

2020 -- S 2468

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LC003861
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO TOWNS AND CITIES - ZONING ORDINANCES

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

Date Introduced: February 13, 2020

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 standards for
5 uses that are permitted within the zoning use districts of the municipality. The ordinance may
6 provide for a procedure under which a proposed land use that is not specifically listed may be
7 presented by the property owner to the zoning board of review or to a local official or agency
8 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
11 use.

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

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

18 (c) Any time a building or other structure used for residential purposes, or a portion of a
19 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
2 home, or homes, as the need may be, elsewhere upon the land, for use and occupancy of the
3 former occupants for a period of up to twelve (12) months, or until the building or structure is
4 rehabilitated and otherwise made fit for occupancy. The property owner, or a properly designated
5 agent of the owner, is only allowed to cause the mobile and manufactured home, or homes, to
6 remain temporarily upon the land by making timely application to the local building official for
7 the 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
9 with disabilities to residential structures is allowed as a reasonable accommodation for any
10 person(s) residing, or intending to reside, in the residential structure.

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

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

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

1 **45-24-42. General provisions -- Special-use permits.**

2 (a) A zoning ordinance shall provide for the issuance of special-use permits approved by
3 the zoning board of review, or, where unified development review is enabled pursuant to § 45-24-
4 46.4, the planning board or commission.

5 (b) The ordinance shall:

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

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

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

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

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

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

34 (c) The ordinance additionally may provide that an applicant may apply for, and be

1 issued, a dimensional variance in conjunction with a special-use permit. If the special use could
2 not exist without the dimensional variance, the zoning board of review, or, where unified
3 development review is enabled pursuant to § 45-24-46.4(b), the planning board or commission
4 shall consider the special-use permit and the dimensional variance together to determine if
5 granting the special use is appropriate based on both the special use criteria and the dimensional
6 variance evidentiary standards.

7 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 for review by a municipal
2 official for a proposed land use not specifically listed under local ordinances or whether it
3 requires a special-use permit.

4 This act would take effect upon passage.

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