TOWN OF EXETER, RI

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STATE OF RHODE ISLAND
TOWN OF EXETER

RESOLUTION NO.
2023-02

A RESOLUTION URGING REJECTION OF CHANGES TO THE RHODE ISLAND ENABLING ACT AS PROPOSED BY THE RHODE ISLAND HOUSE OF REPRESENTATIVES LAND USE COMMISSION DATED NOVEMBER 10, 2022

WHEREAS, the Town of Exeter is a home-rule community having a Town Council empowered by the State Constitution, the Town Charter and by R.I.G.L. 45-2-1 and 45-5-2 to manage its affairs and the interests of the Town; and

WHEREAS, the Rhode Island House of Representatives' Land Use Commission, Housing Working Land Group by communication dated November 10, 2022 has recommended several alleged legislative "solutions" to address housing shortage and development issues on a statewide basis,(attached hereto as **Exhibit A**); and

WHEREAS, after due and careful review thereof the Town of Exeter Planning Board and the Town Council of the Town of Exeter have each determined to ***oppose*** the suggested "solutions" and legislative amendments as proposed by the Land Use Commission, Housing Working Group for, *inter alia*, the numerous reasons specified in the letter from the Exeter Town Council President to the Chairman of the Rhode Island Land Use Commission dated January 6, 2023 (attached hereto as **Exhibit B**); and

WHEREAS, the Town Council and the Town Planning Board believe that the housing and development issues identified by the Land Use Commission can be best addressed and resolved by individual municipalities in a fashion recommended in **Exhibit B**.

NOW THEREFORE, be it **RESOLVED** as follows:

The Town Council urges The Honorable Speaker of the House and The Honorable General Assembly of the State of Rhode Island to reject the legislative amendments and suggested "solutions" recommended by the Land Use Commission, Housing Working Group as stated in **Exhibit A** for the reasons and to the extent stated in **Exhibit B**; and be it further

RESOLVED, that The Honorable Speaker of the House and The Honorable General Assembly further adopt and support the suggested solutions and recommendations proposed by the Town Council and the Town Planning Board of the Town of Exeter as stated in **Exhibit B**; and be it further

RESOLVED, that a copy of this Resolution and its Exhibits be forwarded to each of the Town and City Councils of the other thirty-eight (38) municipalities of the State of Rhode Island urging their similar support of this Resolution and the recommendations stated herein; and be it further

RESOLVED, that a copy of this Resolution and its Exhibits be forwarded to the following for their similar support and due consideration:

- The Honorable Daniel McKee, Governor, State of Rhode Island;
- The Honorable Joseph H. Shekarchi, Speaker of the House, State of Rhode Island;
- The Honorable Thomas Deller, Chairman, Land Use Commission;
- The Honorable Dominick Ruggiero, President, Rhode Island Senate;
- The Honorable Ernest Almonte, Executive Director, Rhode Island League of Cities and Towns;
- The Honorable State Senator Elaine Morgan;
- The Honorable State Representative Megan Cotter;
- The Honorable State Representative Julie A. Casimiro
- The Cites and Town Councils, State of Rhode Island.

Approved by vote of the Exeter Town Council on this 3RD day of January, 2023.

Daniel W. Patterson
Town Council President

IN WITNESS HEREOF, I HEREBY SET MY HAND AND THE OFFICIALSEAL OF THE TOWN OF EXETER THIS 3RD DAY OF JANUARY, 2023.

Lynn M. Hawkins, CMC
Town Clerk

Introduced by Daniel W. Patterson on January 3, 2023.
Passed unanimously by the Exeter Town Council on January 3, 2023.
Filed with the Exeter Town Clerk on January 3, 2023.

I. **Goal of the Housing Working Group:** propose changes to the enabling legislation that will address the shortage of housing units statewide; create more tools to enable housing development; improve existing processes of development review

II. **Enabling Legislation:**
Comprehensive Planning and Land Use Act RIGL 45-22.2
Subdivision of Land RIGL 45-23
Zoning Ordinances RIGL 45-24

III. **Issues & Potential Solutions:**
   a. *Issue:* Restricting density by right diminishes the number of units that can be built and increases the cost per unit
      i. Solutions:
         1. Reform statewide minimum lot sizes – discussion around lot sizes standardized at the state level with different % or mix of lot sizes mandated for municipalities
         2. Amend ADU legislation for ease of use – strike the language that requires ADUs to be removed after family member leaves
            a. Need more information on what impacts ADUs have on resale, lending, and appraisal regulations
            b. Need more clarity on how realtors define multifamily v. single family in sale process in relationship to ADUs
         3. Allow for ease of redevelopment of single family stock to two family or small multifamily by right
         4. Enable the ability to convert large residential buildings to smaller units where feasible regardless of zoning limitations
         5. Encourage/mandate in the urban and dense suburban areas zero lot line development, town house (row houses) development, other creative development tools that would increase density

   b. *Issue:* Inability to develop multifamily housing throughout the state limits housing options in each municipality, impacts aging residents ability to downsize, and skews development to large, luxury single family development
      i. Solutions:
         1. Establish/mandate areas throughout the state that allow multifamily development "by right"
            a. These requirements should vary for areas in an urban growth boundary and outside the boundary
         2. Enable/mandate mixed use multifamily development in commercial zones
         3. Enable/mandate mixed use/multifamily development along state highways or transit corridors
            a. These requirements should vary for areas in an urban growth boundary and outside the boundary
         4. Identify "transition zones" (areas between commercial/industrial and single family) statewide, where different types of housing development could be sited
         5. Enable/mandate zoning within village centers to allow for infill or redevelopment that matches the existing fabric (make the existing building type legal to build)
            a. These requirements should vary for areas in an urban growth boundary and outside the boundary

EXHIBIT
A

c. *Issue:* Short Term rental and student housing – Short term rental (Airbnb, vrbo, etc) has become a business and as a result, housing units are lost from the market. Additionally in college towns, student rentals, another form of short term rental, take housing out of the market.
   i. Solution:
      1. Enable communities to regulate short term rental
      2. Limit ADUs to long term rental. Ban the use of ADUs for short term rental
      3. Enable communities to regulate the conversion of housing to student housing

d. *Issue:* Excessive parking requirements add cost to residential development, impact storm water runoff, and diminish number of units that could be built in some cases
   i. Solutions:
      1. Identify areas where future residential development could benefit by reducing or removing parking requirements
      2. Establish metrics that allow for different parking requirements for different projects – taking into consideration siting near transit, senior development, etc.
      3. Look to model language from other states

e. *Issue:* Drawn out development review process makes residential development more costly to build
   i. Solutions:
      1. Streamline approval processes for development, especially residential development
         a. Eliminate public hearing for development that conforms to zoning and is not seeking variances or waivers
         b. Minor subdivision approval by administrative officer
         c. Bring development plan review into the land development process
         d. Revise outdated legal standards that discourage any development or change ("least zoning relief possible")
         e. Enable municipalities to transfer costs for third-party professional review and certification
         f. Standardize the ability to appoint local board alternates; make it easier to achieve quorums
         g. Standardize the definitions of zoning districts
         h. Make zoning ordinances easier to amend for more agile regulation
      2. Amend Unified Development Review to be a mandated part of land development review which would expedite all development
      3. Establish a committee like the State Building Board which would be responsible for updating the statewide land development regulations creating a universal template of development
      4. Address the variations of development review processes across the 39 municipalities
         a. Create a standard process with reasonable timelines and transparent expectations as was the intent in the 1992 law

f. *Issue:* Lack of incentives at the municipal level to encourage or accept growth
   i. Solutions:
      1. Seek greater allocation of state dollars for the Housing Incentives to Municipalities program, RI Infrastructure Bank
      2. Use state funding to incentivize development projects that incorporate affordable housing and act on climate goals
         a. Establish statewide technical assistance on IIJA/IRA opportunities for municipalities that could be access to assist in sustainable development

3. Increase support to municipal planning staff for communities who want to address housing shortage
    a. Build municipal technical assistance & support for developing growth plans, potentially through a regional planner or statewide assistance team
    b. Housing planning technical assistance could be overseen by the Department of Housing
        i. Funding – implications for state budget if regional technical assistance is administered by DOH
4. Address municipal funding formula for public schools
5. Incentives to create tie-ins for water and sewer or expansion/upgrades to existing water and sewer infrastructure
6. Create municipal tax benefits for communities making progress towards growth
7. Mandate that non-compliance with the 10% AH law is grounds for a use and/or special use permit

g. *Issue:* Lack of enforcement or accountability for planning and zoning boards and/or municipalities who perpetually deny development
    i. Solution:
        1. If municipalities do not meet expectations – 10% AH or other housing benchmarks – should the state step in similar to the school takeover processes
            a. Instead of a 10% target, establishing a growth rate metric or target for residential growth in each municipality
                i. Department of Housing could set growth rates for municipalities with legislation that outlines how often rates should be reviewed and adjusted
        2. Create a "builders' remedy" (Schuetz, P.8), a mechanism for developers to override local zoning to build housing under certain conditions
        3. Establish exclusionary test, if municipalities continue to use zoning and land use law to exclude certain types of development
            a. Example: If local ordinances restrict or limit ADUs, property owners attempting to build ADUs could apply for approval from the State Department of Housing or an entity such as a State Development Committee
        4. Establish consequences and monitoring mechanisms for municipalities that have not met the statutory 10% (ex. Utah's Municipal Planning Requirements)
            a. Utah requires municipalities not meeting housing goals to create a housing plan that includes implementation of three approaches to growth out of a menu of 12
        5. Require developments that receive TSAs to include affordable units within the development
        6. Amend the Fee-in-lieu regulations RIGL 45-24-46.1
            a. Inclusionary Zoning/Fee-in-lieu needs to be reviewed to not be detrimental to building and if payments are made, fund needs to be monitored to ensure payments are used towards affordable units
            b. Remove the Fee-in-lieu mandate completely - Fee-in-lieu does not work here because we are not growing at a rate that makes the payment acceptable

h. *Issue:* Development appeals process circles back to the same board which rejected the development proposal
    i. Solution:
        1. Establish a hearing officer process or Development Building Court responsible for hearing development appeals

2. Eliminate counterproductive remand mechanisms (decisions can either be upheld or modified on appeal)

i. *Issue:* The Comprehensive Plan is not used as a meaningful guide for housing development
   i. Solutions:
      1. Housing goals/growth benchmarks set by Department of Housing, incorporated into the State Guide Plan produced by Statewide Planning
         a. Outlines the framework that local community must incorporate into their Comprehensive Plans
      2. Comp Plans should establish meaningful action steps to achieve their housing growth rate goal
      3. Progress towards the growth rate benchmark should be monitored/action plans should be adjusted *every x number of years* (set by DOH or Statewide Planning)
      4. Increase capacity at the state level, either DOH or Statewide Planning for housing specific planning assistance and monitoring

j. *Issue:* There is a persistent conflict between state level desire for growth and municipal resistance to growth
   i. Solutions:
      1. Is there a tax reform to incentivize municipal growth – i.e. give municipalities a percentage of the tax increase associated with the growth in their community (income tax share)
         a. Share the wealth created by growth, establish a mutual benefit

k. *Issue:* Comprehensive Permit has not been an effective tool at expediting affordable housing development
   i. Solutions:
      1. Address procedural pain points (e.g., SHAB quorums)
      2. Create a predictable, concrete grounds for approving/denying an application

l. *Issue:* Urban Growth Boundary and sea level rise restrict where residential growth is feasible
   i. Solutions:
      1. Need better understanding of this problem to develop solutions
         a. What % of land within each municipality is currently zoned for residential development?
         b. What % of the developable land allows multifamily housing?
         c. As municipalities lose developed/developable land to sea level rise, how will they create equivalent unit capacity elsewhere? (And without significantly impacting forests/farms/open space.)
      2. Enable tools for development inland, specifically infill, redevelopment, and appropriately scaled density

m. *Issue:* To maintain a well-functioning housing market, the shortfall in labor and skill development of the residential construction sector needs to be addressed
   i. Solution:
      1. Dedicated investment in workforce programs targeted to the building trades and contractors

State of Rhode Island General Assembly
Land Use

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Members

Thomas E. Deller	Chair	Central Falls Planning Director
Maria Mack	Vice Chair	South Kingstown Planning Board
MeredRh E. Brady	Member	Division of State Planning
Dylan Conley	Member	Attorney
Terrence Gray	Member	Dept. of Environmental Management
Nicole Verdi	Member	Ørsted
Topher Hamblett	Member	Save the Bay
Nate Kelly	Member	Horsley Witten Group
Robert DeGregorio	Member	Slocum Real Estate and Insurance
John V. Marcantonio	Member	Rhode Island Builders Association
Cortney Nicolato	Member	United Way of RI
Patricia Reynolds	Member	Newport Planning Director
Edinaldo Tebaldi	Member	Bryant University
Jeffrey Hall	Member	Audubon Society of RI
Henry Wright III	Member	Rhode Island Farm Bureau
James E. Thorsen	Member	Rhode Island Director of Administration
Mark McHugh	Member	Clearmark Real Estate
Josh Saal	Member	RI Secretary of Housing

 82 Smith Street, Providence, RI 02903

Thom Deller, Chair RI Land Use Commission
Rhode Island State House
82 Smith Street
Providence, RI 02903

January 6, 2023

Dear Chairman Deller,

The Exeter Town Council and the Exeter Planning Board have both unanimously approved the following comments regarding the proposed recommendations of the RI Land Use Commission Housing Work Group.

We believe the recommendations would restrict existing municipal land use authority and could lead to a one size fits all Statewide zoning. It is our understanding that these recommendations will be incorporated into legislation that is a top priority for the House Speaker Shekarchi. We believe the recommendations would restrict existing municipal land use authority and could lead to a one size fits all Statewide zoning. The Exeter Town Council believes these proposed changes would negate policies in our State approved comprehensive plan that strives to accommodate growth that avoids negative impacts to the quantity and quality of our sole source of drinking water as well as development density that can be reasonably supported by a rural community. Moreover these changes will encourage greater development pressure on our farms, forests and have negative impacts to Exeter's rural character and quality of life. The most egregious recommendations include but are not limited to:

- Eliminate public hearings for developments that conform to zoning
- Establish a growth rate quota for residential development in all cities and towns
- State mandated lot sizes for municipalities
- Create Statewide land development regulations
- Allow developers to over-ride municipal zoning to build housing

We also understand there are other recommendations pending from zoning, comprehensive plan and subdivision work groups of the Land Use Commission that are not available to the public at this time. We respectfully request that municipalities and the public be given the opportunity to have input on these additional recommendations.

The primary stimulus for these recommendations is the need to address Rhode Island's housing crisis. The Exeter Town Council recognizes the urgent need for more balanced housing Statewide and in Exeter. Upon completion of a low and moderate income housing development, Exeter will have approximately 7% of our housing in compliance with the Low and Moderate Income (LMI) Housing Act that requires 10% of our housing be LMI. In addition Exeter adopted a Village Ordinance, over 10 years ago, that would allow multifamily housing in a mixed use compact development pattern in areas where appropriate water and wastewater could support the added density. It should be noted that not one developer has proposed to use this Village ordinance despite the availability of a public drinking supply to encourage development at the intersection of Route 2 and Exeter Road. We also wonder why the State hasn't used the available land at the former Ladd Center to accommodate low and moderate income housing. This is the only site in Exeter that currently has public water.

RI's housing crisis is a serious problem that needs to be resolved. We believe it can best be addressed by the following:

1. Compact growth to support more density should be encouraged, **not mandated**, in appropriate areas that can be adequately served by supporting infrastructure, at a minimum drinking water and wastewater treatment.
2. The need for more housing cannot be implemented without considering all the other issues municipalities are required to assess in accordance with the RI Comprehensive Planning and Land Use Regulation Act. Exeter, like all municipalities, has been making our land use decisions consistent with our State approved Comprehensive Plan. The need for housing should not supersede all the other issues municipalities are currently required to address.
3. To be successful in producing more housing RI must have strong partnerships between, State, Municipal, Private Sector and Non-Profits. Establishing inflexible State mandates does not foster good partnerships.
4. Municipalities need financial and technical assistance to establish creative approaches to housing that must be customized to meet unique municipal needs. This approach helped Exeter develop our current Village Ordinance.
5. The housing crisis was caused by multiple factors over many years. It's not reasonable and it's inaccurate to single out land use statutes and municipalities as the sole source of this problem.
6. Changes to the existing land use statutes will not be effective, without comprehensively addressing all the issues that have caused the housing crisis.

Thank you for the opportunity to comment.

Sincerely,

Daniel W. Patterson, President
Exeter, Town Council

CC: Maria Mack, Vice Chair Land Use Commission (CFM@cox.net), Speaker Shekarchi (rep-shekarchi@rilegislature.gov), Senate President Ruggerio (sen-ruggerio@rilegislature.gov), Governor McKee, Ernie Almonte, Executive Director RI League of Cities and Towns ealmonte@rileague.org), Representative Megan Cotter (rep-Cotter@rilegislature.gov), Representative Julie Casimiro (rep-Casimiro@rilegislature.gov)
, Senator Elaine Morgan (sen-morgan@rilegislature.gov) Thom Deller c/o Christine O'Connor COconnor@rilegislature.gov