

2026 -- H 8281

=====
LC005948
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2026

A N A C T

RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

Introduced By: Representatives Costantino, and Santucci

Date Introduced: March 11, 2026

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 fifteen percent (15%) of the total
7 units proposed for the development; and that the units will remain affordable for a period of not
8 less than thirty (30) years from initial occupancy enforced through a land lease and/or deed
9 restriction enforceable by the municipality and the state of Rhode Island. A zoning ordinance that
10 requires the inclusion of affordable housing as part of a development shall specify the threshold in
11 which the inclusion of affordable housing is required, but in no event shall a minimum threshold
12 triggering the inclusion of affordable housing be higher than ten (10) dwelling units. The total
13 number of units for the development may include less than fifteen percent (15%) affordable units
14 after the density bonus described in subsection (c) of this section is determined. A municipality
15 shall not limit the number of bedrooms for applications submitted under this section to anything
16 less than three (3) bedrooms per dwelling unit for single-family dwelling units.

17 (b) A zoning ordinance that includes inclusionary zoning may provide that the affordable
18 housing must be built on-site or it may allow for one or more alternative methods of production,
19 including, but not limited to: off-site construction or rehabilitation; donation of land suitable for

1 development of the required affordable units; and/or the payment of a fee in lieu of the construction
2 or provision of affordable housing units.

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

19 (1) Inclusionary zoning requirements shall not be applied where there is a limitation on the
20 development density at the subject property under the regulations of a state agency, such as the
21 coastal resources management council or department of environmental management that prevents
22 the use of the density bonus set forth in this section.

23 (d) **Fee-in-lieu.** To the extent a municipality provides an option for the payment of a fee-
24 in-lieu of the construction or provision of affordable housing, and an application seeks to utilize
25 fee-in-lieu, the use of such fee shall be the choice of the developer or builder applied on a per-unit
26 basis and may be used for new developments, purchasing property and/or homes, rehabilitating
27 properties, or any other manner that creates additional low- or moderate-income housing as defined
28 in § 45-53-3(9).

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

33 (2) An application that seeks to utilize a fee-in-lieu of the construction or provision of
34 affordable housing must be reviewed by the planning board or commission and is not eligible for

1 administrative review under the Rhode Island Land Development and Subdivision Review
2 Enabling Act of 1992, codified at §§ 45-23-25 — 45-23-74.

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

11 (i) Notwithstanding subsection (d)(3) 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 (4) **Use of fee-in-lieu.** The municipality shall deposit all in-lieu payments into restricted
15 accounts that shall be allocated and spent only for the creation and development of affordable
16 housing within the municipality serving individuals or families at or below eighty percent (80%)
17 of the area median income. The municipality shall maintain a local affordable housing board to
18 oversee the funds in the restricted accounts and shall allocate the funds within three (3) years of
19 collection. The municipality shall include in the housing element of their local comprehensive plan
20 and shall pass by ordinance, the process it will 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 three-year (3) period after receipt. A
23 municipality shall transfer all fee-in-lieu payments that are not allocated within three (3) years of
24 collection, including funds held as of July 1, 2025, to the executive office of housing for the purpose
25 of developing affordable housing within that community. Funds shall be deposited into the Housing
26 Production Fund established pursuant to § 42-128-2.1.

27 (f) [Deleted by P.L. 2025, ch. 278, art. 9, § 16.]

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

=====
LC005948
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

- 1 This act would allow the town of Smithfield to determine its density bonuses based upon
- 2 its underlying zoning.
- 3 This act would take effect upon passage.

=====
LC005948
=====