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LC001839

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

Introduced By: Representatives Speakman, Kislak, Potter, and Cruz

Date Introduced: March 01, 2023

Referred To: House Municipal Government & Housing

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 45-24 of the General Laws entitled "Zoning Ordinances" is hereby
2 amended by adding thereto the following section:

3 **45-24-77. Transit-oriented housing development.**

4 (a) In order to increase the availability of residential housing near convenient public transit,
5 alleviating traffic congestion as well as facilitating the goals of the state's 2021 act on climate, there
6 is hereby established a program for transit-oriented housing development.

7 (b) Any municipality that contains a regional mobility hub or frequent transit stop, each as
8 defined by the 2020 Rhode Island transit master plan or its successor document, shall create a
9 transit-oriented development district for the site according to the requirements set forth in this
10 section.

11 (1) For the purposes of this section, a transit-oriented development district consists of a
12 zoning-use or overlay district of a municipality in which the residential uses are permitted by right
13 at a minimum gross density of at least ten (10) units per acre. For any district whose pre-existing
14 or underlying zoning would have already satisfied the aforementioned threshold, and the district is
15 served by public water and sewer, the requirement shall be a net addition of ten (10) dwelling units
16 per acres or a minimum gross density of at least twenty-five (25) units per acres, whichever is less.

17 The district shall consist of either:

18 (i) All developable land within a one-quarter (0.25) mile radius of the regional mobility
19 hub or a one-eighth (0.125) mile radius of the frequent transit stop, as applicable; or

1 (ii) At least an equivalent amount of developable land, arranged in a district located not
2 more than one-half (0.5) of a mile from the regional mobility hub or one-quarter (0.25) of a mile
3 from the frequent transit stop, as applicable.

4 (2) For the purposes of this section, distance shall be measured based on the shortest
5 distance between any point on a lot, or within a district, and the regional mobility hub or frequent
6 transit stop, as applicable.

7 (3) Any municipality that is required to adopt multiple transit-oriented development
8 districts under this section may satisfy the applicable minimum requirements by averaging the gross
9 density of the residential uses permitted across all of its districts.

10 (4) For purposes of this section, “developable land” means all developable public land, as
11 defined in subsection (b)(5) of this section and all privately-owned land, except those lots or
12 portions of lots that are excluded land, as defined in subsection (b)(6) of this section.

13 (5) For the purposes of this section, “developable public land” means any publicly owned
14 land that:

15 (i) Has been designated by the public owner for disposition and redevelopment;

16 (ii) Is used by a housing authority established pursuant to chapters 25 or 26 of title 45; or

17 (iii) Has been identified as a site for residential development pursuant to § 45-22-6(b)(6).

18 (6) For the purposes of this section, “excluded land” means land area on which it is
19 impossible or impractical to construct residential dwellings. Excluded land includes:

20 (i) All publicly owned land, except for lots or portions of lots determined to be developable
21 public land;

22 (ii) Any rivers, streams, lakes, ponds, or other surface watercourses and waterbodies;

23 (iii) Any freshwater wetlands and freshwater wetland buffers regulated pursuant to § 2-1-
24 20.1;

25 (iv) Any coastal buffer zones, erosion-oriented setbacks, or freshwater wetlands in the
26 vicinity of the coast regulated pursuant to chapter 23 of title 46;

27 (v) Any open space and recreational land that is legally protected in perpetuity such as land
28 owned by land trusts or land that is subject to a conservation restriction, or that is likely to remain
29 undeveloped due to functional or traditional use, such as cemeteries;

30 (vi) Any roadway, railway, public right-of-way, or private right-of-way;

31 (vii) Any privately-owned land on which development is prohibited to protect public or
32 private water supplies;

33 (viii) Any lot characterized by a ledge or steep slope of fifteen percent (15%) or more in
34 grade change;

1 (ix) Any special flood hazard areas, as defined by the Federal Emergency Management
2 Agency and any other areas subject to regular flood inundation; and

3 (x) Any privately-owned land used for educational or institutional uses, such as hospitals,
4 prisons, museums, electric, water, wastewater or other utilities or private schools, colleges or
5 universities.

6 (7) A transit-oriented development district adopted under this section shall incorporate
7 reduced or eliminated standards for the mandatory provision of off-street vehicle parking for any
8 residential, commercial, or other development project located within the district. A municipality
9 may still impose requirements concerning the design of off-street vehicle parking; maximum
10 limitations on off-street vehicle parking; and requirements for the provision of bicycle storage and
11 parking.

12 (8) The Rhode Island public transit authority created under § 39-18-2 shall notify the
13 department of housing, the statewide division of planning, the department of transportation, and
14 any affected municipality of the implementation of any transit site that will trigger requirements
15 under this section.

16 (c) The department of housing shall promulgate rules and regulations for the program that
17 address when a municipality shall be considered in compliance with this section and the process by
18 which municipal compliance shall be certified.

19 (1) If a municipality fails to achieve or maintain compliance with this section as required
20 by rule or regulation, the department of housing is hereby empowered and directed to design and
21 implement the transit-oriented development districts on behalf of the municipality.

22 (2) The department of housing shall adopt a design plan for the districts through the
23 rulemaking process prescribed by chapter 35 of title 42. The adoption of a plan by the department
24 shall, for all purposes, be deemed to be the action of the municipality, including, as applicable, the
25 actions of a planning board established pursuant to chapter 22 of title 45; a zoning board established
26 pursuant to chapter 24 of title 45; a historic district commission established pursuant to chapter
27 24.1 of title 45; or a redevelopment plan review body established pursuant to § 45-24-49; and is
28 enforceable by an action brought in superior court in the county in which the municipality is
29 located.

30 (3) The department shall review and approve or deny any application for a development
31 proposed within the district while the department retains authority over the district. In order to carry
32 out its duties, the department shall adopt, through regular rulemaking, a single process by which
33 the department shall review any application submitted within a transit-oriented development
34 district, regardless of the district's location. The process shall be publicly accountable and

1 transparent.

2 (4) The department, in its discretion, may return some or all authority over a district to a
3 municipality upon entering into a compliance agreement that ensures the satisfaction of the
4 requirements of this section.

5 (d) The department of transportation established under § 42-13-1 shall support the
6 implementation of transit-oriented housing development as follows:

7 (1) The department of transportation shall undertake research and data collection on all of
8 the following topics:

9 (i) The vehicle miles traveled per capita generated by residential development in different
10 areas of the state, by municipality and traffic analysis zone;

11 (ii) The number, location, and severity of traffic incidents that involve vehicle collisions
12 with pedestrians or bicycles; and

13 (iii) Representative pedestrian and bicycle volume counts for the state's shared-use paths;
14 transit-oriented development districts adopted under this section; and very low vehicle travel areas.

15 A "very low vehicle travel area" means a traffic analysis zone within an urbanized area, as
16 designated by the United States Census Bureau, where the existing residential development
17 generates vehicle miles traveled per capita at a level below eighty-five percent (85%) of the vehicle
18 miles traveled per capita for a municipality as a whole.

19 (iv) The department shall annually publish and provide the general assembly with a
20 dashboard of its research findings.

21 (2) The department shall improve the safety and accessibility of state-owned roadways and
22 transportation facilities for pedestrians, bicyclists, and public transportation users by cooperating
23 with and prioritizing any request of a municipality to so improve the state-owned roadways and
24 transportation facilities located within the transit-oriented development districts or very low vehicle
25 areas of the municipality.

26 (i) In implementing the improvements required under this section, the department shall
27 utilize leading design standards for streets that are safer and more accessible for pedestrians,
28 bicyclists, and public transportation users, including, but not limited to, the Urban Street Design
29 Guide of the National Association of City Transportation Users and the published practice
30 recommendations of the Institute of Transportation Engineers. The department shall design any
31 such improvements to advance the goals of and utilize the strategies recommended by the state's
32 transit master plan and bicycle mobility plan.

33 (ii) The department shall approach each transportation improvement and project phase
34 within its purview as an opportunity to implement the improvements required under this section.

1 In the event that the department lacks adequate state resources to implement the required
2 improvements, the department shall seek and/or allocate federal funds that may be used for this
3 purpose.

4 (iii) The department shall maintain on its website a list of the improvements that it has
5 undertaken pursuant to the requirements of this section.

6 (e) The implementation of this section by the state and its municipalities shall be supported
7 by a dedicated annual surcharge on the registration of passenger vehicles that, by virtue of their
8 heavier weight, produce the greatest relative share of carbon emissions as well as wear on the state
9 and local highways.

10 (1) The surcharge shall be administered as follows:

11 (i) One hundred seventy-five dollars (\$175), for any vehicle between three thousand five
12 hundred (3,500) and four thousand nine hundred and ninety-nine (4,999) pounds in weight;

13 (ii) Two hundred fifty dollars (\$250), for any vehicle between five thousand (5,000) and
14 five thousand nine hundred and ninety-nine (5,999) pounds in weight; and

15 (iii) Five hundred dollars (\$500), for any vehicle that exceeds six thousand (6,000) pounds
16 in weight.

17 (2) The fee schedule established in subsection (e)(1) of this section shall not apply to any
18 registrant who may claim three (3) or more dependents or who qualifies for a disability parking
19 placard based on mobility disability. The registrant of a vehicle powered in whole or in part by a
20 storage battery is entitled to deduct one thousand pounds (1,000 lbs.) in vehicle weight for purposes
21 of calculating the applicable fee.

22 (3) The proceeds of the surcharge, subsequent to collection by the division of motor
23 vehicles, shall be distributed as follows:

24 (i) Twenty percent (20%) to the statewide division of planning to fund activities, including
25 technical assistance grants to municipalities, related to issues of housing, land use and climate
26 adaptation;

27 (ii) Eighty percent (80%) to the Rhode Island public transit authority to fund
28 implementation of the state's transit master plan and bicycle mobility plan, with particular attention
29 to any transit-oriented development districts adopted under this section.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

1 This act would establish a transit-oriented housing development program which would
2 require all municipalities that contain a regional mobility hub or frequent transit stop to create a
3 transit-oriented development district for development of housing, and would permit the state to use
4 public and private lands to develop these districts. It would also permit the state department of
5 housing, if a municipality is not in compliance with this act, to take control over subject property
6 in the municipality and design and implement the transit-oriented development districts within the
7 municipality. Any actions by the department would, by the process, become the actions of the
8 municipal departments including, the planning board, zoning board, historical commissions and
9 development plan review bodies. The act would also require the department of transportation to
10 collect data as to vehicle miles traveled in the state and municipalities, and improve the safety of
11 transportation facilities for pedestrians and bicyclists. Under this act, the program would be funded,
12 in part, by an annual tax on all passenger vehicles registered over three thousand five hundred
13 pounds (3,500 lbs.) of up to five hundred dollars (\$500) per year.

14 This act would take effect upon passage.

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