



*Accessory Dwelling Units for Senior Citizens
Frequently Asked Questions
March 3, 2017*

Starting on January 1, 2017, Rhode Island law made it easier for senior citizens to live with their families while preserving their independence. An owner of an owner-occupied single family home will have the right to build an accessory dwelling unit, also called an “in law apartment”, for a family member who is 62 years or older without having to obtain a special use permit from the town or city in which the property is located.

Since 2008, home owners have been able to build an accessory dwelling unit to accommodate a family member of any age who has a disability. Starting in 2017, R.I.G.L. § 45-24-37 has expand law to include family members who are 62 or older regardless of whether they are disabled.

QUESTION: What does this new law do?

ANSWER: The law, “An Act Relating to Towns and Cities – Zoning Ordinances”, allows the owner of an owner-occupied single family home to build an accessory dwelling unit to accommodate a family member who is 62 or older without obtaining a special permit from the town or city in which the property is located.

QUESTION: What is an accessory dwelling unit?

ANSWER: An accessory dwelling unit (“ADU”) is a residence that is attached to or built within a single-family home. ADU’s have separate kitchens and bathrooms as well as egresses.

QUESTION: Why was this legislation filed?

ANSWER: This legislation was filed to address the projected shortage of housing for senior citizens by making it easier to build accessory dwelling units as an affordable to assisted living residences. The legislation was also intended to streamline the requirements and make them more consistent.

QUESTION: Where can I read the law?

ANSWER: <http://webserver.rilin.state.ri.us/Statutes/TITLE45/45-24/45-24-37-1.HTM>

QUESTION: Does the law allow the owner of a two-family to add an ADU?

ANSWER: No. The law is limited to owners of owner-occupied single-family homes.

QUESTION: Does the law allow non-family members to live in the ADU?

ANSWER: No. The law is limited to family members of the home owner.

QUESTION: Why is the law limited to family members?

ANSWER: The law was written this way to address initial concerns from elected officials that the home owner might convert the property into a rental unit for profit.

QUESTION: Who qualifies as a family member?

ANSWER: The state zoning law defines a family member as “A person or persons related by blood, marriage, or other legal means.”

QUESTION: When did the law go into effect?

ANSWER: The law took effect on January 1, 2017.

QUESTION: What requirements must be met in order to build an ADU?

ANSWER: According to the law, “the appearance of the structure shall remain that of a single-family residence and there shall be an internal means of egress between the principal unit and the accessory family dwelling unit.

If possible, no additional exterior entrances should be added. Where additional entrance is required, placement should generally be in the rear or side of the structure. When the structure is serviced by an individual, sewage-disposal system, the applicant shall have the existing or any new system approved by the department of environmental management.”

QUESTION: What kind of documents must the owner of the property file once the ADU is approved?

ANSWER: The law requires the property owner to record a declaration of the accessory family dwelling unit and any restrictions with the municipal land evidence records and to file a copy with both the municipal zoning enforcement officer and building official. In addition, some municipalities may require other documents, such as the annual filing of an affidavit. Check with your local zoning department to make sure that you have the correct paperwork.

QUESTION: When a home is sold or transferred, will the ADU permit automatically transfer to the new owner?

ANSWER: No. The approval for an accessory dwelling unit does not automatically transfer with the title of the property. The seller/former owner must notify the zoning official in writing that the transfer has taken place. A new owner who wants to use the ADU must file a new application with the town or city.

QUESTION: What happens to the ADU if the senior relative moves out?

ANSWER: Once a senior relative no longer resides in the property on a permanent basis, the owner must notify the local zoning official in writing, and the approval for the ADU will terminate. This would not apply if the senior leaves for a period of time for a hospital stay, a rehab facility, a home in Florida for part of the year, etc.

QUESTION: How can a member of the public find out whether an existing ADU is legal?

ANSWER: Contact the local zoning or building department and/or check the land evidence records in the town or city in which the property is located. Even if municipal assessment records indicate that an ADU exists, only a department, such as zoning or building, can verify whether the ADU was approved.

QUESTION: Can an ADU count towards a community's Low- and Moderate-Income Housing goal that is defined by state law?

ANSWER: An ADU can only count towards the community's target if it meets the legal definition of low-and moderate-income housing, as defined in <http://webserver.rilin.state.ri.us/Statutes/TITLE45/45-53/45-53-3.HTM>. It needs to have received a subsidy from federal, state or municipal sources for construction or rehabilitation and its affordability to a low- and moderate-income household must be ensured through a land lease or deed restriction.