

2014 -- H 7058

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

RELATING TO ZONING -- ROOMING--BOARDING HOUSES

Introduced By: Representatives Bennett, Shekarchi, Ferri, Trillo, and Edwards

Date Introduced: January 09, 2014

Referred To: House Municipal Government

It is enacted by the General Assembly as follows:

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

3 **45-24-31. Definitions. [Effective January 1, 2014.]** -- Where words or terms used in this
4 chapter are defined in section 45-22.2-4, or 45-23-32, they have the meanings stated in that
5 section. In addition, the following words have the following meanings. Additional words and
6 phrases may be used in developing local ordinances under this chapter; however, the words and
7 phrases defined in this section are 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 [\(C\) It is not a single-room dwelling unit, as defined in subdivision 45-24-31\(62\).](#)

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

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

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

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

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

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

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

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

19 [\(9\) Boarding house. – Is a structure composed of one or more dwelling units of dwelling](#)
20 [space, as defined in subdivision 45-24-31\(25\), no more than one housekeeping unit, as defined in](#)
21 [subdivision 45-24-31\(36\), or any building together with related structures, accessory buildings](#)
22 [and land appurtenant thereto, and any part thereof which contains two \(2\) or more units of](#)
23 [dwelling space, as defined in subdivision 45-24-31\(69\), without separate kitchen facilities,](#)
24 [arranged or intended for single-room occupancy, as defined in subdivision 45-24-31\(63\),](#)
25 [exclusive of any unit occupied by the owner and excluding congregate elderly housing,](#)
26 [community center, community resident, nursing, convalescent home and hotel/motel. Food may](#)
27 [be provided to its residents.](#)

28 ~~(9)~~(10) Buffer. - Land which is maintained in either a natural or landscaped state, and is
29 used to screen and/or mitigate the impacts of development on surrounding areas, properties, or
30 rights-of-way.

31 ~~(10)~~(11) Building. - Any structure used or intended for supporting or sheltering any use
32 or occupancy.

33 ~~(11)~~(12) Building Envelope. - The three-dimensional space within which a structure is
34 permitted to be built on a lot and which is defined by regulations governing building setbacks,

1 maximum height, and bulk; by other regulations; and/or by any combination thereof.

2 ~~(12)~~(13) Building Height. - The vertical distance from grade, as determined by the
3 municipality, to the top of the highest point of the roof or structure. The distance may exclude
4 spires, chimneys, flag poles, and the like.

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

14 ~~(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 ~~(15)~~(16) Community Residence. - A home or residential facility where children and/or
20 adults reside in a family setting and may or may not receive supervised care. This does not
21 include halfway houses or substance abuse treatment facilities. This does include, but is not
22 limited, to the following:

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

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

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

31 (iv) A community transitional residence providing care or assistance, or both, to no more
32 than six (6) unrelated persons or no more than three (3) families, not to exceed a total of eight (8)
33 persons, requiring temporary financial assistance, and/or to persons who are victims of crimes,
34 abuse, or neglect, and who are expected to reside in that residence not less than sixty (60) days

1 nor more than two (2) years. Residents will have access to and use of all common areas, including
2 eating areas and living rooms, and will receive appropriate social services for the purpose of
3 fostering independence, self-sufficiency, and eventual transition to a permanent living situation.

4 ~~(16)~~(17) Comprehensive Plan. - The comprehensive plan adopted and approved pursuant
5 to chapter 22.2 of this title and to which any zoning adopted pursuant to this chapter shall be in
6 compliance.

7 ~~(17)~~(18) Day Care -- Day Care Center. - Any other day care center which is not a family
8 day care home.

9 ~~(18)~~(19) Day Care -- Family Day Care Home. - Any home other than the individual's
10 home in which day care in lieu of parental care or supervision is offered at the same time to six
11 (6) or less individuals who are not relatives of the care giver, but may not contain more than a
12 total of eight (8) individuals receiving day care.

13 ~~(19)~~(20) Density, Residential. - The number of dwelling units per unit of land.

14 ~~(20)~~(21) Development. - The construction, reconstruction, conversion, structural
15 alteration, relocation, or enlargement of any structure; any mining, excavation, landfill or land
16 disturbance; or any change in use, or alteration or extension of the use, of land.

17 ~~(21)~~(22) Development Plan Review. - The process whereby authorized local officials
18 review the site plans, maps, and other documentation of a development to determine the
19 compliance with the stated purposes and standards of the ordinance.

20 ~~(22)~~(23) District. - See "zoning use district".

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

25 ~~(24)~~(25) Dwelling Unit. - ~~A structure or portion of a structure providing complete,~~
26 ~~independent living facilities for one or more persons, including permanent provisions for living,~~
27 ~~sleeping, eating, cooking, and sanitation, and containing a separate means of ingress and egress.~~
28 A structure with one or more units of dwelling space, with no more than one kitchen, permanent
29 provisions for sanitation arranged for private independent living, designed for occupancy by one
30 family or a single housekeeping unit for living and sleeping purposes, with all rooms and/or units
31 of dwelling space (except an attached garage or carport) accessible from the interior of the
32 dwelling unit and containing a separate means of ingress and egress.

33 ~~(25)~~(26) Extractive Industry. - The extraction of minerals, including: solids, such as coal
34 and ores; liquids, such as crude petroleum; and gases, such as natural gases. The term also

1 includes quarrying; well operation; milling, such as crushing, screening, washing, and flotation;
2 and other preparation customarily done at the extraction site or as a part of the extractive activity.

3 ~~(26)~~(27) Family. - A person or persons related by blood, marriage, or other legal means.
4 See also "Household".

5 ~~(27)~~(28) Floating Zone. - An unmapped zoning district adopted within the ordinance
6 which is established on the zoning map only when an application for development, meeting the
7 zone requirements, is approved.

8 ~~(28)~~(29) Floodplains, or Flood Hazard Area. - As defined in section 45-22.2-4.

9 ~~(29)~~(30) Groundwater. - "Groundwater" and associated terms, as defined in section 46-
10 13.1-3.

11 ~~(30)~~(31) Halfway House. - A residential facility for adults or children who have been
12 institutionalized for criminal conduct and who require a group setting to facilitate the transition to
13 a functional member of society.

14 ~~(31)~~(32) Hardship. - See section 45-24-41.

15 ~~(32)~~(33) Historic District, or Historic Site. - As defined in section 45-22.2-4.

16 ~~(33)~~(34) Home Occupation. - Any activity customarily carried out for gain by a resident,
17 conducted as an accessory use in the resident's dwelling unit.

18 ~~(34)~~(35) Household. - One or more persons ~~living together in a single dwelling unit, with~~
19 ~~common access to, and common use of, all living and eating areas and all areas and facilities for~~
20 ~~the preparation and storage of food within the dwelling unit. The term "household unit" is~~
21 ~~synonymous with the term "dwelling unit" for determining the number of units allowed within~~
22 ~~any structure on any lot in a zoning district. An individual household shall consist of any one of~~
23 ~~the following: and/or a nontransient group of persons jointly occupying a single-dwelling unit,~~
24 ~~with each unit dwelling space having common access to, and common use of, all living, eating~~
25 ~~areas and all areas and facilities for the preparation and storage of food within the dwelling unit.~~
26 This shall not include single-room occupancy arrangements, boarding or rooming houses or
27 single room occupied dwelling units, as defined in section 45-24-31:

28 ~~(i) A family, which may also include servants and employees living with the family; or~~
29 ~~(ii) A person or group of unrelated persons living together. The maximum number may~~
30 ~~be set by local ordinance, but this maximum shall not be less than three (3).~~

31 (36) Housekeeping unit. – A transient group of four (4) or fewer persons who choose to
32 live together in a dwelling unit, as defined in subdivision 45-24-31(25), as a single housekeeping
33 unit with residents having common access to and common use of all living, kitchen, and eating
34 areas, within the dwelling unit under one lease. This shall not include single-room occupancy,

1 [arrangements, boarding or rooming houses or single-room occupied dwelling units, as defined in](#)
2 [section 45-24-31.](#)

3 ~~(35)~~(37) Incentive Zoning. - The process whereby the local authority may grant
4 additional development capacity in exchange for the developer's provision of a public benefit or
5 amenity as specified in local ordinances.

6 ~~(36)~~(38) Infrastructure. - Facilities and services needed to sustain residential, commercial,
7 industrial, institutional, and other activities.

8 ~~(37)~~(39) Land Development Project. - A project in which one or more lots, tracts, or
9 parcels of land are developed or redeveloped as a coordinated site for one or more uses, units, or
10 structures, including, but not limited to, planned development and/or cluster development for
11 residential, commercial, institutional, recreational, open space, and/or mixed uses as provided in
12 the zoning ordinance.

13 ~~(38)~~(40) Lot. - Either:

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

16 (ii) A parcel of land whose boundaries have been established by some legal instrument
17 such as a recorded deed or recorded map and which is recognized as a separate legal entity for
18 purposes of transfer of title.

19 ~~(39)~~(41) Lot Area. - The total area within the boundaries of a lot, excluding any street
20 right-of-way, usually reported in acres or square feet.

21 ~~(40)~~(42) Lot Area, Minimum. - The smallest land area established by the local zoning
22 ordinance upon which a use, building or structure may be located in a particular zoning district.

23 ~~(41)~~(43) Lot Building Coverage. - That portion of the lot that is or may be covered by
24 buildings and accessory buildings.

25 ~~(42)~~(44) Lot Depth. - The distance measured from the front lot line to the rear lot line.
26 For lots where the front and rear lot lines are not parallel, the lot depth is an average of the depth.

27 ~~(43)~~(45) Lot Frontage. - That portion of a lot abutting a street. A zoning ordinance shall
28 specify how noncontiguous frontage will be considered with regard to minimum frontage
29 requirements.

30 ~~(44)~~(46) Lot Line. - A line of record, bounding a lot, which divides one lot from another
31 lot or from a public or private street or any other public or private space and shall include:

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

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

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

6 ~~(45)~~(47) Lot Size, Minimum. - Shall have the same meaning as "minimum lot area"
7 defined herein.

8 ~~(46)~~(48) Lot, Through. - A lot which fronts upon two (2) parallel streets, or which fronts
9 upon two (2) streets which do not intersect at the boundaries of the lot.

10 ~~(47)~~(49) Lot Width. - The horizontal distance between the side lines of a lot measured at
11 right angles to its depth along a straight line parallel to the front lot line at the minimum front
12 setback line.

13 ~~(48)~~(50) Mere Inconvenience. - See section 45-24-41.

14 ~~(49)~~(51) Mixed Use. - A mixture of land uses within a single development, building, or
15 tract.

16 ~~(50)~~(52) Modification. - Permission granted and administered by the zoning enforcement
17 officer of the city or town, and pursuant to the provisions of this chapter to grant a dimensional
18 variance other than lot area requirements from the zoning ordinance to a limited degree as
19 determined by the zoning ordinance of the city or town, but not to exceed twenty-five percent
20 (25%) of each of the applicable dimensional requirements.

21 ~~(51)~~(53) Nonconformance. - A building, structure, or parcel of land, or use thereof,
22 lawfully existing at the time of the adoption or amendment of a zoning ordinance and not in
23 conformity with the provisions of that ordinance or amendment. Nonconformance is of only two
24 (2) types:

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

29 (ii) Nonconforming by dimension: a building, structure, or parcel of land not in
30 compliance with the dimensional regulations of the zoning ordinance. Dimensional regulations
31 include all regulations of the zoning ordinance, other than those pertaining to the permitted uses.
32 A building or structure containing more dwelling units than are permitted by the use regulations
33 of a zoning ordinance is nonconforming by use; a building or structure containing a permitted
34 number of dwelling units by the use regulations of the zoning ordinance, but not meeting the lot

1 area per dwelling unit regulations, is nonconforming by dimension.

2 ~~(52)~~(54) Overlay District. - A district established in a zoning ordinance that is
3 superimposed on one or more districts or parts of districts. The standards and requirements
4 associated with an overlay district may be more or less restrictive than those in the underlying
5 districts consistent with other applicable state and federal laws.

6 ~~(53)~~(55) Performance Standards. - A set of criteria or limits relating to elements which a
7 particular use or process must either meet or may not exceed.

8 ~~(54)~~(56) Permitted Use. - A use by right which is specifically authorized in a particular
9 zoning district.

10 ~~(55)~~(57) Planned Development. - A "land development project", as defined in section
11 45-24-31(37), and developed according to plan as a single entity and containing one or more
12 structures and/or uses with appurtenant common areas.

13 ~~(56)~~(58) Plant Agriculture. - The growing of plants for food or fiber, to sell or consume.

14 ~~(57)~~(59) Preapplication Conference. - A review meeting of a proposed development held
15 between applicants and reviewing agencies as permitted by law and municipal ordinance, before
16 formal submission of an application for a permit or for development approval.

17 (60) Rooming house. – Is a structure composed of multi-room dwelling units, as defined
18 in subdivision 45-24-31(25), no more than one housekeeping unit, as defined in subdivision 45-
19 24-31(36), or any building together with related structures, accessory buildings and land
20 appurtenant thereto, and any part thereof which contains two (2) or more units of dwelling space,
21 as defined in subdivision 45-24-31(69), without separate kitchen facilities, arranged or intended
22 for single-room occupancy, as defined in subdivision 45-24-31(63), exclusive of any unit
23 occupied by the owner and excluding congregate elderly housing, community center, community
24 resident, nursing, convalescent home and hotel/motel. Food cannot be provided to its residents.

25 ~~(58)~~(61) Setback Line or Lines. - A line or lines parallel to a lot line at the minimum
26 distance of the required setback for the zoning district in which the lot is located that establishes
27 the area within which the principal structure must be erected or placed.

28 (62) Single-room dwelling unit. – Exclusive of any unit occupied by the owner, any
29 arrangement within a dwelling unit, as defined in subdivision 45-24-31(25), wherein two (2) or
30 more units of dwelling space, as defined in subdivision 45-24-31(69), are leased and/or rented
31 under two (2) or more leases to two (2) or more unrelated individuals for single-room occupancy,
32 as defined in subdivision 45-24-31(63), with tenants having common access to and common use
33 of all living, kitchen, and eating areas. A single housekeeping unit shall not be considered a
34 single-room occupied dwelling unit.

1 (63) Single-room occupancy.- Means an arrangement within a dwelling unit, as defined
2 in subdivision 45-24-31(25), wherein a unit of dwelling space is leased and/or rented individually
3 for monetary consideration under a separate written or oral contract.

4 ~~(60)~~(64) Site Plan. - The development plan for one or more lots on which is shown the
5 existing and/or the proposed conditions of the lot.

6 ~~(59)~~(65) Slope of Land. -- - The grade, pitch, rise or incline of the topographic landform
7 or surface of the ground.

8 ~~(61)~~(66) Special Use. - A regulated use which is permitted pursuant to the special-use
9 permit issued by the authorized governmental entity, pursuant to section 45-24-42. Formerly
10 referred to as a special exception.

11 ~~(62)~~(67) Structure. - A combination of materials to form a construction for use,
12 occupancy, or ornamentation, whether installed on, above, or below, the surface of land or water.

13 ~~(63)~~(68) Substandard Lot of Record. - Any lot lawfully existing at the time of adoption
14 or amendment of a zoning ordinance and not in conformance with the dimensional and/or area
15 provisions of that ordinance.

16 (69) Unit of dwelling space. – Any room, rooms, suite or portion of a dwelling unit, as
17 defined in subdivision 45-24-31(25), thereof, which does not contain cooking facilities designed
18 or intended to be occupied for sleeping or dwelling purposes by one or more persons, whether
19 furnished or not.

20 ~~(64)~~(70) Use. - The purpose or activity for which land or buildings are designed,
21 arranged, or intended, or for which land or buildings are occupied or maintained.

22 ~~(65)~~(71) Variance. - Permission to depart from the literal requirements of a zoning
23 ordinance. An authorization for the construction or maintenance of a building or structure, or for
24 the establishment or maintenance of a use of land, which is prohibited by a zoning ordinance.
25 There are only two (2) categories of variance, a use variance or a dimensional variance.

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

30 (ii) Dimensional Variance. - Permission to depart from the dimensional requirements of
31 a zoning ordinance, where the applicant for the requested relief has shown, by evidence upon the
32 record, that there is no other reasonable alternative way to enjoy a legally permitted beneficial use
33 of the subject property unless granted the requested relief from the dimensional regulations.
34 However, the fact that a use may be more profitable or that a structure may be more valuable after

1 the relief is granted are not grounds for relief.

2 ~~(66)~~(72) Waters. - As defined in ~~section~~ subdivision 46-12-1(23).

3 ~~(67)~~(73) Wetland, Coastal. - As defined in section 45-22.2-4.

4 ~~(68)~~(74) Wetland, Freshwater. - As defined in section 2-1-20.

5 ~~(69)~~(75) Zoning Certificate. - A document signed by the zoning enforcement officer, as
6 required in the zoning ordinance, which acknowledges that a use, structure, building, or lot either
7 complies with or is legally nonconforming to the provisions of the municipal zoning ordinance or
8 is an authorized variance or modification therefrom.

9 ~~(70)~~(76) Zoning Map. - The map or maps which are a part of the zoning ordinance and
10 which delineate the boundaries of all mapped zoning districts within the physical boundary of the
11 city or town.

12 ~~(71)~~(77) Zoning Ordinance. - An ordinance enacted by the legislative body of the city or
13 town pursuant to this chapter and in the manner providing for the adoption of ordinances in the
14 city or town's legislative or home rule charter, if any, which establish regulations and standards
15 relating to the nature and extent of uses of land and structures, which is consistent with the
16 comprehensive plan of the city or town as defined in chapter 22.2 of this title, which includes a
17 zoning map, and which complies with the provisions of this chapter.

18 ~~(72)~~(78) Zoning Use District. - The basic unit in zoning, either mapped or unmapped, to
19 which a uniform set of regulations applies, or a uniform set of regulations for a specified use.
20 Zoning use districts include, but are not limited to: agricultural, commercial, industrial,
21 institutional, open space, and residential. Each district may include sub-districts. Districts may be
22 combined.

23 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 ZONING -- ROOMING--BOARDING HOUSES

1 This act would amend and create new zoning code definitions concerning board/rooming
2 houses and related types of residential occupancy arrangements, which would enable their local
3 regulation.

4 This act would take effect upon passage.

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