

# **TITLE 45**

## **Towns and Cities**

### **CHAPTER 45-24**

#### **Zoning Ordinances**

##### **SECTION 45-24-46.1**

###### **§ 45-24-46.1. Inclusionary zoning.**

(a) A zoning ordinance requiring the inclusion of affordable housing as part of a development shall provide that the housing will be affordable housing, as defined in § 42-128-8.1(d)(1); that the affordable housing will constitute not less than ten percent (10%) of the total units in the development; and that the units will remain affordable for a period of not less than thirty-years (30) from initial occupancy enforced through a land lease and/or deed restriction enforceable by the municipality and the state of Rhode Island.

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

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

(1) 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 over the previous three (3) years, excluding existing units that received preservation financing.

(2) Notwithstanding subsection (c)(1) 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).

(d) 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 two (2) years. The municipality shall include in the housing element of their local comprehensive plan, if applicable, 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 two-year (2) period after receipt to the housing resources commission or Rhode Island housing for the purpose of developing affordable housing within that community.

(f) Rhode Island housing shall report to the general assembly 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.

History of Section.

(P.L. 2004, ch. 286, § 9; P.L. 2004, ch. 324, § 9; P.L. 2014, ch. 372, § 1; P.L. 2014, ch. 395, § 1.)