers;
- 6 (vi) Parking areas, road design, and, where appropriate, pedestrian, bicycle, and other
7 circulator systems;
- 8 (vii) Landscaping, fencing, and lighting;
- 9 (viii) Appropriate drainage requirements and methods to manage stormwater runoff;
- 10 (ix) Public access to waterbodies, rivers, and streams; and
- 11 (x) Other requirements in connection with any use of land or structure;
- 12 (5) Permitting, prohibiting, limiting, and restricting development in flood plains or flood
13 hazard areas and designated significant natural areas;
- 14 (6) Promoting the conservation of energy and promoting energy-efficient patterns of
15 development;
- 16 (7) Providing for the protection of existing and planned public drinking water supplies,
17 their tributaries and watersheds, and the protection of Narragansett Bay, its tributaries and
18 watershed;
- 19 (8) Providing for adequate, safe, and efficient transportation systems; and avoiding
20 congestion by relating types and levels of development to the capacity of the circulation system,
21 and maintaining a safe level of service of the system;
- 22 (9) Providing for the preservation and enhancement of the recreational resources of the city
23 or town;
- 24 (10) Promoting an economic climate that increases quality job opportunities and the overall
25 economic well-being of the city or town and the state;
- 26 (11) Providing for pedestrian access to and between public and private facilities, including,
27 but not limited to, schools, employment centers, shopping areas, recreation areas, and residences;
- 28 (12) Providing standards for, and requiring the provision of, adequate and properly
29 designed physical improvements, including plantings, and the proper maintenance of property;
- 30 (13) Permitting, prohibiting, limiting, and restricting land use in areas where development
31 is deemed to create a hazard to the public health or safety;
- 32 (14) Permitting, prohibiting, limiting, and restricting extractive industries and earth
33 removal and requiring restoration of land after these activities;
- 34 (15) Regulating sanitary landfill, except as otherwise provided by state statute;

1 (16) Permitting, prohibiting, limiting, and restricting signs and billboards and other outdoor
2 advertising devices;

3 (17) Designating airport hazard areas under the provisions of chapter 3 of title 1, and
4 enforcement of airport hazard area zoning regulations under the provisions established in that
5 chapter;

6 (18) Designating areas of historic, cultural, and/or archaeological value and regulating
7 development in those areas under the provisions of chapter 24.1 of this title;

8 (19) Providing standards and requirements for the regulation, review, and approval of any
9 proposed development in connection with those uses of land, buildings, or structures specifically
10 designated as subject to development plan review in a zoning ordinance;

11 (20) Designating special protection areas for water supply and limiting or prohibiting
12 development in these areas, except as otherwise provided by state statute;

13 (21) Specifying requirements for safe road access to developments from existing streets,
14 including limiting the number, design, and location of curb cuts, and provisions for internal
15 circulation systems for new developments, and provisions for pedestrian and bicycle ways; and

16 (22) Reducing unnecessary delay in approving or disapproving development applications
17 through provisions for preapplication conferences and other means.

18 (23) Providing for the application of the Rhode Island Fair Housing Practices Act, chapter
19 37 of title 34, the United States Fair Housing Amendments Act of 1988 (FHAA); the Rhode Island
20 Civil Rights People with Disabilities Act, chapter 37 of title 42; and the Americans with Disabilities
21 Act of 1990 (ADA), 42 U.S.C. § 12101 et seq.

22 (24) Regulating drive-through windows of varied intensity of use when associated with
23 land-use activities and providing standards and requirements for the regulation, review, and
24 approval of the drive-through windows, including, but not limited to:

25 (i) Identifying within which zoning districts drive-through windows may be permitted,
26 prohibited, or permitted by special-use permit;

27 (ii) Specifying requirements for adequate traffic circulation; and

28 (iii) Providing for adequate pedestrian safety and access, including issues concerning safety
29 and access for those with disabilities.

30 (b) ~~On or before April 2, 2025, a~~ zoning ordinance ~~may~~ shall include special provisions
31 for ~~any or all of~~ the following:

32 (1) Authorizing development incentives, including, but not limited to, additional permitted
33 uses, increased development and density, or additional design or dimensional flexibility in
34 exchange for:

- 1 (i) Increased open space;
2 (ii) Increased housing choices;
3 (iii) Traffic and pedestrian improvements;
4 (iv) Public and/or private facilities; and/or
5 (v) Other amenities as desired by the city or town and consistent with its comprehensive

6 plan. The provisions in the ordinance shall include maximum allowable densities of population
7 and/or intensities of use and shall indicate the type of improvements, amenities, and/or conditions.
8 Conditions may be made for donation in lieu of direct provisions for improvements or amenities;

9 (2) ~~Establishing a system for transfer of development rights within or between zoning~~
10 ~~districts designated in the zoning ordinance~~ Establishment of at least one mixed residential-
11 commercial use zoning district; and

12 (3) ~~Regulating the development adjacent to designated scenic highways, scenic waterways,~~
13 ~~major thoroughfares, public greenspaces, or other areas of special public investment or valuable~~
14 ~~natural resources~~ Provisions which permit by-right duplexes and multifamily development.

15 Within ten (10) days of passage of the zoning ordinance amendments and zoning map
16 passed pursuant to this subsection, each municipality shall provide a copy of its zoning amendments
17 and map amendments passed in accordance with this subsection to the speaker of the house, the
18 president of the senate, the housing resources commission, the division of statewide planning, and
19 the secretary of housing.

20 (c) A zoning ordinance may include special provisions for any or all of the following:

21 (1) Establishing a system for transfer of development rights within or between zoning
22 districts designated in the zoning ordinance; and

23 (2) Regulating the development adjacent to designated scenic highways, scenic waterways,
24 major thoroughfares, public greenspaces, or other areas of special public investment or valuable
25 natural resources; and

26 ~~(e)~~(d) Slope of land shall not be excluded from the calculation of the buildable lot area or
27 the minimum lot size, or in the calculation of the number of buildable lots or units.

28 ~~(d)~~(e) Nothing in this section shall be construed to restrict a municipality's right, within
29 state and local regulations, to establish its own minimum lot size per zoning district in its town or
30 city.

31 **45-24-37. General provisions — Permitted uses. [Effective January 1, 2024.]**

32 (a) The zoning ordinance shall provide a listing of all land uses and/or performance
33 standards for uses that are permitted within the zoning use districts of the municipality. The
34 ordinance may provide for a procedure under which a proposed land use that is not specifically

1 listed may be presented by the property owner to the zoning board of review or to a local official
2 or agency charged with administration and enforcement of the ordinance for an evaluation and
3 determination of whether the proposed use is of a similar type, character, and intensity as a listed
4 permitted use. Upon such determination, the proposed use may be considered to be a permitted use.

5 (b) Notwithstanding any other provision of this chapter, the following uses are permitted
6 uses within all residential zoning use districts of a municipality and all industrial and commercial
7 zoning use districts except where residential use is prohibited for public health or safety reasons as
8 set forth in subsection (c) of this section:

9 (1) Households;

10 (2) Community residences; ~~and~~

11 (3) Family daycare homes; and

12 (4) Residential uses.

13 (c) By April 2, 2025, if residential use is to be prohibited for public health and safety
14 reasons in any part of a commercial or industrial zoning use district, the city or town shall enact a
15 specific zoning ordinance and zoning map amendment that creates a mapped overlay zoning district
16 delineating where residential use is so prohibited, and setting forth specific findings as to the
17 reasons for determining those areas to be a threat to public health and safety. This shall be known
18 as the residential exclusion health and safety overlay zone.

19 (1) Within ten (10) days of passage of the zoning ordinance amendments and zoning map
20 passed pursuant to this subsection, each municipality shall provide a copy of its zoning
21 amendments, map amendments and findings, passed in accordance with this subsection to the
22 speaker of the house, the president of the senate, the housing resources commission, the division
23 of statewide planning, and the secretary of housing.

24 (d) Any time a building or other structure used for residential purposes, or a portion of a
25 building containing residential units, is rendered uninhabitable by virtue of a casualty such as fire
26 or flood, the owner of the property is allowed to park, temporarily, mobile and manufactured home,
27 or homes, as the need may be, elsewhere upon the land, for use and occupancy of the former
28 occupants for a period of up to twelve (12) months, or until the building or structure is rehabilitated
29 and otherwise made fit for occupancy. The property owner, or a properly designated agent of the
30 owner, is only allowed to cause the mobile and manufactured home, or homes, to remain
31 temporarily upon the land by making timely application to the local building official for the
32 purposes of obtaining the necessary permits to repair or rebuild the structure.

33 ~~(d)~~(e) Notwithstanding any other provision of this chapter, appropriate access for people
34 with disabilities to residential structures is allowed as a reasonable accommodation for any

1 person(s) residing, or intending to reside, in the residential structure.

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

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

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

13 ~~(h)~~(i) **Adaptive reuse.** Notwithstanding any other provisions of this chapter, adaptive reuse
14 for the conversion of any commercial building, including offices, mills, schools, religious facilities,
15 medical buildings, and malls into residential units or mixed-use developments which include the
16 development of at least fifty percent (50%) of the existing gross floor area into residential units,
17 shall be a permitted use and allowed by specific and objective provisions of a zoning ordinance,
18 ~~except where such is.~~

19 (1) Adaptive reuse under this section shall not be allowed where:

20 (i) Residential use is prohibited by environmental land use restrictions recorded on the
21 property by the state of Rhode Island department of environmental management or the United
22 States Environmental Protection Agency ~~preventing the conversion to residential use.;~~

23 (ii) In any industrial zoning use district where residential use is prohibited for public health
24 and safety reasons; or

25 (iii) In any industrial building which has not been vacant for less than two (2) years.

26 ~~(+)~~(2) The specific zoning ordinance provisions for adaptive reuse shall exempt adaptive
27 reuse developments from off-street parking requirements of over one space per dwelling unit.

28 ~~(-)~~(3) Density.

29 (i) For projects that meet the following criteria, local zoning ordinances shall allow for high
30 density residential development and shall not limit the residential density ~~to less than fifteen (15)~~
31 ~~dwelling units per acre~~ provided that all minimum applicable building, fire and or rehabilitation
32 code requirements are met for all residential units:

33 (A) Where the project is limited to the existing footprint, except that the footprint is allowed
34 to be expanded to accommodate upgrades for non-occupiable space related to the building and fire

1 codes and utilities; and

2 (B) ~~The~~ If the development contains over four (4) residential units, that the development
3 includes at least twenty percent (20%) low- and moderate-income housing; and

4 (C) The development has access to public sewer and public water service or has access to
5 adequate private water, such as a community well and and/or wastewater treatment system(s)
6 approved by the relevant state agency for the entire development as applicable.

7 ~~(ii) For all other adaptive reuse projects, the residential density permitted in the converted~~
8 ~~structure shall be the maximum allowed that otherwise meets all standards of minimum housing~~
9 ~~and has access to public sewer and water service or has access to adequate private water, such as a~~
10 ~~well, and wastewater treatment system(s) approved by the relevant state agency for the entire~~
11 ~~development, as applicable. The density proposed shall be determined to meet all public health and~~
12 ~~safety standards.~~

13 (4) For all other adaptive reuse projects which do not provide the minimum of twenty
14 percent (20%) low- and moderate-income units and are in excess of four (4) units the density shall
15 be determined by local ordinance.

16 ~~(3)~~(5) Notwithstanding any other provisions of this chapter, for adaptive reuse projects,
17 existing building setbacks shall remain and shall be considered legal nonconforming, but no
18 additional encroachments shall be permitted into any nonconforming setback, unless otherwise
19 allowed by zoning ordinance or relief is granted by the applicable authority.

20 ~~(4)~~(6) For adaptive reuse projects, notwithstanding any other provisions of this chapter, the
21 height of the existing structure, if it exceeds the maximum height of the zoning district, may remain
22 and shall be considered legal nonconforming, and any rooftop construction shall be included within
23 the height exemption.

24 (7) On or before January 15 of each year, a municipality shall report the number of dwelling
25 units produced under subsection (i) of this section to the speaker of the house, the president of the
26 senate, the housing resources commission, the division of statewide planning, and the secretary of
27 housing.

28 **SECTION 2. This act shall take effect on October 1, 2024.**

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LC005509/SUB A/3
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

1 This act would amend the provisions relative to permitted uses within residential, industrial
2 and commercial zoning use districts.

3 This act would take effect on October 1, 2024.

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