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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

Introduced By: Representatives Williams, and Lombardi

Date Introduced: May 23, 2013

Referred To: House Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-24-31 and 45-24-53 of the General Laws in Chapter 45-24
2 entitled "Zoning Ordinances" are hereby amended to read as follows:

3 **45-24-31. Definitions.** -- Where words or terms used in this chapter are defined in section
4 45-22.2-4, they have the meanings stated in that section. In addition, the following words have
5 the following meanings. Additional words and phrases may be used in developing local
6 ordinances under this chapter; however, the words and phrases defined in this section are
7 controlling in all local ordinances created under this chapter:

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

10 (2) Accessory Dwelling Unit. - A dwelling unit: (i) rented to and occupied either by one
11 or more members of the family of the occupant or occupants of the principal residence; or (ii)
12 reserved for rental occupancy by a person or a family where the principal residence is owner
13 occupied, and which meets the following provisions:

14 (A) In zoning districts that allow residential uses, no more than one accessory dwelling
15 unit may be an accessory to a single-family dwelling.

16 (B) An accessory dwelling unit shall include separate cooking and sanitary facilities,
17 with its own legal means of ingress and egress and is a complete, separate dwelling unit. The
18 accessory dwelling unit shall be within or attached to the principal dwelling unit structure or
19 within an existing structure, such as a garage or barn, and designed so that the appearance of the

1 principal structure remains that of a one-family residence.

2 (3) Accessory Use. - A use of land or of a building, or portion thereof, customarily
3 incidental and subordinate to the principal use of the land or building. An accessory use may be
4 restricted to the same lot as the principal use. An accessory use shall not be permitted without the
5 principal use to which it is related.

6 (4) Aggrieved Party. - An aggrieved party, for purposes of this chapter, shall be:

7 (i) Any person or persons or entity or entities who can demonstrate that their property
8 will be injured by a decision of any officer or agency responsible for administering the zoning
9 ordinance of a city or town; ~~or~~

10 (ii) Anyone requiring notice pursuant to this chapter: ~~;~~ or

11 (iii) Anyone requiring notice pursuant to the local zoning ordinances established by the
12 municipal legislative body of the city or town in which the property is located.

13 (5) Agricultural Land. - "Agricultural land", as defined in section 45-22.2-4.

14 (6) Airport Hazard Area. - "Airport hazard area", as defined in section 1-3-2.

15 (7) Applicant. - An owner or authorized agent of the owner submitting an application or
16 appealing an action of any official, board, or agency.

17 (8) Application. - The completed form or forms and all accompanying documents,
18 exhibits, and fees required of an applicant by an approving authority for development review,
19 approval, or permitting purposes.

20 (9) Buffer. - Land which is maintained in either a natural or landscaped state, and is used
21 to screen and/or mitigate the impacts of development on surrounding areas, properties, or rights-
22 of-way.

23 (10) Building. - Any structure used or intended for supporting or sheltering any use or
24 occupancy.

25 (11) Building Envelope. - The three-dimensional space within which a structure is
26 permitted to be built on a lot and which is defined by regulations governing building setbacks,
27 maximum height, and bulk; by other regulations; and/or by any combination thereof.

28 (12) Building Height. - The vertical distance from grade, as determined by the
29 municipality, to the top of the highest point of the roof or structure. The distance may exclude
30 spires, chimneys, flag poles, and the like.

31 (13) Cluster. - A site planning technique that concentrates buildings in specific areas on
32 the site to allow the remaining land to be used for recreation, common open space, and/or
33 preservation of environmentally, historically, culturally, or other sensitive features and/or
34 structures. The techniques used to concentrate buildings shall be specified in the ordinance and

1 may include, but are not limited to, reduction in lot areas, setback requirements, and/or bulk
2 requirements, with the resultant open land being devoted by deed restrictions for one or more
3 uses. Under cluster development there is no increase in the number of lots that would be
4 permitted under conventional development except where ordinance provisions include incentive
5 bonuses for certain types or conditions of development.

6 (14) Common Ownership. - Either:

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

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

11 (15) Community Residence. - A home or residential facility where children and/or adults
12 reside in a family setting and may or may not receive supervised care. This does not include
13 halfway houses or substance abuse treatment facilities. This does include, but is not limited, to the
14 following:

15 (i) Whenever six (6) or fewer children or adults with retardation reside in any type of
16 residence in the community, as licensed by the state pursuant to chapter 24 of title 40.1. All
17 requirements pertaining to local zoning are waived for these community residences;

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

20 (iii) A residence for children providing care or supervision, or both, to not more than
21 eight (8) children including those of the care giver and licensed by the state pursuant to chapter
22 72.1 of title 42;

23 (iv) A community transitional residence providing care or assistance, or both, to no more
24 than six (6) unrelated persons or no more than three (3) families, not to exceed a total of eight (8)
25 persons, requiring temporary financial assistance, and/or to persons who are victims of crimes,
26 abuse, or neglect, and who are expected to reside in that residence not less than sixty (60) days
27 nor more than two (2) years. Residents will have access to and use of all common areas, including
28 eating areas and living rooms, and will receive appropriate social services for the purpose of
29 fostering independence, self-sufficiency, and eventual transition to a permanent living situation.

30 (16) Comprehensive Plan. - The comprehensive plan adopted and approved pursuant to
31 chapter 22.2 of this title and to which any zoning adopted pursuant to this chapter shall be in
32 compliance.

33 (17) Day Care -- Day Care Center. - Any other day care center which is not a family day
34 care home.

1 (18) Day Care -- Family Day Care Home. - Any home other than the individual's home
2 in which day care in lieu of parental care or supervision is offered at the same time to six (6) or
3 less individuals who are not relatives of the care giver, but may not contain more than a total of
4 eight (8) individuals receiving day care.

5 (19) Density, Residential. - The number of dwelling units per unit of land.

6 (20) Development. - The construction, reconstruction, conversion, structural alteration,
7 relocation, or enlargement of any structure; any mining, excavation, landfill or land disturbance;
8 or any change in use, or alteration or extension of the use, of land.

9 (21) Development Plan Review. - The process whereby authorized local officials review
10 the site plans, maps, and other documentation of a development to determine the compliance with
11 the stated purposes and standards of the ordinance.

12 (22) District. - See "zoning use district".

13 (23) Drainage System. - A system for the removal of water from land by drains, grading,
14 or other appropriate means. These techniques may include runoff controls to minimize erosion
15 and sedimentation during and after construction or development, the means for preserving surface
16 and groundwaters, and the prevention and/or alleviation of flooding.

17 (24) Dwelling Unit. - A structure or portion of a structure providing complete,
18 independent living facilities for one or more persons, including permanent provisions for living,
19 sleeping, eating, cooking, and sanitation, and containing a separate means of ingress and egress.

20 (25) Extractive Industry. - The extraction of minerals, including: solids, such as coal and
21 ores; liquids, such as crude petroleum; and gases, such as natural gases. The term also includes
22 quarrying; well operation; milling, such as crushing, screening, washing, and flotation; and other
23 preparation customarily done at the extraction site or as a part of the extractive activity.

24 (26) Family. - A person or persons related by blood, marriage, or other legal means. See
25 also "Household".

26 (27) Floating Zone. - An unmapped zoning district adopted within the ordinance which
27 is established on the zoning map only when an application for development, meeting the zone
28 requirements, is approved.

29 (28) Floodplains, or Flood Hazard Area. - As defined in section 45-22.2-4.

30 (29) Groundwater. - "Groundwater" and associated terms, as defined in section 46-13.1-
31 3.

32 (30) Halfway House. - A residential facility for adults or children who have been
33 institutionalized for criminal conduct and who require a group setting to facilitate the transition to
34 a functional member of society.

- 1 (31) Hardship. - See section 45-24-41.
- 2 (32) Historic District, or Historic Site. - As defined in section 45-22.2-4.
- 3 (33) Home Occupation. - Any activity customarily carried out for gain by a resident,
4 conducted as an accessory use in the resident's dwelling unit.
- 5 (34) Household. - One or more persons living together in a single dwelling unit, with
6 common access to, and common use of, all living and eating areas and all areas and facilities for
7 the preparation and storage of food within the dwelling unit. The term "household unit" is
8 synonymous with the term "dwelling unit" for determining the number of units allowed within
9 any structure on any lot in a zoning district. An individual household shall consist of any one of
10 the following:
- 11 (i) A family, which may also include servants and employees living with the family; or
12 (ii) A person or group of unrelated persons living together. The maximum number may
13 be set by local ordinance, but this maximum shall not be less than three (3).
- 14 (35) Incentive Zoning. - The process whereby the local authority may grant additional
15 development capacity in exchange for the developer's provision of a public benefit or amenity as
16 specified in local ordinances.
- 17 (36) Infrastructure. - Facilities and services needed to sustain residential, commercial,
18 industrial, institutional, and other activities.
- 19 (37) Land Development Project. - A project in which one or more lots, tracts, or parcels
20 of land are to be developed or redeveloped as a coordinated site for a complex of uses, units, or
21 structures, including, but not limited to, planned development and/or cluster development for
22 residential, commercial, institutional, recreational, open space, and/or mixed uses as may be
23 provided for in the zoning ordinance.
- 24 (38) Lot. - Either:
- 25 (i) The basic development unit for determination of lot area, depth, and other
26 dimensional regulations; or
27 (ii) A parcel of land whose boundaries have been established by some legal instrument
28 such as a recorded deed or recorded map and which is recognized as a separate legal entity for
29 purposes of transfer of title.
- 30 (39) Lot Area. - The total area within the boundaries of a lot, excluding any street right-
31 of-way, usually reported in acres or square feet.
- 32 (40) Lot Building Coverage. - That portion of the lot that is or may be covered by
33 buildings and accessory buildings.
- 34 (41) Lot Depth. - The distance measured from the front lot line to the rear lot line. For

1 lots where the front and rear lot lines are not parallel, the lot depth is an average of the depth.

2 (42) Lot Frontage. - That portion of a lot abutting a street. A zoning ordinance shall
3 specify how noncontiguous frontage will be considered with regard to minimum frontage
4 requirements.

5 (43) Lot Line. - A line of record, bounding a lot, which divides one lot from another lot
6 or from a public or private street or any other public or private space and shall include:

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

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

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

15 (44) Lot, Through. - A lot which fronts upon two (2) parallel streets, or which fronts
16 upon two (2) streets which do not intersect at the boundaries of the lot.

17 (45) Lot Width. - The horizontal distance between the side lines of a lot measured at
18 right angles to its depth along a straight line parallel to the front lot line at the minimum front
19 setback line.

20 (46) Mere Inconvenience. - See section 45-24-41.

21 (47) Mixed Use. - A mixture of land uses within a single development, building, or tract.

22 (48) Modification. - Permission granted and administered by the zoning enforcement
23 officer of the city or town, and pursuant to the provisions of this chapter to grant a dimensional
24 variance other than lot area requirements from the zoning ordinance to a limited degree as
25 determined by the zoning ordinance of the city or town, but not to exceed twenty-five percent
26 (25%) of each of the applicable dimensional requirements.

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

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

34 (ii) Nonconforming by dimension: a building, structure, or parcel of land not in

1 compliance with the dimensional regulations of the zoning ordinance. Dimensional regulations
2 include all regulations of the zoning ordinance, other than those pertaining to the permitted uses.
3 A building or structure containing more dwelling units than are permitted by the use regulations
4 of a zoning ordinance is nonconforming by use; a building or structure containing a permitted
5 number of dwelling units by the use regulations of the zoning ordinance, but not meeting the lot
6 area per dwelling unit regulations, is nonconforming by dimension.

7 (50) Overlay District. - A district established in a zoning ordinance that is superimposed
8 on one or more districts or parts of districts. The standards and requirements associated with an
9 overlay district may be more or less restrictive than those in the underlying districts consistent
10 with other applicable state and federal laws.

11 (51) Performance Standards. - A set of criteria or limits relating to elements which a
12 particular use or process must either meet or may not exceed.

13 (52) Permitted Use. - A use by right which is specifically authorized in a particular
14 zoning district.

15 (53) Planned Development. - A "land development project", as defined in section 45-24-
16 31(37), and developed according to plan as a single entity and containing one or more structures
17 and/or uses with appurtenant common areas.

18 (54) Plant Agriculture. - The growing of plants for food or fiber, to sell or consume.

19 (55) Preapplication Conference. - A review meeting of a proposed development held
20 between applicants and reviewing agencies as permitted by law and municipal ordinance, before
21 formal submission of an application for a permit or for development approval.

22 (56) Setback Line or Lines. - A line or lines parallel to a lot line at the minimum distance
23 of the required setback for the zoning district in which the lot is located that establishes the area
24 within which the principal structure must be erected or placed.

25 (57) Site Plan. - The development plan for one or more lots on which is shown the
26 existing and/or the proposed conditions of the lot.

27 (58) Special Use. - A regulated use which is permitted pursuant to the special-use permit
28 issued by the authorized governmental entity, pursuant to section 45-24-42. Formerly referred to
29 as a special exception.

30 (59) Structure. - A combination of materials to form a construction for use, occupancy,
31 or ornamentation, whether installed on, above, or below, the surface of land or water.

32 (60) Substandard Lot of Record. - Any lot lawfully existing at the time of adoption or
33 amendment of a zoning ordinance and not in conformance with the dimensional and/or area
34 provisions of that ordinance.

1 (61) Use. - The purpose or activity for which land or buildings are designed, arranged, or
2 intended, or for which land or buildings are occupied or maintained.

3 (62) Variance. - Permission to depart from the literal requirements of a zoning ordinance.
4 An authorization for the construction or maintenance of a building or structure, or for the
5 establishment or maintenance of a use of land, which is prohibited by a zoning ordinance. There
6 are only two (2) categories of variance, a use variance or a dimensional variance.

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

11 (ii) Dimensional Variance. - Permission to depart from the dimensional requirements of
12 a zoning ordinance, where the applicant for the requested relief has shown, by evidence upon the
13 record, that there is no other reasonable alternative way to enjoy a legally permitted beneficial use
14 of the subject property unless granted the requested relief from the dimensional regulations.
15 However, the fact that a use may be more profitable or that a structure may be more valuable after
16 the relief is granted are not grounds for relief.

17 (63) Waters. - As defined in section 46-12-1(23).

18 (64) Wetland, Coastal. - As defined in section 45-22.2-4.

19 (65) Wetland, Freshwater. - As defined in section 2-1-20.

20 (66) Zoning Certificate. - A document signed by the zoning enforcement officer, as
21 required in the zoning ordinance, which acknowledges that a use, structure, building, or lot either
22 complies with or is legally nonconforming to the provisions of the municipal zoning ordinance or
23 is an authorized variance or modification therefrom.

24 (67) Zoning Map. - The map or maps which are a part of the zoning ordinance and which
25 delineate the boundaries of all mapped zoning districts within the physical boundary of the city or
26 town.

27 (68) Zoning Ordinance. - An ordinance enacted by the legislative body of the city or
28 town pursuant to this chapter and in the manner providing for the adoption of ordinances in the
29 city or town's legislative or home rule charter, if any, which establish regulations and standards
30 relating to the nature and extent of uses of land and structures, which is consistent with the
31 comprehensive plan of the city or town as defined in chapter 22.2 of this title, which includes a
32 zoning map, and which complies with the provisions of this chapter.

33 (69) Zoning Use District. - The basic unit in zoning, either mapped or unmapped, to
34 which a uniform set of regulations applies, or a uniform set of regulations for a specified use.

1 Zoning use districts include, but are not limited to: agricultural, commercial, industrial,
2 institutional, open space, and residential. Each district may include sub-districts. Districts may be
3 combined.

4 **45-24-53. Adoption -- Notice and hearing requirements.** -- (a) No zoning ordinance
5 shall be adopted, repealed, or amended until after a public hearing has been held upon the
6 question before the city or town council. The city or town council shall first give notice of the
7 public hearing by publication of notice in a newspaper of general circulation within the city or
8 town at least once each week for three (3) successive weeks prior to the date of the hearing,
9 which may include the week in which the hearing is to be held, at which hearing opportunity shall
10 be given to all persons interested to be heard upon the matter of the proposed ordinance. Written
11 notice, which may be a copy of the newspaper notice, shall be mailed to the statewide planning
12 program of the department of administration, and, where applicable, to the parties specified in
13 subsections (b), (c), (d), ~~and~~ (e) and (f) of this section, at least two (2) weeks prior to the hearing.
14 The newspaper notice shall be published as a display advertisement, using a type size at least as
15 large as the normal type size used by the newspaper in its news articles, and shall:

- 16 (1) Specify the place of the hearing and the date and time of its commencement;
- 17 (2) Indicate that adoption, amendment, or repeal of a zoning ordinance is under
18 consideration;
- 19 (3) Contain a statement of the proposed amendments to the ordinance that may be
20 printed once in its entirety, or summarize and describe the matter under consideration;
- 21 (4) Advise those interested where and when a copy of the matter under consideration
22 may be obtained or examined and copied; and
- 23 (5) State that the proposals shown on the ordinance may be altered or amended prior to
24 the close of the public hearing without further advertising, as a result of further study or because
25 of the views expressed at the public hearing. Any alteration or amendment must be presented for
26 comment in the course of the hearing.

27 (b) Where a proposed general amendment to an existing zoning ordinance includes
28 changes in an existing zoning map, public notice shall be given as required by subsection (a) of
29 this section.

30 (c) Where a proposed amendment to an existing ordinance includes a specific change in
31 a zoning district map, but does not affect districts generally, public notice shall be given as
32 required by subsection (a) of this section, with the additional requirements that:

- 33 (1) Notice shall include a map showing the existing and proposed boundaries, zoning
34 district boundaries, and existing streets and roads and their names, and city and town boundaries

1 where appropriate; and

2 (2) Written notice of the date, time, and place of the public hearing and the nature and
3 purpose of the hearing shall be sent to all owners of real property whose property is located in or
4 within not less than two hundred feet (200') of the perimeter of the area proposed for change,
5 whether within the city or town or within an adjacent city or town. Notice shall also be sent to any
6 individual or entity holding a recorded conservation or preservation restriction on the property
7 that is the subject of the amendment. The notice shall be sent by registered or certified mail to the
8 last known address of the owners, as shown on the current real estate tax assessment records of
9 the city or town in which the property is located.

10 (d) Notice of a public hearing shall be sent by first class mail to the city or town council
11 of any city or town to which one or more of the following pertain:

12 (1) Which is located in or within not less than two hundred feet (200') of the boundary of
13 the area proposed for change; or

14 (2) Where there is a public or quasi-public water source, or private water source that is
15 used or is suitable for use as a public water source, within two thousand feet (2,000') of any real
16 property that is the subject of a proposed zoning change, regardless of municipal boundaries.

17 (e) Notice of a public hearing shall be sent to the governing body of any state or
18 municipal water department or agency, special water district, or private water company that has
19 riparian rights to a surface water resource and/or surface watershed that is used or is suitable for
20 use as a public water source and that is within two thousand feet (2,000') of any real property
21 which is the subject of a proposed zoning change; provided, that the governing body of any state
22 or municipal water department or agency, special water district, or private water company has
23 filed with the building inspector in the city or town a map survey, which shall be kept as a public
24 record, showing areas of surface water resources and/or watersheds and parcels of land within
25 two thousand feet (2,000') thereof.

26 (f) Notice of a public hearing shall be sent to any neighborhood group that registers the
27 name of the organization, its officers and mailing address with the director of the local zoning
28 board in which the property is located. Neighborhood group registration shall be renewed every
29 year by July 1st. Failure to renew the registration shall relieve the director of the responsibility of
30 mailing out the agenda.

31 ~~(g)~~ No defect in the form of any notice under this section shall render any ordinance or
32 amendment invalid, unless the defect is found to be intentional or misleading.

33 ~~(g)~~(h) Costs of any notice required under this section shall be borne by the applicant.

34 ~~(h)~~(i) In granting a zoning ordinance amendment, notwithstanding the provisions of

1 section 45-24-37, the town or city council may limit the change to one of the permitted uses in the
2 zone to which the subject land is rezoned, and impose limitations, conditions, and restrictions,
3 including, without limitation: (1) requiring the petitioner to obtain a permit or approval from any
4 and all state or local governmental agencies or instrumentalities having jurisdiction over the land
5 and use which are the subject of the zoning change; (2) those relating to the effectiveness or
6 continued effectiveness of the zoning change; and/or (3) those relating to the use of the land; as it
7 deems necessary. The responsible town or city official shall cause the limitations and conditions
8 so imposed to be clearly noted on the zoning map and recorded in the land evidence records;
9 provided, that in the case of a conditional zone change, the limitations, restrictions, and
10 conditions shall not be noted on the zoning map until the zone change has become effective. If the
11 permitted use for which the land has been rezoned is abandoned or if the land is not used for the
12 requested purpose for a period of two (2) years or more after the zone change becomes effective,
13 the town or city council may, after a public hearing, change the land to its original zoning use
14 before the petition was filed. If any limitation, condition, or restriction in an ordinance is held to
15 be invalid by a court in any action, that holding shall not cause the remainder of the ordinance to
16 be invalid.

17 ~~(i)~~ (j) The above requirements are to be construed as minimum requirements.

18 SECTION 2. 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

- 1 This act would amend the definition of an "aggrieved party" to include anyone requiring
2 notice pursuant to the local zoning ordinances in the city or town where the property is located.
3 This act would also require that notice of a public hearing for the adoption, repeal or amendment
4 of zoning ordnances be sent to any neighborhood group registered with the director of the local
5 zoning board in which the property is located.
6 This act would take effect upon passage.

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