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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

Introduced By: Senator Elizabeth A.Crowley

Date Introduced: February 27, 2014

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~~ Inclusionary zoning -- Affordable housing**  
4 **requirements – Fees-in-lieu of construction and provision of affordable housing. – (a)** A  
5 zoning ordinance ~~requiring~~ that has the option for the inclusion of affordable housing as part of a  
6 development ("inclusionary zoning") shall provide that ~~the housing will be~~ affordable housing, as  
7 defined in section 42-128-8.1(d)(1), will be created and that the affordable housing will constitute  
8 not less than ten percent (10%) of the total units in the development, and that the units will  
9 remain affordable for a period of not less than thirty (30) years from initial occupancy enforced  
10 through a land lease and/or deed restriction enforceable by the municipality and the state of  
11 Rhode Island.

12 (b) A zoning ordinance which contains such inclusionary zoning must provide that the  
13 inclusionary zoning is not mandatory but rather a voluntary option for the applicant as part of the  
14 proposed development. If the applicant chooses to build affordable housing units, whether  
15 directed by the municipality to be located on or off the subject development site, then the  
16 municipality must provide to the applicant incentives such as density bonuses of market rate  
17 and/or affordable housing, or subsidies for the cost of the building/rehabilitation of each  
18 affordable unit. Additionally a municipality may allow a fee-in-lieu of the construction or  
19 provision of affordable housing within said municipality, however, the choice of said fee-in-lieu

1 shall belong solely to the applicant and only after the applicant chooses to be subject to  
2 inclusionary zoning for the proposed development. All development incentives and subsidies  
3 available in the municipality for the construction or provision of affordable housing shall also  
4 apply to the fee-in-lieu option.

5 (c) This fee-in-lieu of the construction provision of affordable housing shall be applied on  
6 a per-unit basis and may be used for new developments, purchasing property and/or homes,  
7 rehabilitating properties, or any other manner which creates additional low or moderate income  
8 housing as defined in § 45-53-3(9):

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

17 (2) Notwithstanding subsection (c)(1), in no case shall the per-unit fee for affordable  
18 single family homes and condominium units be less than forty thousand dollars (\$40,000).

19 (d) The municipality shall deposit all in-lieu payments into restricted accounts, which  
20 shall be allocated and spent only for the creation and development of affordable housing within  
21 the municipality serving individuals or families at or below eighty percent (80%) of the area  
22 median income. The municipality shall maintain a local affordable housing board to oversee the  
23 funds in the restricted accounts and is encouraged to allocate the funds within five (5) years. The  
24 municipality shall include in the housing element of its local comprehensive plan, if applicable,  
25 the process it will use to allocate the funds.

26 (e) As an alternative to the provisions of subsection (d), the municipality may elect to  
27 transfer in-lieu payments promptly upon receipt or within five (5) year period after receipt to the  
28 housing resources commission or Rhode Island housing and mortgage finance corporation for the  
29 purpose of developing affordable housing within that community.

30 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 provide that zoning ordinances that contain inclusionary zoning must  
2 provide incentives to developers who build affordable housing or would allow a developer to pay  
3 a fee-in-lieu of constructing the affordable housing. It would be the developer's choice as to  
4 whether to construct affordable housing or pay a fee-in-lieu of construction of the affordable  
5 housing. Further, this would set forth what a municipality is to do with fees paid in lieu of  
6 construction.

7           This act would take effect upon passage.

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