**A** **BILL**

TO ENACT THE “SOUTH CAROLINA INCLUSIONARY ZONING ACT”; TO AMEND CHAPTER 7, TITLE 6 OF THE 1976 CODE, RELATING TO PLANNING BY LOCAL GOVERNMENTS, BY ADDING ARTICLE 5, TO PROVIDE THAT COUNTIES AND MUNICIPALITIES ARE AUTHORIZED TO USE INCLUSIONARY ZONING STRATEGIES TO INCREASE THE AVAILABILITY OF AFFORDABLE HOUSING.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 7, Title 6 of the 1976 Code is amended by adding:

“ARTICLE 5

South Carolina Inclusionary Zoning Act

Section 6‑7‑510. (A) The General Assembly finds:

(1) in many counties and municipalities, there is a critical shortage of decent, safe, and affordable residential housing available to low and moderate‑income families;

(2) the affordable housing shortage constitutes a danger to the health, safety, and welfare of residents of the State and is a barrier to sound growth and sustainable economic development for South Carolina counties and municipalities; and

(3) affordable housing can include multi-family rental, single‑family rental, and single‑family homeownership.

(B) The purpose of this article is to provide the authority for counties and municipalities to use inclusionary zoning strategies to increase the development of affordable housing for low and moderate‑income families.

Section 6‑7‑520. (A)(1) ‘Affordable housing’ means residential housing for rent or sale that is appropriately priced for rent or sale to a person or family whose income does not exceed eighty percent of the median income for the local area, with adjustments for household size, according to the latest figures available from the United States Department of Housing and Urban Development. South Carolina’s high cost counties will not exceed one hundred twenty percent of the Area Median Income for the sale or rental of affordable housing. The Federal Housing Administration (FHA) designates high-cost counties through its annual publication of loan limits ‑ ‘Counties with FHA Loan Limits Between the National Floor and Ceiling’.

(2) ‘Inclusionary zoning’ means a zoning regulation, requirement, or condition of development imposed by ordinance or regulation, or pursuant to a special or conditional permit, special exception, or subdivision plan that promotes the development of affordable dwelling units.

(B)(1) A municipality or county may adopt a land use regulation or functional plan provision or impose, as a condition for approving a permit, a requirement that has the effect of establishing the sales or rental price for a new multi-family or single‑family structure, or that requires a new multi-family or single‑family structure to be designated for sale or rent as affordable housing.

(2) A regulation, provision, or requirement adopted or imposed pursuant to this section:

(a) may not require more than thirty percent of housing units within a multi-family structure or single‑family development to be sold or rented as affordable housing. The specific percentage will be determined by local municipal or county zoning ordinances;

(b) may only apply to multi-family or single‑family developments containing five or more housing units;

(c) shall provide developers the option to pay a ‘fee in lieu’, in an amount determined by the municipality or county, rather than to include affordable units within their overall development; and

(d) shall provide an expedited process for developments that meet the percentage of affordable units. An expedited process may include giving these developments priority placement for the review of plans and other requirements, or providing other ways to reduce the time for the review and permitting process.

(3) A regulation, provision, or requirement adopted or imposed under item (2) of this subsection shall offer developers one or more of the following incentives:

(a) density adjustments;

(b) the modification of height, floor area, or other site‑specific requirements;

(c) whole or partial waivers of system development charges, impact, or permit fees set by the municipality or county;

(d) tax adjustments; or

(e) other incentives as determined by the municipality or county.

(4) Item (2) of this subsection does not:

(a) restrict the authority of a municipality or county to offer additional incentives for building affordable housing units that are affordable to households with incomes at or below sixty percent of the AMI for the county or metropolitan statistical area; or

(b) apply to existing multi-family structures or single‑family developments for sale or rent or to pending developments that have received permits prior to the municipality or county enacting an inclusionary zoning ordinance.

(5) A municipality or county is authorized to require recorded deed restrictions or restrictive covenants to ensure the affordable units within a development remain affordable for a period of time to be determined by the municipality or county.

(6)(a) A municipality or county that adopts or imposes a regulation, provision, or requirement pursuant to item (2) of this subsection shall adopt and apply only clear and objective standards, conditions, and procedures regulating the development of affordable housing units within its jurisdiction. The standards, conditions, and procedures may not have the effect, either individually or cumulatively, of discouraging the development of affordable housing units through unreasonable cost or delay.

(b) In addition to an approval process for affordable housing based on clear and objective standards, conditions, and procedures as provided in this item, a municipality or county may adopt and apply an alternative approval process for applications and permits for residential development based on clear and objective approval criteria regulating aesthetics, either in whole or in part.”

SECTION 2. This act takes effect upon approval by the Governor.

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