

2013 -- H 6104

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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: Representative Jan Malik

Date Introduced: May 09, 2013

Referred To: House 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.**~~ **Inclusionary zoning – Affordable housing**
4 **requirements – Fees – In – Lieu of construction and provision of affordable housing.** – (a) A
5 zoning ordinance requiring the inclusion of affordable housing as part of a development shall
6 provide that the housing will be affordable housing, as defined in section 42-128-8.1(d)(1), that
7 the affordable housing will constitute not less than ten percent (10%) of the total units in the
8 development, and that the units will remain affordable for a period of not less than thirty (30)
9 years from initial occupancy enforced through a land lease and/or deed restriction enforceable by
10 the municipality and the state of Rhode Island.

11 (b) A zoning ordinance which includes inclusionary zoning may provide that the
12 affordable housing must be built on-site or utilize one or more alternative methods of production,
13 including, but not limited to, off-site construction or rehabilitation, donation of land suitable for
14 development of the required affordable units, and/or the payment of a fee-in-lieu of the
15 construction or provision of affordable housing units.

16 (c) The fee-in-lieu of the construction or provision of affordable housing shall be applied
17 on a per-unit basis. The per-unit fee shall be determined consistent with the United States
18 Department of Housing and Urban Development's maximum per-unit subsidy limits for the
19 HOME program as prescribed by subdivision 221(d)(3)(ii) of the national housing act (12 U.S.C.

1 [17151\(d\)\(3\)\(ii\) and 24 CFR 92.250.](#)

2 [\(d\) The zoning ordinance may restrict the extent to which an applicant may utilize the](#)
3 [fee-in-lieu of affordable housing option, including, but not limited to, a restriction on the](#)
4 [maximum number of units subject to the option.](#)

5 [\(e\) The municipality shall deposit all in-lieu payments into restricted accounts, which](#)
6 [shall be allocated and spent only for the creation and development of affordable housing within](#)
7 [the municipality serving individuals or families at or below eighty percent \(80%\) of the area](#)
8 [median income. The municipality shall maintain a local affordable housing board to oversee the](#)
9 [funds in the restricted accounts. If any funds within the restricted accounts are not spent within](#)
10 [five \(5\) years after their receipt, the municipality shall promptly transfer all unspent funds to the](#)
11 [housing resources commission or Rhode Island housing and mortgage finance corporation for the](#)
12 [purpose of promoting affordable housing within the state.](#)

13 [\(f\) As an alternative to the provisions of subsection \(e\), the municipality may elect to](#)
14 [transfer in-lieu payments promptly upon receipt or within the five \(5\) year period after receipt to](#)
15 [the housing resources commission or Rhode Island housing and mortgage finance corporation for](#)
16 [the purpose of promoting affordable housing within the state.](#)

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would allow inclusionary zoning ordinances to provide that affordable housing
2 must be built on-site or, in the alternative, be produced off-site, by donation and/or by the
3 payment of a fee-in-lieu of the construction or provision of affordable housing units.

4 This act would take effect upon passage.

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