

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE IN AMENDMENT TO  
THE ZONING CODE OF THE TOWN OF TIVERTON

IT IS HEREBY ORDAINED by the Town Council of Tiverton, Rhode Island, that the Zoning Code of the Town of Tiverton be amended as follows:

ZONING

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Art. XXI, Low and Moderate Income Housing

Section 10. - Affordable housing provisions.

~~All proposed housing developments in the town not eligible for the filing of a comprehensive permit and otherwise reviewed and approved according to the applicable provisions of this ordinance and the town land development and subdivision regulations, shall be subject to the following provisions:~~

- ~~a. *Low and moderate housing unit set asides.* Applicants proposing any form of residential development are encouraged to provide affordable units by making use of available subsidies for the construction of affordable housing units or by making land available for such units. Those applicants proposing a major land development or subdivision project shall submit a mandatory alternative concept plan that sets aside a minimum number of the units for the construction of low or moderate income housing. For projects consisting of single family dwelling units, the minimum number of low or moderate income units shall be 20 percent of the total number of units in the proposed development, and for projects consisting of multi-family units, the minimum number shall be 30 percent of the total. The planning board shall evaluate the alternative concept plan, including design aspects, and endorse it or reject it according to the purposes of this article and its consistency with the town comprehensive community plan.~~
- ~~b. *Density bonus for low and moderate housing units.* To further the goal of providing more affordable housing in the town, a density bonus of up to 30 percent over that allowed in the zoning district in which a proposed housing development is located, may be allowed for a major land development or subdivision which sets asides the additional units or lots for construction of low or moderate income housing units. In addition, the planning board may allow duplex units as low or moderate income housing. The density bonus is granted at the discretion of the planning board which shall determine the appropriate density as a balance between the costs to the developer and the resulting provision of additional affordable housing in town. The granting of a density bonus shall be conditioned upon the following:~~

~~(1) Calculation of allowable density (prior to the density bonus) as otherwise required in this ordinance (see article V, section 3). Specific lot dimensions, including waiver of minimum lot area and/or amount of unsuitable land, shall be determined by the planning board.~~

~~(2) The requirement that any lot granted as a density bonus within the watershed protection overlay districts, as described in article VIII, shall be served by an alternative denitrification septic system as approved by the state department of environmental management. The specific lots requiring such advanced treatment shall be determined by the planning board.~~

~~(3) Submittal of all appropriate documentation, including written evidence of eligibility for municipal, state or federal subsidy, and written evidence of an agency to monitor the affordability of the subsidized units for a period of not less than 30 years.~~

~~(4) A determination by the planning board that the increased density development is consistent with the town comprehensive community plan.~~

~~(5) The architecture of all housing units shall be reviewed by the planning board.~~

~~c. *[Written evidence required.]* No building permit shall be issued by the town building official for any unit in a proposed development that provides for low or moderate income units either as a set-aside or density bonus, until written evidence has been provided by the developer that the affordable units have received approval for the appropriate municipal, state or federal subsidy.~~

~~d. *Design of low and moderately priced housing units.* All low and moderate income housing units shall be consistent in external design and construction with the other units in a proposed development, and shall be integrated throughout the development.~~

All proposed housing developments in the town not eligible for the filing of a comprehensive permit and otherwise reviewed and approved according to the applicable provisions of this ordinance and the town land development and subdivision regulations, shall be subject to the following provisions:

a. *Low and moderate housing unit set-asides.* All residential or mixed-use residential major land development or subdivision projects shall set aside 20 percent of the total number of units in the proposed development or subdivision for affordable housing as defined in R.I. General Laws § 42-128-8.1(d)(1).

b. *Density bonus for low and moderate housing units.* To further the goal of providing more affordable housing in the town, a density bonus of 20 percent over that allowed in the zoning district in which a proposed development or subdivision is located, shall be allowed for a major land development or subdivision which sets asides units or lots for construction of low or moderate income housing units as required by subsection (a). The granting of a density bonus shall be conditioned upon the following:

- (1) The applicant shall provide a yield plan showing allowable density, prior to the density bonus and without any special use permit or other zoning relief granted, as otherwise required in this ordinance (see article V, section 3). The yield plan shall include any necessary roads and/or public improvements. Front, side, and rear yard setbacks shall be decreased by 30 percent for lots subject to a density bonus. Allowed lot coverage shall be increased in proportion to the density bonus provided for any lot subject to a density bonus.
- (2) Any lot granted a density bonus within the watershed protection overlay district, as described in article VIII, shall be served by an alternative de-nitrification septic system as approved by the state department of environmental management. The specific lots requiring such advanced treatment shall be determined by the planning board. The density bonus shall not alter or increase the ten percent impervious surface limit for any lot located in the watershed overlay protection district.
- (3) An applicant shall submit all appropriate documentation, including written evidence of eligibility for municipal, state or federal subsidy, and written evidence of an agency to monitor the affordability of the subsidized units for a period of not less than 30 years.
- (4) Any density bonus shall be subject to a determination by the planning board that the increased density development is consistent with the town comprehensive community plan.
- (5) The architecture of all housing units shall be reviewed by the planning board.
- (6) Affordable units shall be dispersed throughout the development so as to ensure a true mix of market-rate and affordable housing.
- (7) Affordable units shall be externally indistinguishable from market-rate units in the same development. Affordable units should be comparable to market-rate units in terms of location and character.
- (8) The mix of unit sizes among the affordable units shall be proportionate to that of the development as a whole.
- (9) The owners or renters of affordable units shall have all rights, privileges and responsibilities accorded to market-rate owners or renters, including access to all non-fee amenities within the development.
- (10) The affordable units in any specific approved phase shall be built and occupied prior to, or simultaneous with, the construction and occupancy of any market-rate units in that specific phase. The developer shall provide to the Planning Board a schedule for building affordable and market rate units, which the Board shall review to ensure compliance with this section. Unless further relief is granted by the Planning Board, the developer shall be required to obtain building permits in the scheduled order.

- c. *Written evidence required.* No building permit shall be issued by the town building official for any unit in a proposed development that provides for low or moderate income units either as a set-aside or density bonus, until written evidence has been provided by the developer that the affordable units have received approval for the appropriate municipal, state or federal subsidy.
- d. *Design of low and moderately priced housing units.* All low and moderate income housing units shall be consistent in external design and construction with the other units in a proposed development, and shall be integrated throughout the development.
- e. *Fee-in-lieu.* At the election of the applicant, an applicant may submit a fee-in-lieu of the required affordable housing set aside outline in subsection (a). If the applicant elects the fee-in-lieu option, the applicant shall be entitled to the density bonus described in subsection (b). The fee-in-lieu shall be calculated on a per unit basis pursuant to R.I. General Laws § 45-24-46.1(4). The Town shall promptly transfer all fee-in-lieu payments upon receipt to Rhode Island Housing for the purpose of developing affordable housing within the Town of Tiverton. The fee-in-lieu option shall be elected by the applicant by the close of the public information meeting at the master plan stage of review, by written notice submitted to the Administrative Officer. Required in-lieu fees shall be paid prior to the issuance of building permits for the subdivision or land development.