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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

A N A C T

RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

Introduced By: Representative June Speakman

Date Introduced: April 04, 2025

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. [Effective January 1, 2025.]**

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 be of comparable size and quality to the market-rate](#)
7 [housing](#); that the affordable housing will constitute not less than fifteen percent (15%) of the total
8 units proposed for the development; and that the units will remain affordable for a period of not
9 less than thirty (30) years from initial occupancy enforced through a land lease and/or deed
10 restriction enforceable by the municipality and the state of Rhode Island. A zoning ordinance that
11 requires the inclusion of affordable housing as part of a development shall specify the threshold in
12 which the inclusion of affordable housing is required, but in no event shall a minimum threshold
13 triggering the inclusion of affordable housing be higher than ten (10) dwelling units. The total
14 number of units for the development may include less than fifteen percent (15%) affordable units
15 after the density bonus described in subsection (c) of this section is determined.

16 (b) A zoning ordinance that includes inclusionary zoning may provide that the affordable
17 housing must be built on-site or it may allow for one or more alternative methods of production,
18 including, but not limited to: off-site construction or rehabilitation; donation of land suitable for
19 development of the required affordable units; ~~and/or the payment of a fee in lieu of the construction~~

1 ~~or provision of affordable housing units.~~

2 (c) **Density bonus, zoning incentives, and municipal subsidies.** For all projects subject
3 to inclusionary zoning, subject to applicable setback, lot width, or frontage requirements or the
4 granting of relief from the same, a municipality shall allow the addition of one market rate unit for
5 each affordable unit required and the minimum lot area per dwelling unit normally required in the
6 applicable zoning district shall be reduced by that amount necessary to accommodate the
7 development. Larger density bonuses for the provision of an increased percentage of affordable
8 housing in a development may be provided by a municipality in the zoning ordinance. The total
9 number of units for the development shall equal the number originally proposed, including the
10 required affordable units, plus the additional units that constitute the density bonus. Local
11 regulations shall provide for reasonable relief from dimensional requirements to accommodate the
12 bonus density under this section. A municipality shall provide, and an applicant may request,
13 additional zoning incentives and/or municipal government subsidies as defined in § 45-53-3 to
14 offset differential costs of affordable units. Available zoning incentives and municipal government
15 subsidies may be listed in the zoning ordinance, but shall not be an exclusive list.

16 (d) **Fee-in-lieu.** ~~To the extent a municipality provides an option for the payment of a fee-~~
17 ~~in lieu of the construction or provision of affordable housing, and an application seeks to utilize~~
18 ~~fee in lieu, the use of such fee shall be the choice of the developer or builder applied on a per unit~~
19 ~~basis and may be used for new developments, purchasing property and/or homes, rehabilitating~~
20 ~~properties, or any other manner that creates additional low- or moderate-income housing as defined~~
21 ~~in § 45-53-3(9).~~ Notwithstanding anything to the contrary in this section, when the size of a
22 development triggers a requirement in a zoning ordinance for one or more affordable housing units,
23 the unit(s) shall be created. Payment of a fee in lieu of the construction or provision of affordable
24 housing units is permissible only to pay for fractions of units (i.e. when only a fraction of one full
25 unit is required or for fractions of units beyond one or more full units).

26 (1) Eligibility for density bonus. Notwithstanding any other provisions of this chapter, an
27 application that utilizes a fee-in-lieu, off-site construction or rehabilitation, or donation of land
28 suitable for development of the required affordable units shall not be eligible for the density bonus
29 outlined in this section.

30 (2) An application that seeks to utilize a fee-in-lieu of the construction or provision of
31 affordable housing must be reviewed by the planning board or commission and is not eligible for
32 administrative review under the Rhode Island Land Development and Subdivision Review
33 Enabling Act of 1992, codified at §§ 45-23-25 — 45-23-74.

34 (3) Amount of fee-in-lieu. ~~For affordable single family homes and condominium units, the~~

~~per-unit fee shall be the difference between the maximum affordable sales price for a family of four (4) earning eighty percent (80%) of the area median income as determined annually by the U.S. Department of Housing and Urban Development and the average cost of developing a single unit of affordable housing. The average cost of developing a single unit of affordable housing shall be determined annually based on the average, per-unit development cost of affordable homes financed by Rhode Island housing and mortgage finance corporation (RIHMFC) over the previous three (3) years, excluding existing units that received preservation financing.~~ In order to pay for a fraction of an affordable single-family home or condominium unit, the fraction will be multiplied by the per-unit fee for the development. The per-unit fee shall be the difference between the maximum affordable sales price for a family of four (4) earning eighty percent (80%) of the area median income as determined annually by the U.S. Department of Housing and Urban Development and the average cost of developing a single unit of affordable housing. The average cost of developing a single unit of affordable housing shall be determined annually based on the average, per-unit development cost of affordable homes financed by Rhode Island housing over the previous three (3) years, excluding units that received preservation financing.

~~(i) Notwithstanding subsection (d)(3) of this section, in no case shall the per-unit fee for affordable single-family homes and condominium units be less than forty thousand dollars (\$40,000).~~

(4) Use of fee-in-lieu. The municipality shall deposit all in-lieu payments into restricted accounts that shall be allocated and spent only for the creation and development of affordable housing within the municipality serving individuals or families at or below eighty percent (80%) of the area median income. The municipality shall maintain a local affordable housing board to oversee the funds in the restricted accounts and shall allocate the funds within three (3) years of collection. The municipality shall include in the housing element of their local comprehensive plan and shall pass by ordinance, the process it will use to allocate the funds.

(e) As an alternative to the provisions of subsection (d), the municipality may elect to transfer in-lieu payments promptly upon receipt or within the three-year (3) period after receipt. A municipality shall transfer all fee-in-lieu payments that are not allocated within three (3) years of collection, including funds held as of July 1, 2024, to RIHMFC for the purpose of developing affordable housing within that community.

(f) Both the municipalities and RIHMFC shall report annually with the first report due December 31, 2024, to the general assembly, the secretary of housing, and the housing resources commission the amount of fees in lieu collected by community, the projects that were provided funding with the fees, the dollar amounts allocated to the projects, and the number of units created.

1 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 require that the inclusion of affordable housing as part of a development
2 shall provide that the affordable housing will be of comparable size and quality to the market rate
3 housing. If there is a requirement for one or more affordable housing units triggered by the size of
4 a development, the units shall be created. The average cost of developing a single unit of affordable
5 housing would be determined annually based on the average, per unit development cost of
6 affordable homes financed by Rhode Island housing over the previous three (3) years.

7 This act would take effect upon passage.

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