

2025 -- H 5958

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

A N A C T

RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

Introduced By: Representatives Speakman, and Edwards

Date Introduced: February 28, 2025

Referred To: House Municipal Government & Housing

It is enacted by the General Assembly as follows:

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

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

4 (a) A zoning ordinance shall address each of the purposes stated in § 45-24-30 and shall
5 address, through reasonable objective standards and criteria, the following general provisions
6 which are numbered for reference purposes only except as prohibited by § 45-24-30(b), § 45-24-
7 30(c), or § 45-24-30(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, layout of lots or development areas and floor area
2 ratios provided that zoning ordinances must exclude any portion of a basement as defined in § 45-
3 24.3-5 from the calculation of floor area ratio;
- 4 (iii) The density and intensity of use;
- 5 (iv) Access to air and light, views, and solar access;
- 6 (v) Open space, yards, courts, and buffers;
- 7 (vi) Parking areas, road design, and, where appropriate, pedestrian, bicycle, and other
8 circulator systems;
- 9 (vii) Landscaping, fencing, and lighting;
- 10 (viii) Appropriate drainage requirements and methods to manage stormwater runoff;
- 11 (ix) Public access to waterbodies, rivers, and streams; and
- 12 (x) Other requirements in connection with any use of land or structure;
- 13 (5) Permitting, prohibiting, limiting, and restricting development in flood plains or flood
14 hazard areas and designated significant natural areas;
- 15 (6) Promoting the conservation of energy and promoting energy-efficient patterns of
16 development;
- 17 (7) Providing for the protection of existing and planned public drinking water supplies,
18 their tributaries and watersheds, and the protection of Narragansett Bay, its tributaries and
19 watershed;
- 20 (8) Providing for adequate, safe, and efficient transportation systems; and avoiding
21 congestion by relating types and levels of development to the capacity of the circulation system,
22 and maintaining a safe level of service of the system;
- 23 (9) Providing for the preservation and enhancement of the recreational resources of the city
24 or town;
- 25 (10) Promoting an economic climate that increases quality job opportunities and the overall
26 economic well-being of the city or town and the state;
- 27 (11) Providing for pedestrian access to and between public and private facilities, including,
28 but not limited to, schools, employment centers, shopping areas, recreation areas, and residences;
- 29 (12) Providing standards for, and requiring the provision of, adequate and properly
30 designed physical improvements, including plantings, and the proper maintenance of property;
- 31 (13) Permitting, prohibiting, limiting, and restricting land use in areas where development
32 is deemed to create a hazard to the public health or safety;
- 33 (14) Permitting, prohibiting, limiting, and restricting extractive industries and earth
34 removal and requiring restoration of land after these activities;

1 (15) Regulating sanitary landfill, except as otherwise provided by state statute;

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

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

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

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

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

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

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

19 (23) Providing for the application of the Rhode Island Fair Housing Practices Act, chapter
20 37 of title 34, the United States Fair Housing Amendments Act of 1988 (FHAA); the Rhode Island
21 Civil Rights of People with Disabilities Act, chapter 87 of title 42; and the Americans with
22 Disabilities Act of 1990 (ADA), 42 U.S.C. § 12101 et seq.; and

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

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

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

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

31 (b) On or before July 31, all ~~A~~ zoning ordinance ~~may~~ shall include special provisions for
32 ~~any or all of~~ the following:

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

1 exchange for:

2 (i) Increased open space;

3 (ii) Increased housing choices;

4 (iii) Traffic and pedestrian improvements;

5 (iv) Public and/or private facilities; and/or

6 (v) Other amenities as desired by the city or town and consistent with its comprehensive

7 plan. The provisions in the ordinance shall include maximum allowable densities of population

8 and/or intensities of use and shall indicate the type of improvements, amenities, and/or conditions.

9 Conditions may be made for donation in lieu of direct provisions for improvements or amenities;

10 (2) ~~Establishing a system for transfer of development rights within or between zoning~~
11 ~~districts designated in the zoning ordinance; and~~ Implementing mixed-use overlay districts, as
12 defined in § 45-24-78, superimposed over at least thirty percent (30%) of commercial zoning use
13 districts in which any of the following uses are permitted: retail, hotel/motel, office, medical or
14 dental office, or personal service establishment:

15 (i) To alleviate administrative burdens for cities and towns, the department of housing shall
16 issue a guidance document, setting forth model ordinance language for mixed-use overlay districts
17 by December 31, 2025;

18 (ii) In the event that a city or town fails to implement mixed-use overlay districts, as
19 required by this section, the uses set forth in § 45-24-78(b) shall be permitted by right in any
20 commercial zoning use district in which any retail, hotel/motel, office, medical or dental office, or
21 personal service establishment are a permitted use. The department of housing shall promulgate
22 regulations for determining if a city or town is in compliance with this section.

23 ~~(3) 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.~~

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

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

29 (2) Regulating the development, adjacent to designated scenic highways, scenic
30 waterways, major thoroughfares, public greenspaces, or other areas of special public investment or
31 valuable natural resources.

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

34 ~~(e)~~ (e) Nothing in this section shall be construed to restrict a municipality's right, within

1 state and local regulations, to establish its own minimum lot size per zoning district in its town or
2 city.

3 SECTION 2. Chapter 45-24 of the General Laws entitled "Zoning Ordinances" is hereby
4 amended by adding thereto the following section:

5 **45-24-78. Mixed use overlay districts.**

6 (a) For the purposes of this section, a "mixed-use overlay district" is an overlay district
7 designed to promote complementary land uses, that promote both housing and economic
8 development, and which would not otherwise be possible under conventional zoning regulations,
9 that strictly separate commercial and residential land uses.

10 (b) The following uses shall be permitted in a mixed-use overlay district by right, in
11 addition to any uses permitted in the underlying zoning use district:

12 (1) Multifamily dwellings; and

13 (2) Mixed-use, where residential dwelling units are one of the uses within the development,
14 building or tract.

15 (c) A city or town may establish performance standards for development within a mixed-
16 use overlay district; provided that, the standards shall allow:

17 (1) A building height of at least three (3) stories, at up to forty feet (40');

18 (2) A floor area ratio of no less than one;

19 (3) Residential density of not less than one dwelling unit per one thousand two hundred
20 square feet (1,200 ft²) of lot area;

21 (4) Dwelling units of any size; and

22 (5) No more than one off-street parking space per dwelling unit, which parking may be
23 provided off-site through a shared parking arrangement.

24 (d) A city or town may require that the ground floor of a multifamily development, within
25 a mixed-use overlay district be reserved for commercial use or be convertible to commercial use
26 by virtue of meeting specified design criteria.

27 (e) No person shall have a valid claim for private nuisance in a mixed-use overlay district,
28 where evidence exists that the conditions giving rise to the claim pre-dated the ownership or
29 tenancy of the claimant at a property.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 Municipalities would be required to amend their zoning ordinances, to include special
2 listed provisions, which authorize development incentives to increase development density or
3 dimensional flexibility. The act would also identify several provisions to promote and regulate
4 commercial developments. Finally, it would identify uses that help development in mixed-use
5 overlap districts.

6 This act would take effect upon passage.

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