

# SUMMARY OF THE 2014 LEGISLATIVE SESSION

Legislation that Affects Local, Regional and Statewide Planning

Several bills were enacted during the 2014 legislative session that will have an impact on local, regional and statewide planning. Below is a brief synopsis of bills identified by the Division of Planning that may need your attention, accompanied by links to the associated bills, 2014 Public Law chapters and Rhode Island General Laws. If you should have any questions regarding the enactments listed below, please contact Kevin Flynn, Associate Director of the Division of Planning at [kevin.flynn@doa.ri.gov](mailto:kevin.flynn@doa.ri.gov) or 222-6496, Jared Rhodes, Chief of the Statewide Planning Program at [jared.rhodes@doa.ri.gov](mailto:jared.rhodes@doa.ri.gov) or 222-5772 or Chelsea Siefert, Principal Planner, at [chelsea.siefert@doa.ri.gov](mailto:chelsea.siefert@doa.ri.gov) or 222-4721.

## INCLUSIONARY ZONING AND FEE-IN-LIEU

*Bills:* [S-2086 Substitute A](#) and [H-7632 Substitute A](#) as amended

*Rhode Island Public Law Chapter:* P.L. 372

*Rhode Island General Laws Affected:* [45-24-46.1](#)

Two important changes were made to the inclusionary zoning provision of the Zoning Enabling Act. **First, zoning ordinances that require inclusionary zoning are now also required to include density bonuses or other incentives that shall offset differential costs of below market-rate units.** Second, zoning ordinances may now provide that the affordable housing that is required under an inclusionary zoning clause may be provided on-site or that an alternative method of production can be utilized, such as off-site construction or rehabilitation, donation of land, and/or the payment of a fee in-lieu of the construction of the units.

Payments of fee-in-lieu for the provision of affordable housing shall be the choice of the developer, and shall be applied on a per-unit basis. 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 by

HUD, and the average cost of developing a single unit of affordable housing. Per the legislation, 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. However, in no case shall the per-unit fee be less than \$40,000. Municipalities shall either deposit all in-lieu payments into restricted accounts, overseen by a local affordable housing board that shall allocate collected monies for the creation and development of affordable housing within the municipality, or transfer in-lieu payments to the Housing Resources Commission or Rhode Island Housing for the purpose of developing affordable housing within the community. **All collected fees must be spent within two (2) years.**

Rhode Island Housing will be calculating municipal the municipal fee-in-lieu rates annually and have already calculated the rates for FY 2015. Rhode Island Housing has calculated the average statewide per-unit cost to develop new affordable housing between 2011 and 2013 as \$250,611. (Please note: this figure is an average across the state and may not be reflective of the cost to develop new affordable housing within a specific municipality.) Rhode Island Housing has also calculated the maximum sales price for a family of four (4) earning eighty percent (80%) of the area median income for each municipality, using the HUD FY14 income limits for 4-person households (\$63,900 for Westerly, Hopkinton, New Shoreham, Newport, Middletown and Portsmouth, and \$57,700 for the remainder of the State's municipalities), the fiscal year 2014 tax rates, the Primary Market Survey 30-year average interest rate of 4.12% and an estimate of hazard insurance that was based on Rhode Island Housing's Loan Servicing Division data.

The results of applying these calculations to the methodology prescribed in the legislation are included in the attached table, where the “Affordability Gap” for each municipality is equal to the statutorily enabled fee-in-lieu of constructing affordable housing. Any questions on the attached table can be directed to Amy Rainone, Intergovernmental Relations Director at Rhode Island Housing, (401) 457-1256.

## WHAT THIS MEANS FOR YOUR COMMUNITY:

Although the statute does not define the extent to which communities must offer density bonuses or other incentives, it does require that some type of incentive be offered and that the incentives are designed to offset differential costs of below market units. If your municipality currently has an inclusionary zoning provision, the zoning ordinance will have to be reviewed to determine if appropriate incentives have been provided. If there are no incentives, or if the incentives are not adequate to offset differential costs of below market units, the ordinance may have to be amended to comply with the statute before the provision can be enforced.

Conversations should be had with municipal leadership to determine if allowing a fee-in-lieu of the provision of low- and moderate-income housing is a tool of interest to the municipality. Once determined, amendments to the zoning ordinance may be required.

## ZONING BOARD TIME LIMITS

*Bills:* [S-2706 Substitute B](#) and [H-7700 Substitute B](#)

*Rhode Island Public Law Chapter:* P.L. 217

*Rhode Island General Laws Affected:* [45-24-57](#) and [45-24-61](#)

Zoning ordinances shall now provide that zoning boards of review shall hear and decide appeals within sixty-five (65) days of the date of filing of the appeal, where it is alleged that there is an error in any order, requirement, decision or determination made by an administrative officer or agency in the enforcement or interpretation of the Zoning Enabling Act (RIGL chapter 45-24) or of any ordinance adopted pursuant to the Zoning Enabling Act. Also, zoning boards are now required to render a

decision on a matter at hand within fifteen (15) days of the close of a public hearing.

## WHAT THIS MEANS FOR YOUR COMMUNITY:

Zoning Boards of Review and their staff need to be very cognizant of when public hearings are officially closed. In general, public hearings should not be closed until such a time that the Zoning Board of Review feels it is capable of rendering a decision.

## ZONING ENABLING ACT AND SUBDIVISION AND LAND DEVELOPMENT REVIEW ENABLING ACT LEGISLATIVE STUDY COMMISSION

*Bills:* [S-2227 as amended](#) and [H-7874 Substitute A](#)

*Rhode Island Public Law Chapter:* P.L. 399

In 2013, a special legislative study commission was created to assess the impact of the Zoning Enabling Act (RIGL chapter 45-24) and the Subdivision and Land Development Review Enabling Act (RIGL chapter 45-23) on the economic development of the state and the procedural practices of local Boards and Commissions, with the intent of making recommendations on additional statutory and policy needs. The Commission had been set to expire on February 1, 2014, but has been authorized to continue its study, make a report to the General Assembly on or before January 15, 2015, and expire on June 15, 2015. The membership of this Commission has also been amended, and now includes: members appointed by both the Speaker of the House and the President of the Senate; the President of the Rhode Island Builder’s Association, or designee; the Executive Director of Grow Smart Rhode Island, or designee; the Executive Director of the League of Cities and Towns, or designee; the President of the Rhode Island Chapter of the American Planning Association, or designee; the Associate Director of Planning, or designee; a representative from the Office of Regulatory Reform; and a representative of the business industry.

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## FEE-IN-LIEU OF LOW- AND MODERATE-INCOME HOUSING, FISCAL YEAR 2015

MUNICIPALITY	80% LMIH MAX SALES PRICE	AFFORDABILITY GAP (FEE)
Barrington	\$183,359	\$67,000
Bristol	\$196,668	\$54,000
Burrillville	\$185,933	\$65,000
Central Falls	\$171,055	\$80,000
Charlestown	\$204,434	\$46,000
Coventry	\$185,225	\$65,000
Cranston	\$175,948	\$75,000
Cumberland	\$192,367	\$58,000
East Greenwich	\$173,680	\$77,000
East Providence	\$176,719	\$74,000
Exeter	\$193,115	\$57,000
Foster	\$180,194	\$70,000
Glocester	\$179,150	\$71,000
Hopkinton	\$203,607	\$47,000
Jamestown	\$207,602	\$43,000
Johnston	\$182,859	\$68,000
Lincoln	\$195,978	\$55,000
Little Compton	\$213,475	\$40,000*
Middletown	\$208,632	\$42,000
Narragansett	\$205,413	\$45,000
New Shoreham	\$236,370	\$40,000*
Newport	\$219,073	\$40,000*
North Kingstown	\$181,102	\$70,000
North Providence	\$183,239	\$67,000
North Smithfield	\$192,249	\$58,000
Pawtucket	\$176,806	\$74,000
Portsmouth	\$209,853	\$41,000
Providence	\$189,845	\$61,000
Richmond	\$182,748	\$68,000
Scituate	\$189,478	\$61,000
Smithfield	\$188,449	\$62,000
South Kingstown	\$188,922	\$62,000
Tiverton	\$182,007	\$69,000
Warren	\$182,914	\$68,000
Warwick	\$181,420	\$69,000
West Greenwich	\$176,524	\$74,000
West Warwick	\$172,960	\$78,000
Westerly	\$224,862	\$40,000*
Woonsocket	\$197,179	\$53,000
<b>Statewide Median</b>	<b>\$188,449</b>	<b>\$62,000</b>

\*The new law establishes a minimum fee of \$40,000.