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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

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A N A C T

RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

Introduced By: Senators Gu, Mack, Kallman, F. Lombardi, Bissailon, Burke, Valverde,  
and Miller

Date Introduced: March 01, 2024

Referred To: Senate Housing & Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-24-31, 45-24-37 and 45-24-73 of the General Laws in Chapter  
2 45-24 entitled "Zoning Ordinances" are hereby amended to read as follows:

3 **45-24-31. Definitions. [Effective January 1, 2024.]**

4 Where words or terms used in this chapter are defined in § 45-22.2-4 or § 45-23-32, they  
5 have the meanings stated in that section. In addition, the following words have the following  
6 meanings. Additional words and phrases may be used in developing local ordinances under this  
7 chapter; however, the words and phrases defined in this section are controlling in all local  
8 ordinances created under this chapter:

9 (1) **Abutter.** One whose property abuts, that is, adjoins at a border, boundary, or point with  
10 no intervening land.

11 (2) **Accessory dwelling unit (ADU).** A residential living unit on the same ~~parcel~~ lot where  
12 the ~~primary~~ principal use is a legally established single-family dwelling unit or multi-~~unit~~ family  
13 dwelling unit. An ADU provides complete independent living facilities for one or more persons. It  
14 may take various forms including, but not limited to: a detached unit; a unit that is part of an  
15 accessory structure, such as a detached garage; or a unit that is part of an expanded or remodeled  
16 primary dwelling.

17 (3) **Accessory use.** A use of land or of a building, or portion thereof, customarily incidental  
18 and subordinate to the principal use of the land or building. An accessory use may be restricted to  
19 the same lot as the principal use. An accessory use shall not be permitted without the principal use

1 to which it is related.

2 (4) **Adaptive reuse.** “Adaptive reuse,” as defined in § 42-64.22-2.

3 (5) **Aggrieved party.** An aggrieved party, for purposes of this chapter, shall be:

4 (i) Any person, or persons, or entity, or entities, who or that can demonstrate that his, her,  
5 or its property will be injured by a decision of any officer or agency responsible for administering  
6 the zoning ordinance of a city or town; or

7 (ii) Anyone requiring notice pursuant to this chapter.

8 (6) **Agricultural land.** “Agricultural land,” as defined in § 45-22.2-4.

9 (7) **Airport hazard area.** “Airport hazard area,” as defined in § 1-3-2.

10 (8) **Applicant.** An owner, or authorized agent of the owner, submitting an application or  
11 appealing an action of any official, board, or agency.

12 (9) **Application.** The completed form, or forms, and all accompanying documents,  
13 exhibits, and fees required of an applicant by an approving authority for development review,  
14 approval, or permitting purposes.

15 (10) **Buffer.** Land that is maintained in either a natural or landscaped state, and is used to  
16 screen or mitigate the impacts of development on surrounding areas, properties, or rights-of-way.

17 (11) **Building.** Any structure used or intended for supporting or sheltering any use or  
18 occupancy.

19 (12) **Building envelope.** The three-dimensional space within which a structure is permitted  
20 to be built on a lot and that is defined by regulations governing building setbacks, maximum height,  
21 and bulk; by other regulations; or by any combination thereof.

22 (13) **Building height.** For a vacant parcel of land, building height shall be measured from  
23 the average, existing-grade elevation where the foundation of the structure is proposed. For an  
24 existing structure, building height shall be measured from average grade taken from the outermost  
25 four (4) corners of the existing foundation. In all cases, building height shall be measured to the top  
26 of the highest point of the existing or proposed roof or structure. This distance shall exclude spires,  
27 chimneys, flag poles, and the like. For any property or structure located in a special flood hazard  
28 area, as shown on the official FEMA Flood Insurance Rate Maps (FIRMs), or depicted on the  
29 Rhode Island coastal resources management council (CRMC) suggested design elevation three foot  
30 (3') sea level rise (CRMC SDE 3 SLR) map as being inundated during a one-hundred-year (100)  
31 storm, the greater of the following amounts, expressed in feet, shall be excluded from the building  
32 height calculation:

33 (i) The base flood elevation on the FEMA FIRM plus up to five feet (5') of any utilized or  
34 proposed freeboard, less the average existing grade elevation; or

1 (ii) The suggested design elevation as depicted on the CRMC SDE 3 SLR map during a  
2 one-hundred-year (100) storm, less the average existing grade elevation. CRMC shall reevaluate  
3 the appropriate suggested design elevation map for the exclusion every ten (10) years, or as  
4 otherwise necessary.

5 (14) **Cluster.** A site-planning technique that concentrates buildings in specific areas on the  
6 site to allow the remaining land to be used for recreation, common open space, and/or preservation  
7 of environmentally, historically, culturally, or other sensitive features and/or structures. The  
8 techniques used to concentrate buildings shall be specified in the ordinance and may include, but  
9 are not limited to, reduction in lot areas, setback requirements, and/or bulk requirements, with the  
10 resultant open land being devoted by deed restrictions for one or more uses. Under cluster  
11 development, there is no increase in the number of lots that would be permitted under conventional  
12 development except where ordinance provisions include incentive bonuses for certain types or  
13 conditions of development.

14 (15) **Common ownership.** Either:

15 (i) Ownership by one or more individuals or entities in any form of ownership of two (2)  
16 or more contiguous lots; or

17 (ii) Ownership by any association (ownership may also include a municipality) of one or  
18 more lots under specific development techniques.

19 (16) **Community residence.** A home or residential facility where children and/or adults  
20 reside in a family setting and may or may not receive supervised care. This does not include halfway  
21 houses or substance-use-disorder-treatment facilities. This does include, but is not limited to, the  
22 following:

23 (i) Whenever six (6) or fewer children or adults with intellectual and/or developmental  
24 disability reside in any type of residence in the community, as licensed by the state pursuant to  
25 chapter 24 of title 40.1. All requirements pertaining to local zoning are waived for these community  
26 residences;

27 (ii) A group home providing care or supervision, or both, to not more than eight (8) persons  
28 with disabilities, and licensed by the state pursuant to chapter 24 of title 40.1;

29 (iii) A residence for children providing care or supervision, or both, to not more than eight  
30 (8) children, including those of the caregiver, and licensed by the state pursuant to chapter 72.1 of  
31 title 42;

32 (iv) A community transitional residence providing care or assistance, or both, to no more  
33 than six (6) unrelated persons or no more than three (3) families, not to exceed a total of eight (8)  
34 persons, requiring temporary financial assistance, and/or to persons who are victims of crimes,

1 abuse, or neglect, and who are expected to reside in that residence not less than sixty (60) days nor  
2 more than two (2) years. Residents will have access to, and use of, all common areas, including  
3 eating areas and living rooms, and will receive appropriate social services for the purpose of  
4 fostering independence, self-sufficiency, and eventual transition to a permanent living situation.

5 (17) **Comprehensive plan.** The comprehensive plan adopted and approved pursuant to  
6 chapter 22.2 of this title and to which any zoning adopted pursuant to this chapter shall be in  
7 compliance.

8 (18) **Day care — Daycare center.** Any other daycare center that is not a family daycare  
9 home.

10 (19) **Day care — Family daycare home.** Any home, other than the individual's home, in  
11 which day care in lieu of parental care or supervision is offered at the same time to six (6) or less  
12 individuals who are not relatives of the caregiver, but may not contain more than a total of eight  
13 (8) individuals receiving day care.

14 (20) **Density, residential.** The number of dwelling units per unit of land.

15 (21) **Development.** The construction, reconstruction, conversion, structural alteration,  
16 relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance;  
17 or any change in use, or alteration or extension of the use, of land.

18 (22) **Development plan review.** See §§ 45-23-32 and 45-23-50.

19 (23) **District.** See "zoning use district."

20 (24) **Drainage system.** A system for the removal of water from land by drains, grading, or  
21 other appropriate means. These techniques may include runoff controls to minimize erosion and  
22 sedimentation during and after construction or development; the means for preserving surface and  
23 groundwaters; and the prevention and/or alleviation of flooding.

24 (25) **Dwelling unit.** A structure, or portion of a structure, providing complete, independent  
25 living facilities for one or more persons, including permanent provisions for living, sleeping, eating,  
26 cooking, and sanitation, and containing a separate means of ingress and egress.

27 (26) **Extractive industry.** The extraction of minerals, including: solids, such as coal and  
28 ores; liquids, such as crude petroleum; and gases, such as natural gases. The term also includes  
29 quarrying; well operation; milling, such as crushing, screening, washing, and flotation; and other  
30 preparation customarily done at the extraction site or as a part of the extractive activity.

31 (27) **Family member.** A person, or persons, related by blood, marriage, or other legal  
32 means, including, but not limited to, a child, parent, spouse, mother-in-law, father-in-law,  
33 grandparents, grandchildren, domestic partner, sibling, care recipient, or member of the household.

34 (28) **Floating zone.** An unmapped zoning district adopted within the ordinance that is

1 established on the zoning map only when an application for development, meeting the zone  
2 requirements, is approved.

3 (29) Floodplains, or Flood hazard area. As defined in § 45-22.2-4.

4 (30) Freeboard. A factor of safety expressed in feet above the base flood elevation of a  
5 flood hazard area for purposes of floodplain management. Freeboard compensates for the many  
6 unknown factors that could contribute to flood heights, such as wave action, bridge openings, and  
7 the hydrological effect of urbanization of the watershed.

8 (31) Groundwater. "Groundwater" and associated terms, as defined in § 46-13.1-3.

9 (32) Halfway house. A residential facility for adults or children who have been  
10 institutionalized for criminal conduct and who require a group setting to facilitate the transition to  
11 a functional member of society.

12 (33) Hardship. See § 45-24-41.

13 (34) Historic district or historic site. As defined in § 45-22.2-4.

14 (35) Home occupation. Any activity customarily carried out for gain by a resident,  
15 conducted as an accessory use in the resident's dwelling unit.

16 (36) Household. One or more persons living together in a single-dwelling unit, with  
17 common access to, and common use of, all living and eating areas and all areas and facilities for  
18 the preparation and storage of food within the dwelling unit. The term "household unit" is  
19 synonymous with the term "dwelling unit" for determining the number of units allowed within any  
20 structure on any lot in a zoning district. An individual household shall consist of any one of the  
21 following:

22 (i) A family, which may also include servants and employees living with the family; or

23 (ii) A person or group of unrelated persons living together. The maximum number may be  
24 set by local ordinance, but this maximum shall not be less than three (3).

25 (37) Incentive zoning. The process whereby the local authority may grant additional  
26 development capacity in exchange for the developer's provision of a public benefit or amenity as  
27 specified in local ordinances.

28 (38) Infrastructure. Facilities and services needed to sustain residential, commercial,  
29 industrial, institutional, and other activities.

30 (39) **Land development project.** As defined in § 45-23-32.

31 (40) Lot. Either:

32 (i) The basic development unit for determination of lot area, depth, and other dimensional  
33 regulations; or

34 (ii) A parcel of land whose boundaries have been established by some legal instrument,

1 such as a recorded deed or recorded map, and that is recognized as a separate legal entity for  
2 purposes of transfer of title.

3 (41) Lot area. The total area within the boundaries of a lot, excluding any street right-of-  
4 way, usually reported in acres or square feet.

5 (42) Lot area, minimum. The smallest land area established by the local zoning ordinance  
6 upon which a use, building, or structure may be located in a particular zoning district.

7 (43) Lot building coverage. That portion of the lot that is, or may be, covered by buildings  
8 and accessory buildings.

9 (44) Lot depth. The distance measured from the front lot line to the rear lot line. For lots  
10 where the front and rear lot lines are not parallel, the lot depth is an average of the depth.

11 (45) Lot frontage. That portion of a lot abutting a street. A zoning ordinance shall specify  
12 how noncontiguous frontage will be considered with regard to minimum frontage requirements.

13 (46) Lot line. A line of record, bounding a lot, that divides one lot from another lot or from  
14 a public or private street or any other public or private space and shall include:

15 (i) Front: the lot line separating a lot from a street right-of-way. A zoning ordinance shall  
16 specify the method to be used to determine the front lot line on lots fronting on more than one  
17 street, for example, corner and through lots;

18 (ii) Rear: the lot line opposite and most distant from the front lot line, or in the case of  
19 triangular or otherwise irregularly shaped lots, an assumed line at least ten feet (10') in length  
20 entirely within the lot, parallel to and at a maximum distance from, the front lot line; and

21 (iii) Side: any lot line other than a front or rear lot line. On a corner lot, a side lot line may  
22 be a street lot line, depending on requirements of the local zoning ordinance.

23 (47) **Lot size, minimum.** Shall have the same meaning as “minimum lot area” defined  
24 herein.

25 (48) **Lot, through.** A lot that fronts upon two (2) parallel streets, or that fronts upon two  
26 (2) streets that do not intersect at the boundaries of the lot.

27 (49) Lot width. The horizontal distance between the side lines of a lot measured at right  
28 angles to its depth along a straight line parallel to the front lot line at the minimum front setback  
29 line.

30 (50) Mere inconvenience. See § 45-24-41.

31 (51) Mixed use. A mixture of land uses within a single development, building, or tract.

32 (52) Modification. Permission granted and administered by the zoning enforcement officer  
33 of the city or town, and pursuant to the provisions of this chapter to grant a dimensional variance  
34 other than lot area requirements from the zoning ordinance to a limited degree as determined by

1 the zoning ordinance of the city or town, but not to exceed twenty-five percent (25%) of each of  
2 the applicable dimensional requirements.

3 (53) Nonconformance. A building, structure, or parcel of land, or use thereof, lawfully  
4 existing at the time of the adoption or amendment of a zoning ordinance and not in conformity with  
5 the provisions of that ordinance or amendment. Nonconformance is of only two (2) types:

6 (i) Nonconforming by use: a lawfully established use of land, building, or structure that is  
7 not a permitted use in that zoning district. A building or structure containing more dwelling units  
8 than are permitted by the use regulations of a zoning ordinance is nonconformity by use; or

9 (ii) Nonconforming by dimension: a building, structure, or parcel of land not in compliance  
10 with the dimensional regulations of the zoning ordinance. Dimensional regulations include all  
11 regulations of the zoning ordinance, other than those pertaining to the permitted uses. A building  
12 or structure containing more dwelling units than are permitted by the use regulations of a zoning  
13 ordinance is nonconforming by use; a building or structure containing a permitted number of  
14 dwelling units by the use regulations of the zoning ordinance, but not meeting the lot area per  
15 dwelling unit regulations, is nonconforming by dimension.

16 (54) Overlay district. A district established in a zoning ordinance that is superimposed on  
17 one or more districts or parts of districts. The standards and requirements associated with an overlay  
18 district may be more or less restrictive than those in the underlying districts consistent with other  
19 applicable state and federal laws.

20 (55) Performance standards. A set of criteria or limits relating to elements that a particular  
21 use or process must either meet or may not exceed.

22 (56) Permitted use. A use by right that is specifically authorized in a particular zoning  
23 district.

24 (57) Planned development. A “land development project,” as defined in subsection (39),  
25 and developed according to plan as a single entity and containing one or more structures or uses  
26 with appurtenant common areas.

27 (58) Plant agriculture. The growing of plants for food or fiber, to sell or consume.

28 (59) Preapplication conference. A review meeting of a proposed development held  
29 between applicants and reviewing agencies as permitted by law and municipal ordinance, before  
30 formal submission of an application for a permit or for development approval.

31 (60) Setback line or lines. A line, or lines, parallel to a lot line at the minimum distance of  
32 the required setback for the zoning district in which the lot is located that establishes the area within  
33 which the principal structure must be erected or placed.

34 (61) Site plan. The development plan for one or more lots on which is shown the existing

1 and/or the proposed conditions of the lot.

2 (62) Slope of land. The grade, pitch, rise, or incline of the topographic landform or surface  
3 of the ground.

4 (63) Special use. A regulated use that is permitted pursuant to the special-use permit issued  
5 by the authorized governmental entity, pursuant to § 45-24-42. Formerly referred to as a special  
6 exception.

7 (64) Structure. A combination of materials to form a construction for use, occupancy, or  
8 ornamentation, whether installed on, above, or below the surface of land or water.

9 (65) Substandard lot of record. Any lot lawfully existing at the time of adoption or  
10 amendment of a zoning ordinance and not in conformance with the dimensional or area provisions  
11 of that ordinance.

12 (66) Use. The purpose or activity for which land or buildings are designed, arranged, or  
13 intended, or for which land or buildings are occupied or maintained.

14 (67) **Variance.** Permission to depart from the literal requirements of a zoning ordinance.  
15 An authorization for the construction or maintenance of a building or structure, or for the  
16 establishment or maintenance of a use of land, that is prohibited by a zoning ordinance. There are  
17 only two (2) categories of variance, a use variance or a dimensional variance.

18 (i) Use variance. Permission to depart from the use requirements of a zoning ordinance  
19 where the applicant for the requested variance has shown by evidence upon the record that the  
20 subject land or structure cannot yield any beneficial use if it is to conform to the provisions of the  
21 zoning ordinance.

22 (ii) Dimensional variance. Permission to depart from the dimensional requirements of a  
23 zoning ordinance under the applicable standards set forth in § 45-24-41.

24 (68) Waters. As defined in § 46-12-1(23).

25 (69) Wetland, coastal. As defined in § 45-22.2-4.

26 (70) Wetland, freshwater. As defined in § 2-1-20.

27 (71) Zoning certificate. A document signed by the zoning enforcement officer, as required  
28 in the zoning ordinance, that acknowledges that a use, structure, building, or lot either complies  
29 with, or is legally nonconforming to, the provisions of the municipal zoning ordinance or is an  
30 authorized variance or modification therefrom.

31 (72) Zoning map. The map, or maps, that are a part of the zoning ordinance and that  
32 delineate the boundaries of all mapped zoning districts within the physical boundary of the city or  
33 town.

34 (73) Zoning ordinance. An ordinance enacted by the legislative body of the city or town



1 pursuant to this chapter and in the manner providing for the adoption of ordinances in the city or  
2 town's legislative or home rule charter, if any, that establish regulations and standards relating to  
3 the nature and extent of uses of land and structures; that is consistent with the comprehensive plan  
4 of the city or town as defined in chapter 22.2 of this title; that includes a zoning map; and that  
5 complies with the provisions of this chapter.

6 (74) Zoning use district. The basic unit in zoning, either mapped or unmapped, to which a  
7 uniform set of regulations applies, or a uniform set of regulations for a specified use. Zoning use  
8 districts include, but are not limited to: agricultural, commercial, industrial, institutional, open  
9 space, and residential. Each district may include sub-districts. Districts may be combined.

10 **45-24-37. General provisions — Permitted uses. [Effective January 1, 2024.]**

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

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

- 21 (1) Households;
- 22 (2) Community residences; and
- 23 (3) Family daycare homes.

24 (c) 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) Notwithstanding any other provision of this chapter, appropriate access for people with  
34 disabilities to residential structures is allowed as a reasonable accommodation for any person(s)

1 residing, or intending to reside, in the residential structure.

2 (e) Notwithstanding any other provision of this chapter, an accessory dwelling unit ~~in an~~  
3 ~~owner-occupied residence that complies with~~ ("ADU") that meets the requirements of §§ 45-24-31  
4 and 45-24-73(a) shall be a permitted ~~as a reasonable accommodation for family members with~~  
5 ~~disabilities or who are sixty two (62) years of age or older, or to accommodate other family~~  
6 ~~members~~ use in all residential zoning districts. An ADU which meets the requirements of §§ 45-  
7 24-31 and 45-24-73(a) shall be permitted through an administrative building permit process only.

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

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

15 (h) **Adaptive reuse.** Notwithstanding any other provisions of this chapter, adaptive reuse  
16 for the conversion of any commercial building, including offices, schools, religious facilities,  
17 medical buildings, and malls into residential units or mixed-use developments which include the  
18 development of at least fifty percent (50%) of the existing gross floor area into residential units,  
19 shall be a permitted use and allowed by specific and objective provisions of a zoning ordinance,  
20 except where such is prohibited by environmental land use restrictions recorded on the property by  
21 the state of Rhode Island department of environmental management or the United States  
22 Environmental Protection Agency preventing the conversion to residential use.

23 (1) The specific zoning ordinance provisions for adaptive reuse shall exempt adaptive reuse  
24 developments from off-street parking requirements of over one space per dwelling unit.

25 (2) Density.

26 (i) For projects that meet the following criteria, zoning ordinances shall allow for high  
27 density development and shall not limit the density to less than fifteen (15) dwelling units per acre:

28 (A) Where the project is limited to the existing footprint, except that the footprint is allowed  
29 to be expanded to accommodate upgrades related to the building and fire codes and utilities; and

30 (B) The development includes at least twenty percent (20%) low- and moderate-income  
31 housing; and

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

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

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

11 (4) For adaptive reuse projects, notwithstanding any other provisions of this chapter, the  
12 height of the existing structure, if it exceeds the maximum height of the zoning district, may remain  
13 and shall be considered legal nonconforming, and any rooftop construction shall be included within  
14 the height exemption

15 ~~45-24-73. Consistent statewide treatment of accessory dwelling units required. Design~~  
16 ~~standards required for accessory dwelling units - Consistent statewide treatment of accessory~~  
17 ~~dwelling units required.~~

18 (a) ~~Any municipality that chooses to permit accessory dwelling units (ADUs) within the~~  
19 ~~municipality, shall not impose any excessive restrictions on accessory dwelling units (ADUs).~~  
20 ~~More specifically, a municipality that permits ADUs shall not:~~

21 Pursuant to § 45-24-37(e), one accessory dwelling unit (ADU) shall be allowed per primary  
22 dwelling by right if any of the following circumstances apply:

23 (1) On an owner-occupied property as a reasonable accommodation for family members  
24 with disabilities or for family members who are sixty-two (62) years old or older; or

25 (2) On a lot containing a total lot area of at least six thousand square feet (6,000 sq. ft.) and  
26 meeting the minimum lot area for the residential zoning district in which it is located and which  
27 minimum lot area is free from wetlands, flood plains or flood hazard areas; or

28 (3) On a lot which has a minimum lot area of forty thousand square feet (40,000 sq. ft.)  
29 regardless of the zoning district in which it is located and which minimum lot area is free from  
30 wetlands, food plains or flood hazard areas; or

31 (4) Where the proposed ADU is located within the existing footprint of the primary  
32 dwelling or existing legally permitted or legally nonconforming attached or detached accessory  
33 structure and does not expand the footprint of the structure; provided that, the lot is zoned for  
34 residential use.

1 (b) Notwithstanding the criteria in § 45-24-73(a), ADUs are not permitted by right on lots  
2 designated by the CRMC as "land developed beyond carrying capacity".

3 (c) Applications for ADUs allowed by right under § 45-24-73(a) that do not require relief  
4 from dimensional standards shall be approved administratively without requiring a public hearing  
5 or other discretionary action of the zoning or planning boards or officials of the municipality other  
6 than review by the zoning officer to ensure compliance with the applicable zoning ordinance, § 45-  
7 24-31 and this section.

8 (d) Uniform standards.

9 (1) ADUs that are permitted by right under § 45-24-73(a) shall be allowed up to nine  
10 hundred square feet (900 sq. ft.), or sixty percent (60%) of the floor area of the principal dwelling,  
11 whichever is less; provided that, they shall satisfy all other dimensional requirements for accessory  
12 structures for the zoning district in which it is located.

13 (2) For all legally permitted ADU applications, a municipality shall not:

14 ~~(1)~~(i) Restrict tenants based on familial ~~relationship~~ relationships or age unless such  
15 restriction is necessary to comply with the terms of ~~the a~~ federal, state or municipal subsidy related  
16 to affordability or the ADU was permitted under § 45-24-73(a)(1);

17 ~~(2)~~(ii) Charge ~~unique or unreasonable~~ application or permitting or impact fees for the  
18 creation of an ADU that exceed those that would be charged for a new single family dwelling with  
19 the same square footage;

20 ~~(3)~~(iii) Require infrastructure improvements in connection with the ADU, including, but  
21 not limited to, separate water or sewer service lines or expanded septic system capacity; ~~provided,~~  
22 ~~however, municipalities may require modification~~ unless such improvements and/or modifications  
23 are required for compliance under state law or ~~regulation~~ regulations, or to comply with building  
24 code requirements, or to comply with municipal ordinances that mandate minimum well water  
25 capacity for dwellings served by private wells;

26 ~~(4)~~(iv) Discriminate against populations protected under state and federal fair housing  
27 laws;

28 ~~(5)~~(v) Impose ~~unreasonable~~ dimensional requirements or other development standards on  
29 ADUs that ~~effectively preclude their development or utilization~~ in any instance are more restrictive  
30 than the dimensional requirements or developments standards for an accessory structure in the same  
31 zoning district;

32 ~~(6)~~(vi) Require ~~a larger minimum lot size for a property with an ADU over that required~~  
33 ~~for a property without an ADU in the same zone~~ additional lot area, lot frontage or lot width for a  
34 dwelling with an ADU over what is required for a dwelling without an ADU in the same zoning

1 district;

2 (vii) Require zoning relief for ADU applications proposed within an existing footprint and  
3 height of the primary or accessory structure including legal nonconforming structures;

4 ~~(7)(viii)~~ Require more than one off-street parking space beyond what is already required  
5 for the primary use; or dwelling;

6 ~~(8)(ix)~~ Limit ADUs to lots with preexisting homes; provided, a municipality shall allow  
7 ~~ADUs dwellings, or otherwise prohibit ADUs~~ as part of applications for new primary dwelling  
8 units or subdivisions; that comply with the underlying zoning requirements;

9 (x) Prohibit an ADU that otherwise complies with this chapter and applicable dimensional  
10 regulations and state regulations from having up to two (2) bedrooms;

11 (xi) Require an ADU to be low-or moderate-income housing as defined by § 42-128-8.1,  
12 unless such ADU is part of an inclusionary zoning or comprehensive permit application; or

13 (xii) Revoke the permitted status, require the disassembly or prohibit the use of a legally  
14 established ADU.

15 (3) Applications for ADUs that are not part of a larger development proposal and do not  
16 qualify by right under § 45-24-73(a)(1) through (4) shall be reviewed through an administrative  
17 officer or development plan review process. They shall not, by themselves, be reviewed as minor  
18 land development, major land development, or special use permit.

19 (4) Municipalities may not prohibit ADUs from being proposed as part of applications for  
20 new primary dwelling units or subdivisions. For ADUs that are part of a larger development  
21 proposal, a municipality shall not count such ADUs toward the allowable density unless the  
22 proposed development is already receiving a separate density bonus under the provisions of § 45-  
23 53-4(b)(1).

24 (i) Municipalities may utilize a unified development review process for any application  
25 that includes ADUs, regardless of whether a city or town has opted into the current unified  
26 development review process.

27 (5) As part of the approval process, municipalities may exempt ADUs from all or part of  
28 utility assessment and/or tie in fees.

29 ~~(b) To further enable the use of ADUs and to remove barriers to utilization, municipalities~~  
30 ~~may allow ADUs in primary or accessory structures that are lawfully established preexisting non-~~  
31 ~~conforming through a special use permit and not require a variance, notwithstanding any provision~~  
32 ~~of this chapter to the contrary that would require a variance.~~

33 ~~(e)(6)~~ Private restrictions on ADUs imposed by condominium associations, homeowner  
34 associations, or similar residential property governing bodies, which conflict with the provisions

1 of this section or the definition of an ADU as set forth in § 45-24-31, shall be void as against public  
2 policy. Provided, however, if ADUs are allowed by condominium association covenants,  
3 homeowner association covenants, or similar residential property governing bodies, they shall be  
4 deemed in compliance with this subsection.

5 ~~(7)~~ The development of ADUs shall not be restricted by any locally adopted ordinance  
6 or policy that places a limit or moratorium on the development of residential units in land zoned  
7 for residential use.

8 (8) ADUs shall not be offered or rented for tourist or transient use or through a hosting  
9 platform, as such terms are defined in § 42-63.1-2. A municipality may, by local ordinance,  
10 establish minimum rental periods for ADUs including ADUs that are permitted by right in § 45-  
11 24-73(a); provided that, the minimum rental period does not exceed one year.

12 (9) A municipality may, by local ordinance, establish owner occupancy requirements for  
13 ADUs, including ADUs that are permitted by right in § 45-24-73(a).

14 (10) Any municipality which chooses to allow ADUs that are not required by § 45-24-73(a)  
15 shall have the ability to authorize ADUs in a manner that is otherwise consistent with § 45-24-  
16 73(d)(2), including, but not limited to:

17 (i) More than one ADU per property;

18 (ii) On a property which is not owner occupied; and

19 (iii) On a property which is not located within a residential zoning district.

20 (11) ADUs created under § 45-24-73 shall remain as an accessory use to a primary structure  
21 and shall not be separated from the primary structure and sold by way of condominium creation,  
22 ground lease, tenancy in common or other mechanism. Before obtaining a building permit for an  
23 ADU, the property owner shall record with the municipality, a covenant that prevents such  
24 separation.

25 (12) Nothing contained in section § 45-24-37 and this section shall be construed to  
26 supersede or in any way alter or lessen the effect or application of state regulations.

27 SECTION 2. Section 45-24-74 of the General Laws in Chapter 45-24 entitled "Zoning  
28 Ordinances" is hereby repealed.

29 ~~**45-24-74. Additional zoning provisions for applications for accessory dwelling units.**~~

30 ~~(a) Applications for accessory dwelling units (ADUs) that are not part of a larger~~  
31 ~~development proposal shall be reviewed through an administrative officer or development plan~~  
32 ~~review process. They shall not, by themselves, be reviewed as minor land development, major land~~  
33 ~~development, or special use permits.~~

34 ~~(b) ADUs shall be a permitted use in any residential district with a minimum lot size of~~

1 ~~twenty thousand square feet (20,000 sq. ft.) or more, and where the proposed ADU is located within~~  
2 ~~the existing footprint of the primary structure or existing secondary attached or detached structure~~  
3 ~~and does not expand the footprint of the structure.~~

4 ~~(c) Municipalities may utilize a unified development review process for any application~~  
5 ~~that includes ADUs, regardless of whether a city or town has opted into the current unified~~  
6 ~~development review statute.~~

7 ~~(d) As part of the approval process, municipalities may exempt ADUs from all or part of~~  
8 ~~utility assessment and/or tie-in fees.~~

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

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

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- 1           This act would amend several sections of law relating to zoning ordinances to provide
- 2 uniform zoning standards for accessory dwelling units.
- 3           This act would take effect upon passage.

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LC004863  
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