

TOWN OF WESTERLY

CHAPTER 2062

“AN ORDINANCE IN AMENDMENT OF CHAPTER 1439 OF THE GENERAL ORDINANCES OF THE TOWN OF WESTERLY ENTITLED ‘RE-ENACT AND RE-ADOPT CHAPTER 1242 ENTITLED ‘THE WESTERLY, RHODE ISLAND, ZONING ORDINANCE OF 1998, AS AMENDED’”

The Town of Westerly hereby ordains:

Section 1. Section 260-50.2 of Article IX, Special Regulations, of the Zoning Ordinances entitled ‘Inclusionary zoning’ is hereby amended as follows:

A. Purpose.

- (1) The purpose of inclusionary zoning is to guide new residential development so that it supports Westerly's housing goals, as stated in the Housing Element of the Comprehensive Plan, including the goal that at least 10% of Westerly's year-round housing will be low- or moderate-income housing. This section is intended to ensure that all development providing six or more additional dwelling units will contribute to the supply of low- or moderate-income housing in Westerly.
- (2) To help satisfy the Town's low- or moderate-income housing goals, a portion of the additional dwelling units resulting from all such development must be affordably priced according to state guidelines, must receive a federal, state or municipal subsidy, and must have affordability guaranteed for 99 years by a deed restriction or land lease.

B. Required inclusionary dwelling units.

- (1) In every residential subdivision or land development project that consists of six or more lots intended for the construction of dwelling units, or that consists of six or more new dwelling units, a portion of the dwelling units must be low- or moderate-income. This requirement applies to development of rental property as well as development of property for sale. The number of low- or moderate-income dwelling units required is determined by taking the basic number of lots or dwelling units permitted, as shown by a yield plan, and multiplying that number by 20%. Fractions of 0.5 or above shall be rounded up to the next whole number, and fractions of less than 0.5 shall be rounded down to the next whole number.
- (2) In developments where the units will be offered for sale, the inclusionary dwelling unit shall be affordable for a family with an adjusted gross income that is less than 100% of the area median income. Construction of additional required inclusionary dwelling units shall conform to this sequence. In developments where the units will be rental units, the rent for all inclusionary dwelling units must be affordable for a family with an adjusted gross income that is 80% or less of the area median income.
- (3) The exterior appearance of the inclusionary dwelling units must be substantially similar to that of the market-rate units, except that the inclusionary units may be no smaller than 960 square feet. The inclusionary dwelling units must be compatible in scale and architectural style with the market-rate units. The average number of bedrooms in the inclusionary dwelling units shall be equal to or greater than the average number of bedrooms in the market-rate units.

- (4) The inclusionary dwelling units must be integrated throughout the development, rather than segregated in a particular area or areas, so they will not be in less desirable locations than market-rate units. The inclusionary units shall, on average, be no less accessible to public amenities such as open space or recreational features than market-rate units. In developments consisting of multiunit dwelling structures, the inclusionary dwelling units must be integrated throughout the structure.
- (5) The inclusionary dwelling units must be built simultaneously with the market-rate units. For developments consisting of single-household or two-household dwellings, the percentage of market-rate units for which building permits have been issued shall not exceed the percentage of inclusionary dwelling units for which building permits have been issued by more than 20%. A certificate of use and occupancy shall not be issued for the final market-rate unit until certificates of use and occupancy have been issued for all of the inclusionary dwelling units. In subdivisions or land development projects that are constructed in phases, these requirements apply separately to each phase.

C. Density bonuses.

- (1) In every development in which required inclusionary dwelling units are constructed, the number of dwelling units permitted on the parcel shall be increased above the number that otherwise would be permitted. The purpose of this density bonus is to mitigate the cost of creating inclusionary dwelling units by providing sites on which the units can be developed. The basic number of dwelling units permitted on the parcel, as shown in a yield plan, shall be increased by a number equal to the number of low- and moderate-income dwelling units required.
- (2) When residential density is increased in a development, the Planning Board shall have the authority to adjust the lot frontage, lot width, front yard setback, side yard setback, rear yard setback, accessory dwelling setback, maximum impervious surface requirements and other dimensional regulations otherwise applicable in the zoning district if the Board finds the adjustments to be necessary and consistent with good planning practice. The adjusted dimensional regulations applicable to the development shall be shown on the final plat and shall be recorded in the land evidence records as a separate document that lists each lot, the street address of that lot, and the dimensional regulations applicable to that lot.

D. Alternatives to construction of inclusionary units. When in the judgment of the Planning Board a density increase or on-site construction of inclusionary dwelling units would not be in the best interests of good planning, or when a density increase is otherwise prohibited by law or regulation, the developer shall contribute to the Town's supply of low- and moderate-income housing through any one of, or any combination of, the following methods, subject to the approval of the Planning Board. The Planning Board's decision to require an alternative to on-site construction of inclusionary units shall be in writing and accompanied by findings of fact.

- (1) Rehabilitation of existing units.
 - (a) A developer may create low- and moderate-income units for sale, or low-income units for rent, by rehabilitating an existing structure and imposing deed restrictions or a land lease to assure affordability for ninety-nine (99) years. Dwelling units that are rehabilitated cannot be units that already qualify as low- and moderate-income housing.

- (b) The Planning Board may, in its sole discretion, provide a density bonus equal to up to 100% of one dwelling unit at the rehabilitation site. If no density bonus is provided, the developer shall receive another municipal subsidy or subsidies.
 - (c) The number of low- and moderate-income units created shall be equal to or greater than the number that would have been required at the primary development site. The newly-created low- and moderate-income units must be constructed and occupied contemporaneously with the market-rate units being constructed at the primary development site.
- (2) Construction of low- and moderate-income units at an off-site location.
- (a) Low- and moderate-income dwelling units may be constructed at another site or sites. The developer must demonstrate that the alternate site does not have constraints to development that would prevent it from accommodating residential construction.
 - (b) The Planning Board may, in its sole discretion, provide a density bonus equal to up to 20% of one dwelling unit at the off-site location. If no density bonus is provided, the developer shall receive another municipal subsidy or subsidies.
 - (c) The number of low- and moderate-income units constructed off site shall be equal to or greater than the number otherwise required. The exterior appearance of the off-site low- and moderate-income units must be substantially similar to that of the market-rate units, except that the off-site low- and moderate-income units may be no smaller than 960 square feet. The average number of bedrooms in the off-site low- and moderate-income units shall be equal to or greater than the average number of bedrooms in the market-rate units. The newly-created low- and moderate-income units must be constructed contemporaneously with the market-rate units being constructed at the primary development site.
 - (d) Construction of new off-site units on existing single lots is preferable to construction of new subdivisions or land development projects containing multiple dwelling units.

E. Assurance of affordability and fair marketing.

- (1) The developer shall contract with a monitoring agency approved by the Rhode Island Housing and Mortgage Finance Corporation for the following purposes:
 - (a) To determine pricing for initial sale, resale, or lease of the inclusionary dwelling units;
 - (b) To qualify purchasers or renters for initial occupancy based in household size and income;
 - (c) To determine pricing for resale or transfer of dwelling units; and
 - (d) To assist in the development of a marketing and resident selection plan, to be approved by the Planning Board, that meets state and federal fair housing requirements.

- (2) Long-term affordability shall be assured through a land lease or deed restriction recorded in the Westerly Land Evidence Records before the sale or rental of the inclusionary dwelling unit. The lease or deed restriction shall include information regarding:
- (a) The basis for calculation of the maximum sale or rental price for the unit, both initially and for future buyers or renters;
 - (b) Restrictions concerning who may occupy the unit and for what period;
 - (c) Provisions for monitoring, and assurance of compliance over time.
- (3) Deed restrictions or land leases shall include the following restrictions:
- (a) Inclusionary dwelling units that are sold shall be occupied by the buyers as their primary residence and shall not be leased to other occupants, seasonally or otherwise.
 - (b) Inclusionary dwelling units that are rentals shall not be subleased.
- F. Cumulative impact. When a subdivision or land development project that creates fewer than six additional lots for development or fewer than six additional principal dwelling units is approved on a portion of a parcel of land, leaving another portion of the same parcel undeveloped, the portion left undeveloped shall not be subdivided or developed for residential use or mixed use within 25 years of final approval of the first development unless the undeveloped portion is subject to the inclusionary requirements of this article. The number of inclusionary units required in the second development shall be calculated as if the earlier development were part of it. This provision does not apply when an entire parcel receives master plan approval and is developed in phases.

Basic Number of Lots or Units in Yield Plan	Required Number of Inclusionary Units	Number of Lots or Units Added by Density Bonus	Total Number of Lots or Units
6	1	1	7
7	1	1	8
8	2	2	10
9	2	2	11
10	2	2	12
11	2	2	13
12	2	2	14
13	3	3	16
14	3	3	17
15	3	3	18
16	3	3	19
17	3	3	20
18	4	4	22

TABLE 1 Required Inclusionary Units and Density Bonus			
Basic Number of Lots or Units in Yield Plan	Required Number of Inclusionary Units	Number of Lots or Units Added by Density Bonus	Total Number of Lots or Units
19	4	4	23
20	4	4	24
21	4	4	25
22	4	4	26
23	5	5	28
24	5	5	29
25	5	5	30
26	5	5	31
27	5	5	32
28	6	6	34
29	6	6	35
30	6	6	36
31	6	6	37
32	6	6	38
33	7	7	40
34	7	7	41
35	7	7	42
36	7	7	43
37	7	7	44
38	8	8	46
39	8	8	47
40	8	8	48

Section 2. This Ordinance shall take effect upon passage.

A true copy of an Ordinance passed July 1, 2024.

Per Order of the Town Council.

ATTEST: Mary L. LeBlanc, MMC
Council Clerk