

2022 -- S 2644

LC005420

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: Senators Lawson, and Coyne

Date Introduced: March 10, 2022

Referred To: Senate Housing & Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-24-46.1 of the General Laws in Chapter 45-24 entitled "Zoning
2 Ordinances" is hereby amended to read as follows:

3 **45-24-46.1. Inclusionary zoning.**

4 (a) A zoning ordinance requiring the inclusion of affordable housing as part of a
5 development shall provide that the housing will be affordable housing, as defined in § 42-128-
6 8.1(d)(1); that the affordable housing will constitute not less than ten percent (10%) of the total
7 units in the development; and that the units will remain affordable for a period of not less than
8 thirty-years (30) from initial occupancy enforced through a land lease and/or deed restriction
9 enforceable by the municipality and the state of Rhode Island.

10 (b) A zoning ordinance that includes inclusionary zoning may provide that the affordable
11 housing must be built on-site or utilize one or more alternative methods of production, including,
12 but not limited to, off-site construction or rehabilitation, donation of land suitable for development
13 of the required affordable units, and/or the payment of a fee in lieu of the construction or provision
14 of affordable housing units. For all projects subject to inclusionary zoning, density bonuses and
15 other incentives shall be established by the community and shall apply to offset differential costs
16 of below-market units.

17 (c) This fee in lieu of the construction or provision of affordable housing shall be the choice
18 of the ~~developer or builder~~ municipality in which the development occurs applied on a per-unit
19 basis and may be used for new developments, purchasing property and/or homes, rehabilitating

1 properties, or any other manner that creates additional low-or-moderate income housing as defined
2 in § 45-53-3(9).

3 (1) For affordable single-family homes and condominium units, the per-unit fee shall be
4 the difference between the maximum affordable sales price for a family of four (4) earning eighty
5 percent (80%) of the area median income as determined annually by the U.S. Department of
6 Housing and Urban Development and the average cost of developing a single unit of affordable
7 housing. The average cost of developing a single unit of affordable housing shall be determined
8 annually based on the average, per-unit development cost of affordable homes financed by Rhode
9 Island housing over the previous three (3) years, excluding existing units that received preservation
10 financing.

11 (2) Notwithstanding subsection (c)(1) of this section, in no case shall the per-unit fee for
12 affordable single family homes and condominium units be less than forty thousand dollars
13 (\$40,000).

14 (d) The municipality shall deposit all in-lieu payments into restricted accounts that shall be
15 allocated and spent only for the creation and development of affordable housing within the
16 municipality serving individuals or families at or below eighty percent (80%) of the area median
17 income. The municipality shall maintain a local affordable housing board to oversee the funds in
18 the restricted accounts and shall allocate the funds within two (2) years. The municipality shall
19 include in the housing element of their local comprehensive plan, if applicable, the process it will
20 use to allocate the funds.

21 (e) As an alternative to the provisions of subsection (d), the municipality may elect to
22 transfer in-lieu payments promptly upon receipt or within the two-year (2) period after receipt to
23 the housing resources commission or Rhode Island housing for the purpose of developing
24 affordable housing within that community.

25 (f) Rhode Island housing shall report to the general assembly and the housing resources
26 commission the amount of fees in lieu collected by community; the projects that were provided
27 funding with the fees, the dollar amounts allocated to the projects and the number of units created.

28 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
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1 This act would amend the current law so that the choice to pay a fee in lieu of construction
2 or provision of affordable housing, would no longer be left to the discretion of the developer but
3 would instead be determined by the city or town where the development is located.

4 This act would take effect upon passage.

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