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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2026

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A N A C T

RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

Introduced By: Senators Gu, Burke, Mack, DiMario, and Kallman

Date Introduced: February 27, 2026

Referred To: Senate Housing & 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.**

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. A municipality  
16 shall not limit the number of bedrooms for applications submitted under this section to anything  
17 less than three (3) bedrooms per dwelling unit for single-family dwelling units.

18 (b) A zoning ordinance that includes inclusionary zoning may provide that the affordable  
19 housing must be built on-site or it may allow for one or more alternative methods of production,

1 including, but not limited to: off-site construction or rehabilitation; donation of land suitable for  
2 development of the required affordable units; ~~and/or the payment of a fee in lieu of the construction~~  
3 ~~or provision of affordable housing units.~~

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

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

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

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

1 outlined in this section.

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

6 (3) **Amount of fee-in-lieu.** ~~For affordable single family homes and condominium units,~~  
7 ~~the per unit fee shall be the difference between the maximum affordable sales price for a family of~~  
8 ~~four (4) earning eighty percent (80%) of the area median income as determined annually by the~~  
9 ~~U.S. Department of Housing and Urban Development and the average cost of developing a single~~  
10 ~~unit of affordable housing. The average cost of developing a single unit of affordable housing shall~~  
11 ~~be determined annually based on the average, per unit development cost of affordable homes~~  
12 ~~financed by Rhode Island housing and mortgage finance corporation (RIHMF) over the previous~~  
13 ~~three (3) years, excluding existing units that received preservation financing. In order to pay for a~~  
14 fraction of an affordable single-family home or condominium unit, the fraction will be multiplied  
15 by the per-unit fee for the development. The per-unit fee shall be the difference between the  
16 maximum affordable sales price for a family of four (4) earning eighty percent (80%) of the area  
17 median income as determined annually by the U.S. Department of Housing and Urban  
18 Development and the average cost of developing a single unit of affordable housing. The average  
19 cost of developing a single unit of affordable housing shall be determined annually based on the  
20 average, per-unit development cost of affordable homes financed by Rhode Island housing over the  
21 previous three (3) years, excluding units that received preservation financing.

22 ~~(i) Notwithstanding subsection (d)(3) of this section, in no case shall the per unit fee for~~  
23 ~~affordable single family homes and condominium units be less than forty thousand dollars~~  
24 ~~(\$40,000).~~

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

32 (e) As an alternative to the provisions of subsection (d), the municipality may elect to  
33 transfer in-lieu payments promptly upon receipt or within the three-year (3) period after receipt. A  
34 municipality shall transfer all fee-in-lieu payments that are not allocated within three (3) years of

1 collection, including funds held as of July 1, 2025, to the executive office of housing for the purpose  
2 of developing affordable housing within that community. Funds shall be deposited into the Housing  
3 Production Fund established pursuant to § 42-128-2.1.

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

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

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

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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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