

2021 -- H 5695

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LC001849  
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

Introduced By: Representatives McEntee, Speakman, Tanzi, and Fogarty

Date Introduced: February 24, 2021

Referred To: House Municipal Government & Housing

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 applied on a per-unit basis and may be used for new developments,  
19 purchasing property and/or homes, rehabilitating properties, or any other manner that creates

1 additional low-or-moderate income housing as defined in § 45-53-3(9).

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

10 (2) Notwithstanding subsection (c)(1) of this section, in no case shall the per-unit fee for  
11 affordable single family homes and condominium units be less than ~~forty thousand dollars~~  
12 ~~(\$40,000)~~ seventy five thousand dollar (\$75,000).

13 (d) The municipality shall deposit all in-lieu payments into restricted accounts that shall be  
14 allocated and spent only for the creation and development of affordable housing within the  
15 municipality serving individuals or families at or below eighty percent (80%) of the area median  
16 income. The municipality shall maintain a local affordable housing board to oversee the funds in  
17 the restricted accounts and shall allocate the funds within ~~two (2)~~ ten (10) years. The municipality  
18 shall include in the housing element of their local comprehensive plan, if applicable, the process it  
19 will use to allocate the funds.

20 (e) As an alternative to the provisions of subsection (d), the municipality may elect to  
21 transfer in-lieu payments promptly upon receipt or within the ~~two-year (2)~~ ten-year (10) period  
22 after receipt to the housing resources commission or Rhode Island housing for the purpose of  
23 developing affordable housing within that community.

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

27 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 increase the per-unit fee for affordable single family homes to seventy five  
2 thousand dollars (\$75,000) and allow municipalities to transfer in-lieu payments upon receipt or  
3 within ten (10) years.

4           This act would take effect upon passage.

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