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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

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A N A C T

RELATING TO TOWNS AND CITIES – ZONING ORDINANCES

Introduced By: Senators Gu, Kallman, Britto, and Tikoian

Date Introduced: March 30, 2023

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 ten percent (10%) of the total units
8 in the development; and that the units will remain affordable for a period of not less than thirty-
9 years (30) from initial occupancy enforced through a land lease and/or deed restriction enforceable
10 by the municipality and the state of Rhode Island.

11 (b) A zoning ordinance that includes inclusionary zoning may provide that the affordable
12 housing must be built on-site or utilize one or more alternative methods of production, including,
13 but not limited to, off-site construction or rehabilitation, ~~donation of land suitable for development~~
14 ~~of the required affordable units, and/or the payment of a fee in lieu of the construction or provision~~
15 ~~of affordable housing units~~. For all projects subject to inclusionary zoning, density bonuses and
16 other incentives shall be established by the community and shall apply to offset differential costs
17 of below-market units.

18 (c) ~~This fee in lieu of the construction or provision of affordable housing shall be the choice~~
19 ~~of the developer or builder applied on a per unit basis and may be used for new developments,~~

1 ~~purchasing property and/or homes, rehabilitating properties, or any other manner that creates~~
2 ~~additional low or moderate income housing as defined in § 45-53-3(9).~~ Notwithstanding anything
3 to the contrary in this section, when the size of a development triggers a requirement in a zoning
4 ordinance for one or more affordable housing units, the unit(s) shall be created. Payment of a fee
5 in lieu of the construction or provision of affordable housing units is permissible only to pay for
6 fractions of units (i.e. when only a fraction of one full unit is required or for fractions of units
7 beyond one or more full units).

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

17 ~~(2) Notwithstanding subsection (c)(1) of this section, in no case shall the per unit fee for~~
18 ~~affordable single family homes and condominium units be less than forty thousand dollars~~
19 ~~(\$40,000).~~

20 (d) The municipality shall deposit all in-lieu payments into restricted accounts that shall be
21 allocated and spent only for the creation and development of affordable housing within the
22 municipality serving individuals or families at or below eighty percent (80%) of the area median
23 income. The municipality shall maintain a local affordable housing board to oversee the funds in
24 the restricted accounts and shall allocate the funds within ~~two (2)~~ five (5) years. The municipality
25 shall include in the housing element of their local comprehensive plan, if applicable, the process it
26 will use to allocate the funds.

27 (e) As an alternative to the provisions of subsection (d), the municipality may elect to
28 transfer in-lieu payments promptly upon receipt or within the ~~two year (2)~~ five year (5) period after
29 receipt to the housing resources commission, the Rhode Island department of housing, or Rhode
30 Island housing for the purpose of developing affordable housing within that community.

31 (f) Rhode Island housing shall report to the general assembly and the housing resources
32 commission the amount of fees in lieu collected by community; the projects that were provided
33 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 provide that affordable housing shall be of comparable size and quality to
2 market-rate housing and further provide that when there is a requirement for one or more affordable
3 housing units triggered by the size of a development, the units must be created.

4 This act would take effect upon passage.

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