



City of Newport
REQUEST FOR CITY COUNCIL ACTION

To: Mayor Xay R. Khamvoravong & Members of the City Council
From: Laura L. Sitrin, Interim City Manager *Laura L. Sitrin*
Date: February 16, 2024
Subject: Ordinance to Permit Accessory Dwelling Units in Newport
Staff Presentation: Planning Department Staff
Tuuli Martin, City Planner

RECOMMENDATION:

The Department of Planning and Development recommends receiving the draft ordinance to permit accessory dwelling units in Newport and forwarding the draft to the City Solicitor for initiating the formal ordinance adoption process.

BACKGROUND AND FINDINGS:

Accessory dwelling units (ADUs) have been allowed in Rhode Island since 2017. The original intent of ADUs was to enable aging in place. ADUs can allow seniors or persons living with a disability to be close to family, share the costs of owning and maintaining a residence while retaining their independence.

In June 2022, the state legislature updated the definition of an ADU to extend their applicability to all users. The updated definition removed the requirement of family relations and set consistent statewide standards for the treatment of ADUs in any municipality that chooses to permit them. The attached proposed ordinance would permit ADUs in Newport while abiding by the statewide ADU standards and considering community-specific factors.

The proposed ordinance received input from members of the Planning Board, Historic District Commission, Zoning Board of Review, Energy & Environment Commission, Tree & Open Space Commission, community stakeholders, and individual councilors.

The proposed ordinance would permit accessory dwelling units in the city's residential zoning districts under the following circumstances:

- On lots with a minimum lot size of 20,000 sq. ft. (There are over 7,100 parcels within Newport's residential zoning districts, of which approximately 870 are 20,000 sq. ft. or more in size.)
- Where the proposed ADU is located within the existing footprint of the primary structure or existing secondary attached or detached structure and does not expand the footprint of the structure
- In an owner-occupied residence that complies with RIGL § 45-24-31 and § 45-24-73 as a reasonable accommodation for family members with disabilities or who are sixty-two (62) years of age or older, or to accommodate other family members.

Municipalities which allow ADUs are required to track and report their numbers to the RI Department of Housing (prior to 2023, reports were submitted to the RI Division of Statewide Planning). According to the latest published report, 115 new ADUs were created in Rhode Island during the years 2021-2022. Each municipality approved between 0 and 12 ADUs over this 2-year period. Given this data should the City of Newport permit ADUs, an immediate high volume of ADU applications is not anticipated.

The Council should be aware of a pending Rhode Island House bill H-7062, introduced on January 5, 2024 and currently at 25% progression, to amend several sections of law relating to accessory dwelling units. The proposed changes clarify statewide standards for ADUs, expand the applicability beyond residential zoning districts, and include a prohibition to offer ADUs for tourist or transient use.

PREVIOUS LEGISLATIVE ACTION

City Council Resolution #2023-11

FISCAL IMPACT

None

SUPPORTING DOCUMENTS

Resolution

Proposed Accessory Dwelling Units Ordinance

June 2022 amendments to RIGL Chapter 45-24

Map of parcels within Newport's Residential Zoning Districts

Municipal ADU Reporting Results Spreadsheet (2021-2022)

Finance Dept. Review: _____ Date By: _____ (if applicable)

THE CITY OF NEWPORT

**RESOLUTION
OF THE
COUNCIL**

No.

WHEREAS: the Newport City Council (the "Council"), at its Goal Setting Workshop, identified housing as a top priority and as result passed a group of resolutions addressing issues related to housing affordability and accessibility; and

WHEREAS: Resolution No. 2023-11 addressed the creation of an ordinance to provide for Accessory Dwelling Units for occupancy by Newport residents; NOW, THEREFORE BE IT

RESOLVED: that the Council forward the proposed draft ordinance, as prepared by the city administration, to the City Solicitor's office for review and formatting prior to submittal of the Zoning Ordinance amendment to the City Council for consideration at a public hearing.

IN COUNCIL
READ AND PASSED

Laura C. Swistak
City Clerk

Amend the Newport Zoning Code to add accessory dwelling units as a permitted use. Define the purpose, applicability, development standards, and filing and processing procedures.

ACCESSORY DWELLING UNITS

Definition.

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

Intent and purposes.

The intent of this section is to increase housing accessibility and affordability and enable aging in place through the provision of long-term rental housing.

Applicability.

Accessory dwelling units are allowed by right under the following circumstances:

- A. On lots with 20,000 sq. ft. or more in area and located in a residential zoning district (R-3, R-10, R-10A, R-20, R-40, R-40A, R-60, R-120, R-160).
- B. On any lot in a residential zoning district (R-3, R-10, R-10A, R-20, R-40, R-40A, R-60, R-120, R-160) where the proposed ADU is located within the existing footprint of the primary structure or existing secondary attached or detached structure and does not expand the footprint of the structure. Footprint expansion is allowed exclusively for the purposes of ingress and egress as established in the Development Standards (D) of this chapter.
- C. In an owner-occupied residence as a reasonable accommodation for family members with disabilities or who are sixty-two (62) years of age or older, or to accommodate other family members.

Development standards.

- A. Number of ADUs on a property: no more than one (1) ADU shall be allowed per lot.
- B. Size: A studio or one-bedroom ADU is allowed to be up to 900 sq. ft., or sixty percent (60%) of the floor area of the principal building, whichever is less; and a two-bedroom ADU is allowed to be up to 1,200 sq. ft., or sixty percent (60%) of the floor area of the principal building, whichever is less. Minimum sizes are determined by the building code.
- C. Ingress and egress: The ADU shall have separate ingress and egress from the principal unit, either from the exterior of the principal building or from a common interior area.
- D. Footprint expansion: A footprint expansion of an existing structure is allowed up to 100 sq. ft. demonstrated to be exclusively for the purposes of ingress and egress. Such expansions shall be compliant with the setbacks established for the applicable zoning district.

-
- E. Setbacks: ADUs shall be subject to the setback requirements in section 17.100.800.- Accessory uses.
 - F. Parking: Any parking spaces removed due to the ADU must be offset on site.
 - G. Density: Accessory dwelling units shall not be subject to density requirements.
 - H. Ownership: For any lot on which an ADU is located, all structures on the lot, and all areas of all structures on the lot shall be held in single, joint, common or otherwise undivided ownership.
 - I. Use: Accessory dwelling units established under this chapter shall be maintained as long-term rental units.

Filing procedures and processing.

Accessory dwelling units (ADUs) shall be subject to the following filing and processing procedures:

- A. ADUs which meet the applicability criteria established in this chapter and meet all zoning requirements shall be reviewed and decided administratively. Applications shall be filed as a building permit through the City's online permitting system.
- B. ADUs located within the historic district shall be subject to the review by the Historic District Commission.
- C. In cases where the ADU is proposed in a non-conforming structure, the following applies:
 - 1. An ADU proposed entirely within the shell of the existing non-conforming structure is exempt from section 17.109.010.(C). – Special Use Permits.
 - 2. Where an expansion of the footprint of the existing non-conforming structure (e.g., adding a floor) is proposed to accommodate an ADU, it is considered to create a new non-conforming element and therefore subject to the variance process as established in chapter 17.108. – Variances and modifications.
- D. Accessory dwelling units that are part of a larger development proposal are subject to the review process required for the entire project.

Private restrictions.

Pursuant to RIGL § 45-24-73, private restrictions on ADUs imposed by condominium associations, homeowner associations, or similar residential property governing bodies, which conflict with the provisions of RIGL § 45-24-73 or the definition of an ADU as set forth in § 45-24-31, shall be void as against public policy.

2022 -- H 7942 SUBSTITUTE B

LC005367/SUB B

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

Introduced By: Representatives Ackerman, and Shekarchi

Date Introduced: March 07, 2022

Referred To: House Municipal Government & Housing

It is enacted by the General Assembly as follows:

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

3 **45-24-31. Definitions.**

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. A dwelling unit: (i) Rented to and occupied either by one or~~
12 ~~more members of the family of the occupant or occupants of the principal residence; or (ii)~~
13 ~~Reserved for rental occupancy by a person or a family where the principal residence is owner~~
14 ~~occupied and that meets the following provisions:~~

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

17 ~~(B) An accessory dwelling unit shall include separate cooking and sanitary facilities, with~~
18 ~~its own legal means of ingress and egress, and is a complete, separate dwelling unit. The accessory~~
19 ~~dwelling unit shall be within, or attached to, the principal dwelling unit structure or within an~~

1 ~~existing structure, such as a garage or barn, and designed so that the appearance of the principal~~
2 ~~structure remains that of a one-family residence.~~ Accessory dwelling unit (ADU). A residential
3 living unit on the same parcel where the primary use is a legally established single-unit or multi-
4 unit dwelling. An ADU provides complete independent living facilities for one or more persons. It
5 may take various forms including, but not limited to: a detached unit; a unit that is part of an
6 accessory structure, such as a detached garage; or a unit that is part of an expanded or remodeled
7 primary dwelling.

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

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

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

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

17 (5) Agricultural land. "Agricultural land," as defined in § 45-22.2-4.

18 (6) Airport hazard area. "Airport hazard area," as defined in § 1-3-2.

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

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

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

26 (10) Building. Any structure used or intended for supporting or sheltering any use or
27 occupancy.

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

31 (12) Building height. For a vacant parcel of land, building height shall be measured from
32 the average, existing-grade elevation where the foundation of the structure is proposed. For an
33 existing structure, building height shall be measured from average grade taken from the outermost
34 four (4) corners of the existing foundation. In all cases, building height shall be measured to the top

1 of the highest point of the existing or proposed roof or structure. This distance shall exclude spires,
2 chimneys, flag poles, and the like. For any property or structure located in a special flood hazard
3 area, as shown on the official FEMA Flood Insurance Rate Maps (FIRMs), or depicted on the
4 Rhode Island coastal resources management council (CRMC) suggested design elevation three foot
5 (3') sea level rise (CRMC SDE 3 SLR) map as being inundated during a one-hundred-year (100)
6 storm, the greater of the following amounts, expressed in feet, shall be excluded from the building
7 height calculation:

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

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

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

23 (14) Common ownership. Either:

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

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

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

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

1 residences;

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

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

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

14 (16) Comprehensive plan. The comprehensive plan adopted and approved pursuant to
15 chapter 22.2 of this title and to which any zoning adopted pursuant to this chapter shall be in
16 compliance.

17 (17) Day care -- Daycare center. Any other daycare center that is not a family daycare
18 home.

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

23 (19) Density, residential. The number of dwelling units per unit of land.

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

27 (21) Development plan review. The process whereby authorized, local officials review the
28 site plans, maps, and other documentation of a development to determine the compliance with the
29 stated purposes and standards of the ordinance.

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

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

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

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

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

11 (27) Floating zone. An unmapped zoning district adopted within the ordinance that is
12 established on the zoning map only when an application for development, meeting the zone
13 requirements, is approved.

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

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

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

20 (31) Halfway house. A residential facility for adults or children who have been
21 institutionalized for criminal conduct and who require a group setting to facilitate the transition to
22 a functional member of society.

23 (32) Hardship. See § 45-24-41.

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

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

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

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

34 (ii) A person or group of unrelated persons living together. The maximum number may be

1 set by local ordinance, but this maximum shall not be less than three (3).

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

5 (37) Infrastructure. Facilities and services needed to sustain residential, commercial,
6 industrial, institutional, and other activities.

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

12 (39) Lot. Either:

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

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

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

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

22 (42) Lot building coverage. That portion of the lot that is, or may be, covered by buildings
23 and accessory buildings.

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

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

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

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

33 (ii) Rear: the lot line opposite and most distant from the front lot line, or in the case of
34 triangular or otherwise irregularly shaped lots, an assumed line at least ten feet (10') in length

1 entirely within the lot, parallel to and at a maximum distance from, the front lot line; and

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

4 (46) Lot size, minimum. Shall have the same meaning as "minimum lot area" defined
5 herein.

6 (47) Lot, through. A lot that fronts upon two (2) parallel streets, or that fronts upon two (2)
7 streets that do not intersect at the boundaries of the lot.

8 (48) Lot width. The horizontal distance between the side lines of a lot measured at right
9 angles to its depth along a straight line parallel to the front lot line at the minimum front setback
10 line.

11 (49) Mere inconvenience. See § 45-24-41.

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

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

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

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

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

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

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

3 (55) Permitted use. A use by right that is specifically authorized in a particular zoning
4 district.

5 (56) Planned development. A "land-development project," as defined in subsection (38),
6 and developed according to plan as a single entity and containing one or more structures or uses
7 with appurtenant common areas.

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

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

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

15 (60) Site plan. The development plan for one or more lots on which is shown the existing
16 and/or the proposed conditions of the lot.

17 (61) Slope of land. The grade, pitch, rise, or incline of the topographic landform or surface
18 of the ground.

19 (62) Special use. A regulated use that is permitted pursuant to the special-use permit issued
20 by the authorized governmental entity, pursuant to § 45-24-42. Formerly referred to as a special
21 exception.

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

24 (64) Substandard lot of record. Any lot lawfully existing at the time of adoption or
25 amendment of a zoning ordinance and not in conformance with the dimensional or area provisions
26 of that ordinance.

27 (65) Use. The purpose or activity for which land or buildings are designed, arranged, or
28 intended, or for which land or buildings are occupied or maintained.

29 (66) Variance. Permission to depart from the literal requirements of a zoning ordinance.
30 An authorization for the construction or maintenance of a building or structure, or for the
31 establishment or maintenance of a use of land, that is prohibited by a zoning ordinance. There are
32 only two (2) categories of variance, a use variance or a dimensional variance.

33 (i) Use variance. Permission to depart from the use requirements of a zoning ordinance
34 where the applicant for the requested variance has shown by evidence upon the record that the

1 subject land or structure cannot yield any beneficial use if it is to conform to the provisions of the
2 zoning ordinance.

3 (ii) Dimensional variance. Permission to depart from the dimensional requirements of a
4 zoning ordinance, where the applicant for the requested relief has shown, by evidence upon the
5 record, that there is no other reasonable alternative way to enjoy a legally permitted beneficial use
6 of the subject property unless granted the requested relief from the dimensional regulations.
7 However, the fact that a use may be more profitable or that a structure may be more valuable after
8 the relief is granted are not grounds for relief.

9 (67) Waters. As defined in § 46-12-1(23).

10 (68) Wetland, coastal. As defined in § 45-22.2-4.

11 (69) Wetland, freshwater. As defined in § 2-1-20.

12 (70) Zoning certificate. A document signed by the zoning-enforcement officer, as required
13 in the zoning ordinance, that acknowledges that a use, structure, building, or lot either complies
14 with, or is legally nonconforming to, the provisions of the municipal zoning ordinance or is an
15 authorized variance or modification therefrom.

16 (71) Zoning map. The map, or maps, that are a part of the zoning ordinance and that
17 delineate the boundaries of all mapped zoning districts within the physical boundary of the city or
18 town.

19 (72) Zoning ordinance. An ordinance enacted by the legislative body of the city or town
20 pursuant to this chapter and in the manner providing for the adoption of ordinances in the city or
21 town's legislative or home rule charter, if any, that establish regulations and standards relating to
22 the nature and extent of uses of land and structures; that is consistent with the comprehensive plan
23 of the city or town as defined in chapter 22.2 of this title; that includes a zoning map; and that
24 complies with the provisions of this chapter.

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

29 **45-24-37. General provisions -- Permitted uses.**

30 (a) The zoning ordinance shall provide a listing of all land uses and/or performance
31 standards for uses that are permitted within the zoning use districts of the municipality.

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

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

4 (c) Any time a building or other structure used for residential purposes, or a portion of a
5 building containing residential units, is rendered uninhabitable by virtue of a casualty such as fire
6 or flood, the owner of the property is allowed to park, temporarily, mobile and manufactured home,
7 or homes, as the need may be, elsewhere upon the land, for use and occupancy of the former
8 occupants for a period of up to twelve (12) months, or until the building or structure is rehabilitated
9 and otherwise made fit for occupancy. The property owner, or a properly designated agent of the
10 owner, is only allowed to cause the mobile and manufactured home, or homes, to remain
11 temporarily upon the land by making timely application to the local building official for the
12 purposes of obtaining the necessary permits to repair or rebuild the structure.

13 (d) Notwithstanding any other provision of this chapter, appropriate access for people with
14 disabilities to residential structures is allowed as a reasonable accommodation for any person(s)
15 residing, or intending to reside, in the residential structure.

16 (e) Notwithstanding any other provision of this chapter, an accessory ~~family~~ dwelling unit
17 in an owner-occupied, ~~single-family~~ residence [that complies with §§ 45-24-31 and 45-24-73](#) shall
18 be permitted as a reasonable accommodation for family members with disabilities or who are sixty-
19 two (62) years of age or older, or to accommodate other family members. ~~The appearance of the~~
20 ~~structure shall remain that of a single-family residence and there shall be an internal means of egress~~
21 ~~between the principal unit and the accessory family dwelling unit. If possible, no additional exterior~~
22 ~~entrances should be added. Where additional entrance is required, placement should generally be~~
23 ~~in the rear or side of the structure. When the structure is serviced by an individual sewage disposal~~
24 ~~system, the applicant shall have the existing or any new system approved by the department of~~
25 ~~environmental management. The zoning enforcement officer shall require that a declaration of the~~
26 ~~accessory family dwelling unit for the family member, or members, and its restrictions be recorded~~
27 ~~in the land evidence records and filed with the zoning enforcement officer and the building official.~~
28 ~~Once the family members with disabilities or who are sixty-two (62) years of age or older, or any~~
29 ~~other family member, no longer reside(s) in the premises on a permanent basis, or the title is~~
30 ~~transferred, the property owner shall notify the zoning official in writing, and the accessory family~~
31 ~~dwelling unit shall no longer be permitted, unless there is a subsequent, valid application.~~

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

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

5 SECTION 2. Chapter 45-24 of the General Laws entitled "Zoning Ordinances" are hereby
6 amended by adding thereto the following sections:

7 **45-24-73. Consistent statewide treatment of accessory dwelling units required.**

8 (a) Any municipality which chooses to permit accessory dwelling units (ADUs) within the
9 municipality, shall not impose any excessive restrictions on accessory dwelling units (ADUs).
10 More specifically, a municipality which permits ADUs shall not:

11 (1) Restrict tenants based on familial relationship or age unless such restriction is necessary
12 to comply with the terms of the federal subsidy related to affordability;

13 (2) Charge unique or unreasonable application fees for the creation of an ADU;

14 (3) Require infrastructure improvements, including, but not limited to, separate water or
15 sewer service lines or expanded septic system capacity, provided, however, municipalities may
16 require modification required for compliance under state law or regulation;

17 (4) Discriminate against populations protected under state and federal fair housing laws;

18 (5) Impose unreasonable dimensional requirements on ADUs that effectively preclude their
19 development or utilization;

20 (6) Require a larger minimum lot size for a property with an ADU over that required for a
21 property without an ADU in the same zone;

22 (7) Require more than one parking space beyond what is already required for the primary
23 use; or

24 (8) Limit ADUs to lots with pre-existing homes; provided, a municipality shall allow
25 ADUs as part of applications for new primary dwelling units or subdivisions.

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

30 (c) Private restrictions on ADUs imposed by condominium associations, homeowner
31 associations, or similar residential property governing bodies, which conflict with the provisions
32 of this section or the definition of an ADU as set forth in § 45-24-31, shall be void as against public
33 policy. Provided, however, if ADU's are allowed by condominium association covenants,
34 homeowner association covenants, or similar residential property governing bodies, they shall be

1 deemed in compliance with this subsection.

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

5 **45-24-74. Additional zoning provisions for applications for accessory dwelling units.**

6 (a) Applications for ADUs that are not part of a larger development proposal shall be
7 reviewed through an administrative officer or development plan review process. They shall not, by
8 themselves, be reviewed as minor land development, major land development, or special use
9 permits.

10 (b) ADUs shall be a permitted use in any residential district with a minimum lot size of
11 twenty thousand square feet (20,000 sq. ft.) or more, and where the proposed ADU is located within
12 the existing footprint of the primary structure or existing secondary attached or detached structure
13 and does not expand the footprint of the structure.

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

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

19 **45-24-75. Accessory dwelling units which may be counted towards low- and**
20 **moderate-income housing.**

21 (a) Accessory dwelling units may be counted towards meeting a municipality's affordable
22 housing goals pursuant to chapter 53 of title 45, and may be counted towards the ten percent (10%)
23 of the year-round housing units reported in the census as required by § 45-53-4, if the tenant of the
24 unit has a one year lease and the following conditions are met:

25 (1) The ADU is occupied by a household whose income does not exceed eighty percent
26 (80%) of the area median income (AMI), adjusted for family size, as determined and certified by
27 the selected approved monitoring agent; or

28 (2) The ADU is leased to a household utilizing a publicly subsidized rental assistance
29 voucher which limits income to no more than eighty percent (80%) of the AMI, evidence of which
30 is provided to the selected approved monitoring agent; and

31 (3) The cost of rent, heat, and utilities other than telephone, cable and internet, based on
32 the number of the bedrooms in the unit does not exceed thirty percent (30%) of the gross annual
33 household income for a household with eighty percent (80%) or less of area median income,
34 adjusted for family size as certified by the selected approved monitoring agent.

1 **(b) Accessory dwelling units eligible to be counted toward a community's affordable**
2 **housing goal under this section shall be counted as one-half (0.5) units each in every year for which**
3 **documentation required to establish eligibility under subsection (a) of this section is provided**
4 **annually to Rhode Island housing by the selected approved monitoring agent.**

5 **(c) Notwithstanding subsection (a) of this section, an accessory dwelling unit may not be**
6 **counted toward meeting a municipality's affordable housing goal if the tenant is a claimed**
7 **dependent on another individual's most recent tax filing unless one or more of the following applies:**

8 **(1) The claimed individual is an adult dependent receiving Supplemental Security Income**
9 **(SSI) or Social Security Disability Income; or**

10 **(2) The claimed individual has documentation from a licensed medical professional**
11 **certifying to the claimed individual's disability status; or**

12 **(3) The claimed individual is a person with a developmental disability as defined in § 40.1-**
13 **1-8.1.**

14 **(d) ADUs serving eligible households as described in subsections (a) or (b) of this section**
15 **shall be included in the next annual count of low- and moderate-income units following submittal**
16 **of eligibility documentation to Rhode Island housing at one-half (0.5) units each.**

17 **45-24-76. Accessory dwelling units annual reporting.**

18 **(a) Each municipality within the state shall furnish to the division of statewide planning**
19 **information on:**

20 **(1) Any ordinances enacted related to accessory dwelling units, including those that**
21 **implement this section of law during the previous calendar year;**

22 **(2) All accessory dwelling units permitted during each of the two (2) previous calendar**
23 **years; and**

24 **(3) All accessory dwelling units issued a certificate of occupancy during each of the two**
25 **(2) previous calendar years.**

26 **(b) Municipalities shall provide the information in subsection (a) of this section annually**
27 **by February 1. Statewide planning shall produce an annual report of municipal activity related to**
28 **accessory dwelling units, with the information identified in subsection (a) of this section on a**
29 **statewide basis and disaggregated by municipality and shall provide a copy of the report to the**
30 **speaker of the house, the president of the senate and the secretary of housing by March 1.**

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

=====
LC005367/SUB B
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL

OF

A N A C T

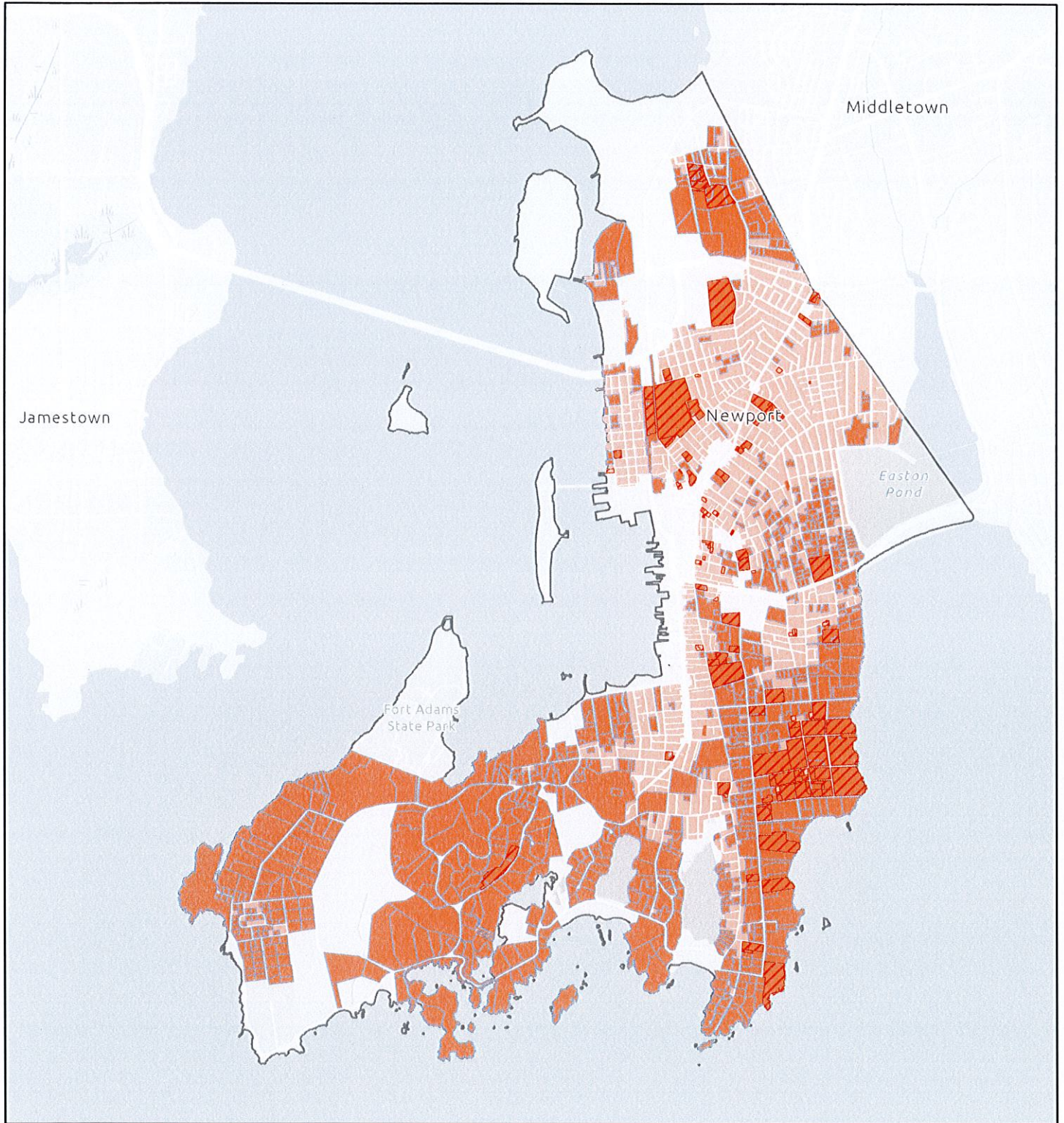
RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES




1 This act would amend the definition of an accessory dwelling unit (ADU) to provide a
2 consistent, statewide framework and efficient process for the approval and permitted use of these
3 units. The act would also permit ADUs to be counted towards low- and moderate-income housing
4 requirements, if certain income and other limitations are met.

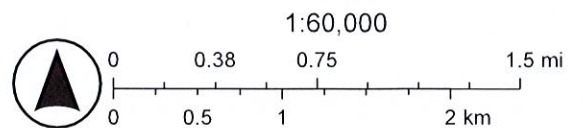
5 This act would take effect upon passage.

=====
LC005367/SUB B
=====

Accessory Dwelling Units Applicability Map



-  Parcels \geq 20,000 sq. ft. in residential zoning districts
-  All parcels in residential zoning districts
-  Institutional overlay





Rhode Island Division of Statewide Planning

Municipal Accessory Dwelling Unit Annual Reporting For State Legislature			
Municipality	ADU Ordinance Enacted in Prior Calendar Year ?	# of ADU's Permitted During Previous two (2021-2022) Calendar Years	# of CO's Approved During Previous two (2021-2022) Calendar Years
Barrington	No	3	2
Bristol	No	5	2
Burrillville	No	10	0 - Town Does Not Issue Co's for ADUs
Central Falls	No	0	0
Charlestown	No	3	2
Coventry	No	9	9
Cranston	No	0	0
Cumberland	Yes	2	1
East Greenwich	No	0	0
East Providence	No	0	0
Exeter	No	1	0
Foster	No	0	0
Glocester	No	7	6
Hopkinton	Yes	0	1
Jamestown	No	7	7
Johnston	No	6	6
Lincoln	No	12	12
Little Compton	No	0	0
Middletown	No	3	3
Narragansett	No	6	2

New Shoreham	Yes	0	0
Newport	No	0	0
North Kingstown	No	10	8
North Providence	No	1	0
North Smithfield	No	0	0
Pawtucket	No	0	0
Portsmouth	No	4	4
Providence	No	1	1
Richmond	No	1	1
Scituate	No	1	0
Smithfield	No	0	0
South Kingstown	No	12	5
Tiverton	No	0	0 - Town Does Not Issue Co's for ADUs
Warren	No	4	3
Warwick	No	2	0
West Greenwich			
West Warwick	No	1	1
Westerly	No	4	0
Woonsocket	No	0	0

**Total ADUs Permitted and Total COs issued for
2021-2022**

115

76

THE CITY OF NEWPORT

RESOLUTION

OF THE

COUNCIL

No.2023-11

WHEREAS, the Newport City Council (the "Council"), at its Goal Setting Workshop, identified housing as a top priority; AND

WHEREAS, the City of Newport (the "City") is facing an unprecedented housing crisis that has made average mortgage and rent prices unaffordable for families who remain in the community; AND

WHEREAS, median gross rents in the City have increased thirty-five percent (35.7%) since 2015, a rate nearly double the State's average, according to the US Census Bureau; AND

WHEREAS, the average cost of owning a home in the City has increased by over sixty-four percent (64.5%) since 2015, according to the US Census Bureau data; AND

WHEREAS, the City has only added a net 24 units (+0.18%) of housing since 2000 according to US Census Data; AND

WHEREAS, more than ninety percent (90%) of the eleven (11) square miles of land in the City is already built-out, leaving only a small amount of land vacant and available for new housing development; AND

WHEREAS, new development is exceedingly difficult because the City's outdated zoning code is not designed for a 21st century community, including nearly every one of the City's homes and structures being non-conforming to the code; AND

WHEREAS, there have been recent amendments to the Rhode Island Zoning Enabling Act of 1991, Chapter 45-24 G.L.R.I. addressing issues such as requirements for quorums, voting majorities, accessory dwelling units (ADU) among others;

WHEREAS, the State of Rhode Island General Assembly and Governor Daniel J. McKee have made housing a priority; NOW, THEREFORE BE IT

RESOLVED: that the City seize this opportunity to pursue comprehensive efforts to increase housing accessibility and affordability in Newport; AND BE IT FURTHER

RESOLVED: that the City management, in coordination with the Planning Board, Zoning Board, and Historic District Commission, community stakeholders and individual Councilors, provide proposed ordinances and policies to incentivize the creation of Accessory Dwelling Units for occupancy by Newport residents by June 30, 2023.

Mark Aramli
Xay Khamsyvoravong
Charles M. Holder, Jr.
David Carlin

IN COUNCIL
READ AND PASSED
FEBRUARY 8, 2023



LAURA C. SWISTAK
CITY CLERK