

Affordable Housing Incentive Strategies:

A Guidebook for Affordable Housing Advisory
Committee Members and Local Government Staff



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The Florida Housing Coalition has produced this guidebook with funding from the Florida Housing Finance Corporation’s Catalyst Program. The views expressed in this book do not necessarily reflect the views of the Florida Housing Finance Corporation.



I. Introduction to the Guidebook

Purpose of the guidebook

Regulatory reform and a program of incentives are powerful tools for attracting private-sector development of affordable housing. Every city and county that receives funding from the State Housing Initiatives Partnership (SHIP) program is statutorily required to assemble an Affordable Housing Advisory Committee (AHAC) for this purpose.

The core requirement of the AHAC is to recommend housing strategies developed to incentivize the production of affordable housing. Those recommendations are submitted to the local elected body for approval. Upon adoption, these recommendations become part of the Local Housing Assistance Plan (LHAP).

This guidebook addresses the AHAC process from forming the committee, through submitting its report, to triennially evaluating implementation. It provides information on the specific incentive strategies that the AHAC is required to consider. It also provides examples from AHAC Reports and offers best practices for engaging in policy discussions and developing implementation strategies.

While there are many SHIP workshops, webinars, and publications devoted to *spending* SHIP funds, this guidebook focuses on incentives to attract developers who will *build* affordable housing.

Intended audience

Included among those who are specifically addressed by this guidebook are:

- AHAC Members;
- Local Government Planning Staff;
- SHIP Administrators;
- Local Government Administrators and Elected Officials; and,
- Affordable Housing Stakeholders.

The guidebook offers Affordable Housing Advisory Committee members an orientation to their statutory responsibilities. It also provides detail on each incentive strategy that must be considered by the AHAC.

Local government Planning Departments and City and County Managers and Administrators are key to the implementation of the affordable housing incentive strategies, and therefore will also benefit from this guidebook.

Finally, the guidebook provides SHIP staff members with the information they need to assemble an advisory committee, consider a variety of possible incentives, draft the report, and submit recommendations to City or County Commissioners.

The SHIP statute requires that the AHAC receive staff support from local government departments with authority to administer local planning and housing programs to ensure an integrated approach to the work of the advisory committee. This guidebook will help all those involved with the process to provide the best possible incentive strategies for their community.

Section overview

The remaining sections of this guidebook are briefly described below.

II. Florida Comprehensive Plan Housing Element and Incentive Strategies Overview: This section of the guidebook explains the connection between the Comprehensive Plan Housing Element requirements and the incentive strategies that encourage the development of affordable housing.

III. Affordable Housing Advisory Committee Overview: This section describes the statutory requirements for the AHAC, including structure, membership composition, and responsibilities.

IV. Preparing the AHAC Report: This section provides strategies and best practices for preparing the AHAC Report.

V. Steps in the Review Process: This section lays out the tasks by which the Affordable Housing Advisory Committee writes, approves, and submits the AHAC Report.

VI. The AHAC Report Timeline: This section identifies mandated deadlines and discusses the timeline for producing the AHAC Report.

VII. Overview of Incentive Strategies: This section lays out general recommendations and requirements for incorporation of incentives.

VIII. Incentive Strategies: Details and Examples: This section provides a detailed description and examples of each incentive strategy that the AHAC must consider.

IX. Distinguishing between the AHAC Report and the LHAP: This section explains the relationship between the AHAC Report and the LHAP and addresses amendment of the LHAP to include the adopted AHAC recommendations.

X. Beyond Incentive Strategies: This section addresses the AHAC responsibilities which may be assigned in addition to consideration of the strategies required. For example, some AHACs research and recommend strategies other than those found in the SHIP Statute and provide guidance to housing partners, in addition to other work.

XI. Appendix:

1. Frequently asked questions;
2. AHAC Report template;
3. Glossary; and,
4. State Housing Initiatives Partnership.

II. Florida Comprehensive Plan Housing Element and Incentive Strategies Overview

Local Comprehensive Plan Housing Element

Each local government's comprehensive plan includes a housing element, which requires that it provide for housing all its current and anticipated populations, including special needs populations. Part of this mandate is having adequate sites for affordable housing, at Florida Statutes, Sec. 163.3177 (f) (1).

The Housing Element requirement, originally part of the 1985 Growth Management Act, remaining in force as part of the subsequently adopted Community Planning Act of 2011, requires that every local jurisdiction provide for housing its current and anticipated populations. In 1992, in part due to the concern of local elected officials that the housing element constituted an unfunded mandate, the legislature enacted the William E. Sadowski Affordable Housing Act (Sadowski Act).

The Sadowski Act created a dedicated revenue source for affordable housing that would assist local governments in meeting their housing element requirements. The dedicated revenue source was funded by an increase in the documentary stamp tax collected on deeds. The local housing trust fund portion of the Sadowski Act funds the State Housing Initiatives Partnership program, which provides money to every eligible county and entitlement city in Florida to assist in the implementation of their housing elements. The Sadowski Act was supported by a diverse combination of eleven statewide interest organizations, including industry groups such as the Florida Realtors and the Florida Home Builders Association (FHBA). The requirement for regulatory reform by an incentives program was part of the package that won the FHBA support of the Sadowski Act. The list of regulatory incentives that are statutorily required to be considered by the AHAC was the best thinking of these eleven statewide organizations and the bill sponsors. The two incentives that are required to be in place in all SHIP jurisdictions (expedited permitting and an ongoing process of review, described in detail in this guidebook) were a "must have" to ensure the FHBA support.

The comprehensive plan can be modified to reflect the development trends of a community. Plans should always be changed strategically to support and improve access to affordable housing.

Florida Statutes, Sec. 163.3177 (6) (f), provides that local government comprehensive plans shall include:

1. A housing element consisting of principles, guidelines, standards, and strategies to be followed in:
 - a. The provision of housing for all current and anticipated future residents of the jurisdiction.
 - b. The elimination of substandard dwelling conditions.
 - c. The structural and aesthetic improvement of existing housing.
 - d. The provision of adequate sites for future housing, including affordable workforce housing as defined in Florida Statutes, Sec. 380.0651 (3) (h), housing for low-income, very low-income, and moderate-income families, mobile homes, and group home facilities and foster care facilities, with supporting infrastructure and public facilities. The element may include provisions that specifically address affordable housing for persons 60 years of age or older. Real property that is conveyed to a local government for affordable housing under this sub-subparagraph shall be disposed of by the local government pursuant to Florida Statutes, Sec. 125.379 or Florida Statutes, Sec. 166.0451.
 - e. Provision for relocation housing and identification of historically significant and other housing for purposes of conservation, rehabilitation, or replacement.
 - f. The formulation of housing implementation programs.
 - g. The creation or preservation of affordable housing to minimize the need for additional local services and avoid the concentration of affordable housing units only in specific areas of the jurisdiction.

Affordable housing incentive strategies

Regulatory incentives are a valuable tool for facilitating private sector development of affordable housing. The local government housing element does not mean that local government is expected to build the necessary housing, but it must create an environment that is favorable to development by the private sector. Regulatory incentives are designed to increase the likelihood that developers will build affordable housing in the community. The incentives are tied to the local government's land use authority and land development planning efforts. They are part of the government's power to carry out laws for the health and safety of residents, and its obligation to meet fair housing and affordable housing laws.

Affordable housing incentive strategies

The first sentence of the SHIP Statute, at Florida Statutes, Sec. 420.9072, states that SHIP "is created for the purpose of providing funds to counties and eligible municipalities as an incentive for the creation of local housing partnerships, to expand production of and preserve affordable housing, to further the housing element of the local government comprehensive plan specific to affordable housing, and to increase housing-related employment."

The SHIP program mandates that all municipalities receiving SHIP funds establish local initiatives that foster affordable housing development. To guide advisory committees, the SHIP Statute provides eleven affordable housing incentives; each strategy must be considered by the AHAC. Florida Statutes, Sec. 420.9076 (4):

- (a) Expediting processing approvals of development orders or permits for affordable housing projects over other housing projects.
- (b) Modifying impact-fee requirements, including reduction or waiver of fees and alternative methods of fee payment for affordable housing.
- (c) Allowing flexibility in densities for affordable housing.
- (d) Reserving infrastructure capacity for housing for very low-income persons, low-income persons, and moderate-income persons.
- (e) Allowing affordable accessory residential units in residential zoning districts.
- (f) Reducing parking and setback requirements for affordable housing.
- (g) Allowing flexible lot configurations, including zero-lot-line configurations for affordable housing.
- (h) Modifying street requirements for affordable housing.
- (i) Establishing a process by which a local government considers, before adoption, policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing.
- (j) Preparing a printed inventory of locally owned public lands suitable for affordable housing.
- (k) Supporting development near transportation hubs and major employment centers and mixed-use developments.

Not all these incentives are equally important or relevant to a particular SHIP jurisdiction. The guidebook emphasizes those incentives that are valuable to most jurisdictions. The two most important incentives are the required two that must be adopted as a threshold for receiving funding: (a.) expedited permitting and (i.) establishing a process by which a local government considers, before adoption, policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing.

Strategy (e.) Is worth noting, regarding affordable accessory residential units. Although it is not required to be adopted, it is strongly encouraged by the Florida legislature. Florida Statutes, Sec.163.31771. Strategy (j.), an inventory of locally owned public lands, was codified in the Florida Statutes in 2007. Commonly referred to as the Surplus Land Law, it is outlined in Florida Statutes, Sec. 125.379 for counties and Sec. 166.0451 for municipalities.

III. Affordable Housing Advisory Committee Overview

Affordable Housing Advisory Committee (AHAC)

A SHIP jurisdiction is statutorily required to assemble the initial Affordable Housing Advisory Committee when it first begins receiving SHIP funds. It is then required to convene the AHAC to review its earlier plan and complete a Housing Incentive Strategies report that recommends affordable housing regulatory incentives. Only jurisdictions receiving \$350,000 or less in SHIP funding are exempt from the triennial review.

The work of the AHAC is summarized in this excerpt from the Florida Statutes:

“Recommend specific actions or initiatives to encourage or facilitate affordable housing while protecting the ability of the property to appreciate in value. The recommendations may include the modification or repeal of existing policies, procedures, ordinances, regulations, or plan provisions; the creation of exceptions applicable to affordable housing; or the adoption of new policies, procedures, regulations, ordinances, or plan provisions.”

Sec. 420.9076, Florida Statutes, outlines AHAC requirements, including the deadlines for assembling a committee, considering specific incentive strategies, and submitting a report.

There are other tasks that AHAC members may undertake, but the information presented in this guidebook focuses on the AHAC’s primary responsibility and only statutorily required task, completing the triennial Housing Incentive Strategies report.

Committee composition

Sec. 420.9076 (2), Florida Statutes, provides details on the AHAC committee composition. The AHAC must have at least eight members representing at least six categories identified in the statute. However, local governments may elect to have up to eleven committee members.

AHAC members should be appointed by the governing body of the local government, but do not have to be adopted by resolution. Representatives are to be selected from the following categories:

- (a) Citizen who is actively engaged in the residential home building industry in connection with affordable housing.
- (b) Citizen who is actively engaged in the banking or mortgage banking industry in connection with affordable housing.
- (c) Citizen who is a representative of those areas of labor actively engaged in home building in connection with affordable housing.
- (d) Citizen who is actively engaged as an advocate for low-income persons in connection with affordable housing.
- (e) Citizen who is actively engaged as a for-profit provider of affordable housing.
- (f) Citizen who is actively engaged as a not-for-profit provider of affordable housing.
- (g) Citizen who is actively engaged as a real estate professional in connection with affordable housing.
- (h) Citizen who is actively serving on the local planning agency pursuant to Florida Statutes, Sec. 163.3174.
- (i) Citizen who is residing within the jurisdiction of the local governing body making the appointments.
- (j) Citizen who represents employers within the jurisdiction.
- (k) Citizen who represents essential services personnel, as defined in the local housing assistance plan.

Some individuals might have the experience to represent more than one category, but they should only be counted in one category. For example, a committee member may have experience with both for-profit and nonprofit housing development. However, that individual would be considered as the for-profit or the nonprofit provider, not both.

The SHIP Statute describes each category as “a citizen.” The Statute is not explicit about whether this is a resident of the United States or resident of the city or county that the AHAC serves. However, an effort should be made to recruit representatives who reside in the applicable city or county. The AHAC Report should document any representatives who work within the jurisdiction, but reside elsewhere.

Builders, lenders, and realtors are often represented on the AHAC. Builders who may be interested in volunteering may be identified by contacting the local homebuilder’s association and realtors can be located by connecting with a local realtor association.

There is a distinction between a representative “engaged in residential home building industry” and a “representative of those areas of labor actively engaged in home building.” The first category can be filled by a local homebuilder executive or may be a staff member of a nonprofit development agency like Habitat for Humanity. By contrast, “a representative of those areas of labor actively engaged in home building” could include a rehabilitation contractor, a subcontractor, an engineer, or an architect.

An “advocate for low-income persons” could be a staff member of a local legal services office or a leader from a faith-based group involved with affordable housing or community service organization related to affordable housing.

A “for-profit provider of affordable housing” might be an owner or property manager for a rental property financed with housing tax credits, the State Apartment Incentive Loan program (SAIL), or other housing subsidies.

Local government program staff

The local government program staff plays a support role for the AHAC. First, staff must identify and recruit committee members. The SHIP administrator must invite potential committee members, document their eligibility, and request their participation in fulfilling the duties of the advisory committee. The local government staff must also educate the advisory committee members about its responsibilities. New committee members should receive the SHIP governing document (Florida Statutes, Sec. 420.907-9079), found in the Appendix to this guidebook, as well as local planning documents and policies. The local government staff must also provide an orientation to the current incentive strategies being implemented by the jurisdiction and an overview of the reporting requirements of the advisory committee.

The local government staff should collaborate with planning staff on land use, zoning policies, and practices. The SHIP Statute states that “the advisory committee shall be cooperatively staffed by the local government department or division having authority to administer local planning or housing programs to ensure an integrated approach to the work of the advisory committee.” Generally, staff in these positions have different areas of expertise. SHIP program administrators usually hold positions in housing and community development or neighborhood departments and have regulatory or program knowledge that is unique to those positions whereas planning departments have staff that have formal education in areas like urban planning, and have extensive knowledge of land use and zoning laws. The majority of the AHAC responsibilities falls more squarely within the planning, building and growth management departments.

The AHAC must review the jurisdiction's comprehensive plan and land development regulations and recommend actions to encourage the creation of affordable housing units. This role requires that staff have knowledge of land use issues so that the committee can consider potential barriers to the development of affordable housing, and recommend regulatory reforms to overcome the barriers. The AHAC presents an opportunity for planning department's housing departments to collaborate and meet the jurisdiction's responsibility to provide housing for all its residents.

Prior to the revision of the SHIP statute in July 2016, the AHAC was required to have a member from each of the eleven categories identified above. Therefore, if the jurisdiction was in compliance, there was always a representative knowledgeable in the local planning process. With the change to the statute, local governments can now choose committee representatives from six other categories. This has the potential to discourage the participation of planning staff. Although no longer required by the SHIP Statute, local governments should consider including staff from the planning department as committee members. This SHIP Statute suggests participation from "a citizen who actively serves on the local planning agency", but it also notes that "if the local planning agency is comprised of the governing board of the county or municipality, the governing board may appoint a designee who is knowledgeable in the local planning process." This is good justification for arranging for a planner to assist the SHIP administrative staff in providing support to the AHAC and monitoring the actions of the committee to ensure adherence to all program requirements

Roles and responsibilities of the AHAC

SHIP Statute overview

Sec. 420.9076 (4) of the Florida Statutes describes the process for developing the AHAC Report. The key role of the AHAC is to prepare the AHAC Report and evaluate its implementation at least every three years. The AHAC Report identifies incentive strategies and recommendations for adoption by the local government. The recommendations should seek to remove regulatory barriers that limit the development or preservation of affordable housing, or drive up housing costs.

To fulfill this task, the advisory committee must first review the local government's existing policies and procedures, ordinances, land development regulations, and the comprehensive plan. Then the committee recommends specific actions or initiatives to encourage affordable housing while protecting the ability of the property to appreciate in value.

Actions the advisory committee can take include:

- Modifying or repealing existing policies, procedures, regulations;
- Creating exceptions applicable to affordable housing; and,
- Adopting new policies or amendments to the local comprehensive plan and corresponding regulations, ordinances, and other policies.

Local government implementation

The advisory committee must approve the final AHAC Report by majority vote and submit it to the Florida Housing Finance Corporation (Florida Housing) and the local government. Upon receipt of the AHAC Report, the local

government has 90 days to amend its local housing assistance plan to incorporate the adopted incentive strategies that it plans to implement. Only two strategies are required in the amended LHAP:

- Expedited permitting for affordable housing projects; and,
- An ongoing process for review, prior to their adoption, of any local policies, ordinances, regulations, and plan provisions that increase the cost of housing.

IV. Preparing the AHAC Report

Reviewing local plans and codes

Local plans and codes related to affordable housing include, but are not restricted to, the Comprehensive Plan, Land Development Codes, Neighborhood Action Plans, and Overlay Districts. Coordinating local departments and community plans is essential to supporting housing efforts. Local government planning and zoning departments, building and permitting departments, local real estate departments, and local government housing departments are conduits to developing affordable housing. The AHAC is responsible for reviewing local established policies, procedures, ordinances, land development regulations, and the local government Comprehensive Plan to identify recommendations for initiatives that will encourage affordable housing.

When reviewing local plans and codes, AHAC members should look for policies, procedures, or ordinances that *inhibit* affordable housing. This pertains to policies and ordinances that may currently be in place, such as zoning, minimum square footage, and setback requirements, or potentially helpful policies and ordinances that are not in place, such as expedited permitting, mixed-income housing incentives, or accessory dwelling unit policies.

AHAC members should also look for consistency between land use plans and finance plans. Local governments typically develop two types of plans: 1. land use plans, which identify elements for future land use, transportation, housing, economic development, infrastructure, and capital improvement needs, and 2. finance plans, which identify sources of funds and how the jurisdiction is going to spend the money.

It is important to ensure that housing and community development projects are aligned with the fiscal budget and comply with regulations governing state or federal funding. An example of a land use plan would be a Comprehensive Plan; examples of finance plans would be a Five-Year Consolidated Plan, Annual Action Plan, or the Local Housing Assistance Program (LHPA), which governs SHIP.

AHAC activity is an example of how the public is involved in local planning and housing initiatives. The AHAC helps departments administering different programs to coordinate their goals and objectives for maximum community benefit.

Encouraging input from all AHAC members

A committee's success is based upon everyone fulfilling their duties and being involved in the process. Members should be familiar with the mission, values, and vision of the committee and should attend meetings regularly. They are expected to help carry out the functions of the committee, specifically providing recommendations on affordable housing incentive strategies.

The AHAC should generate and encourage input from all members. Tips for encouraging participation include:

- Developing agendas to help structure meetings;
- Ensuring items on the agenda are well documented;
- Providing agenda to committee members so that they can familiarize themselves with discussion topics prior to meeting;
- Holding meetings at a convenient place and time;
- Retaining and distributing committee minutes;
- Encouraging casual and relaxed conversation among all members;

- Seeking consensus among the committee; and,
- Encouraging members to act as resources, providing additional expertise and knowledge in their related field.

Additionally, the AHAC should consider appointing a Committee Chairperson to facilitate the participation of all members. A chairperson:

- Sets the tone for committee work;
- Guides the process using successful group discussion methods;
- Ensures that members have the information needed to complete their tasks; and,
- Maintains active interest and member involvement.

Consensus decision-making

Many policy-making committees form decisions based upon group decision-making or by voting-based methods. These strategies are common, but, may lead to tense working environments. Communication skills are of upmost importance during group work. If they are lacking, members may not express themselves clearly or feel comfortable expressing their opinions and miscommunication and misunderstanding can be the end result.

A suggested method for communicating effectively for all members, and especially those of differing opinions, is to use consensus decision-making. This is a group decision-making process in which members develop and agree to support a single decision that benefits the whole group. This allows for members to reach a consensus or an acceptable resolution that can be supported even if not the favorite of each member.

Consensus decision-making is intended to promote agreement amongst the whole group and aims to be:

- **Collaborative:** Participants contribute to a shared proposal and shape it into incentives that meet the concerns of all group members.
- **Cooperative:** Participants strive to reach the best possible decision for the group and all its members, rather than competing for personal preferences.
- **Egalitarian:** All members are given equal opportunities to provide input. All members can present and amend proposals.
- **Inclusive:** All members are involved in the process.

Conducting a SHIP survey and incorporating results

Conducting a survey may be a helpful method for collecting information needed by the AHAC. AHAC members might learn best practices for staffing programs and committees. Conducting a survey of SHIP administrators and stakeholders may provide critical guidance in creating the AHAC Report, and provide insight into developing efficacious policies. Most importantly, a survey sent to developers and builders can be a great way to find out whether incentive strategies are working.

There are several applications that assist in the development of an on-line survey, providing templates that simplify the process. Two popular applications are Survey Monkey and Google Survey. These applications provide quantifiable responses for analysis.

Steps for setting up an online survey include:

- Deciding on the research goals;
- Creating a list of questions and type them into the survey platform;
- Inviting participants and providing them with directions on completing and submitting the survey;
- Gathering responses;
- Analyzing results (the survey platform can assist); and
- Providing results to AHAC members and, possibly, survey participants.

The survey method can be very useful and allows for maximum outreach. An on-line survey can reach individuals that might not otherwise be consulted, significantly increasing input and improving the output of the AHAC's work. We strongly recommend including the local Realtor and Builders Association in the survey.

V. Steps in the Review Process

Upon appointment of the AHAC members and every three years after, the AHAC is required to review existing local government plans, policies, and procedures; ordinances; regulations; statutes; and the comprehensive plan applicable to affordable housing, to evaluate their impacts on local affordable housing. Further, the AHAC is specifically directed by the SHIP Statute to consider and evaluate the implementation of the incentives set out at Florida Statutes, Sec. 420.9076 (4) (a)-(k). Based on the AHAC evaluation, it may recommend to local government that it make modifications of, exceptions to, or creation of new plans, policies, procedures, and other governing vehicles which would encourage production of affordable housing. The AHAC, from its review, evaluation, and recommendations, drafts and submits a report to local government and to Florida Housing which details the scope of its work and the resulting recommendations.

Meetings

The SHIP program mandates the review of the eleven areas of possible affordable housing incentives included in the SHIP Statute, at a minimum. The AHAC members should schedule a sufficient number of meetings to allow enough time for this review. Several of these incentives might require extensive time to thoughtfully review and discuss. For topics like the modification of impact-fee requirements, flexibility in densities, and others, the advisory members will benefit from history and information provided by staff and from their own research and experience. An entire meeting might be devoted to one of the eleven topics.

Draft the report

The committee's report should be incrementally drafted as they meet and discuss possible incentives. Staff may assist with report development, but the report's content should come from the Committee's discussion of incentive strategies. Use the AHAC Report template included in the Appendix to help with developing this report.

The SHIP Statute does not mandate the length and the content of the report. Some committees may generate more than a dozen recommendations for new incentives strategies, others may only focus on revisions to existing incentive strategies, while other AHACs may conclude that no further recommendations are needed.

Approve recommendations at a public hearing

Although all AHAC meetings are public meetings, the final approval of the AHAC Report recommendations is more formal, and must be made at a public hearing. This is required in the SHIP Statute at Florida Statutes, Sec. 420.9076 (5): "The approval by the advisory committee of its local housing incentive strategies recommendations and its review of local government implementation of previously recommended strategies must be made by affirmative vote of a majority of the membership of the advisory committee taken at a public hearing."

Details on scheduling and organizing the public meeting can be found in Section VI. The AHAC Report Timeline, in this guidebook.

Submit report to local governing body

Provide the city or county commissioners with the final AHAC Report. Typically, the AHAC Report is presented at a regularly scheduled commission meeting. The SHIP Statute does not mandate the adoption of the AHAC

recommendations by the governing body of the local government, other than the required incentives for expedited permitting and an ongoing process of review. The elected officials may:

- Discuss the report and vote to adopt only one of many recommendations;
- Adopt all the recommendations;
- Use the report as a springboard to generate their own ideas for incentive strategies; or
- Read the report and take no further action.

If the local government does adopt recommendations of the AHAC, The SHIP Statute establishes that the local government has 90 days to amend its LHAP to incorporate the recommended incentive strategies that it plans to implement. The city or county will provide the LHAP amendments to Florida Housing.

Submit report to the Florida Housing Finance Corporation

The SHIP Statute states that “the final report, evaluation, and recommendations shall be submitted to the corporation.” This is accomplished by providing the Florida Housing Finance Corporation the report at the same time it is presented to the city or county officials. An electronic version of the report is to be emailed to the Florida Housing staff with responsibility for SHIP.

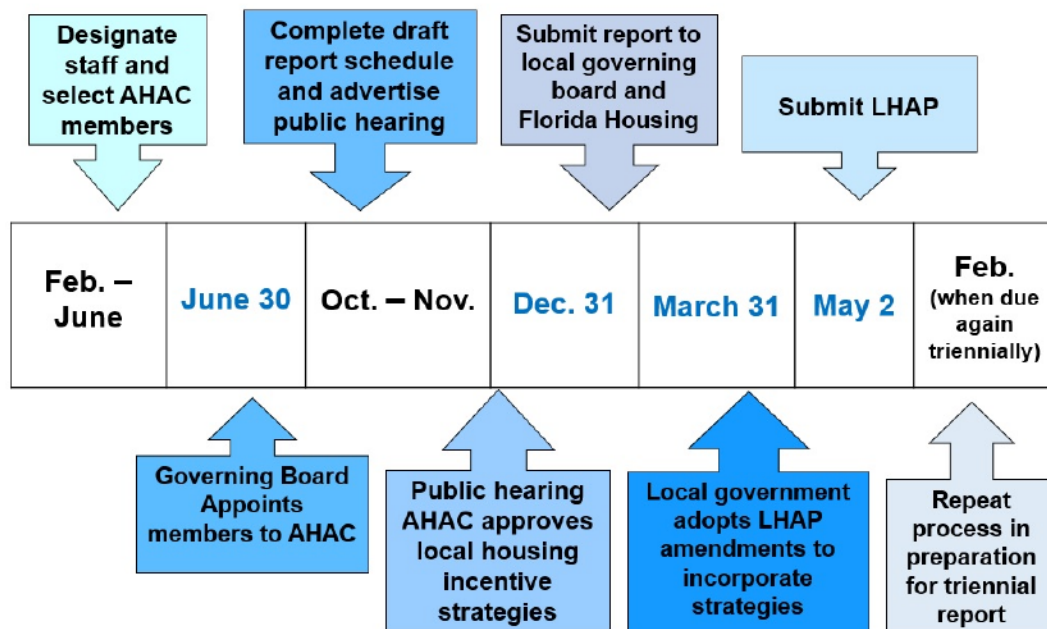
VI. The AHAC Report Timeline

Review of deadlines

The AHAC is required to review implementation of previously adopted incentive strategies and submit a report to the local government governing board every three years (following the initial report). The triennial report must be submitted by December 31st of the year preceding the LHAP due date. For example, where a local government is required to submit LHAP amendments on May 2, 2017, the AHAC must submit its report to the governing board by December 31, 2016.

Within 90 days after receipt of the AHAC's report with its local housing incentive recommendations, the local governing body shall adopt an amendment to its LHAP to incorporate the housing incentive strategies.

Figure 1: AHAC Report Timeline. The table is based on a triennial process laying out required and suggested report deadlines.



Dates in blue are statute deadlines. Dates in black are recommended to meet deadlines.

Public notice requirements

Florida Statutes require that the AHAC approval of recommendations of housing incentive strategies and of evaluation of the implementation of previously adopted incentives shall be made by vote of a majority of members during a properly noticed public hearing. Florida Statutes, Sec. 420.9076 (5). The public notice shall:

- Provide the time, date, and place of the meeting where the AHAC will consider adoption of its recommendations and evaluation in a newspaper of general circulation in the county;
- Include a short and concise summary of the recommendations and evaluation; and,
- State a public place where the proposed recommendations and evaluation can be obtained by the public.

Scheduling and organizing the public hearing

The advisory committee is required by statute to hold a minimum of one public hearing, at which the committee's housing incentive strategy recommendations are voted on and the local government's implementation of previously recommended strategies are reviewed. A public hearing is also soliciting public comment on the AHAC Report as it is being considered for adoption. "Best practice" dictates that the AHAC hold public meetings prior to the required public hearing, to solicit input and engage the public.

When scheduling and organizing meetings or hearings, the following should be considered:

- Give adequate advance notice to the public and stakeholders;
- Publish sufficient information about the subject of the meeting or hearing;
- Hold meetings and hearings at times and locations convenient to the public and stakeholders;
- Choose locations that can accommodate persons with disabilities; and,
- Implement a strategy for how the needs of non-English speaking residents will be met.

Suggested meetings

The AHAC is required to meet regularly to fulfill its committee duties. It is highly recommended that a committee chairperson be appointed and tasked with developing a meeting schedule that is convenient for all members. Meetings should be scheduled often enough to enable thorough discussion and the completion of all AHAC responsibilities.

To ensure all required topics are addressed, the AHAC should consider holding the following types of meetings:

- **Status Update Meetings:** Status update meetings include regular member meetings, where the primary goal is to align the committee via updates on progress, challenges, and next steps.
- **Information Sharing Meetings:** These meetings feature presentations, panel debates, keynotes, and lectures with the primary goal of sharing information between members.
- **Decision-Making Meetings:** Important decisions often get their own dedicated meetings. A decision-making meeting includes information gathering and sharing, brainstorming solutions, evaluating options, ranking preferences, and voting.
- **Problem-Solving Meetings:** These are meetings where project scope and priorities are defined, opportunities and threats are identified, and possible solutions are brainstormed, evaluated, and agreed upon.
- **Innovation Meetings:** These "broad scope" meetings include brainstorming, networking, and sharing ideas. Members can use various techniques and processes to reduce the diverse pool of ideas to a more focused list. The most suitable ideas are identified, leading to recommendations and tasks can be assigned based on this.

The purpose of regularly scheduled meetings among AHAC members is to:

- Encourage participation and input;
- Engage in the process;
- Discuss strategy for completing tasks;
- Openly discuss incentive strategies;
- Provide additional information; and,
- Ensure the committee complies with timelines.

In addition to the required meetings, the AHAC may also consider holding public meetings, which can build a feeling of community. Attendance levels may provide an indicator of a community's level of interest on a particular issue.

Coordinating with the LHAP timeline

The affordable housing strategies recommended by the AHAC Report are the basis for the LHAP. Because the two documents go hand-in-hand, it is important to coordinate timelines to ensure timely submittal and maintain compliance with Florida Statutes.

The AHAC is required to submit a report to the local government governing board by December 31st of the year preceding the LHAP due date. It is important to identify steps to be completed to coordinate processes. Starting the process early is key in completing tasks on time.

Steps to consider and timelines to follow are listed in Table 1: LHAP Timeline.

Table 1: LHAP Timeline.

Task	Timeline
Recruit AHAC Members	January – February
Designate Staff & Select AHAC Members	February – June
Appoint Members to AHAC	June 30 th
Orientation for AHAC Members on Current Incentive Strategies and Report Requirements	July
Develop AHAC Report	July – September
Draft Report Complete	Early October
Public Hearing: AHAC Approval of Incentive Strategies	November
Submit Report to Local Government Governing Board and to Florida Housing Finance Corporation	December 31 st
Local Government Staff Develops LHAP	January – April (following year)
Submit LHAP to Florida Housing Finance Corporation	May 2 nd (following year)

As a reminder, experienced SHIP administrators and planners can provide AHAC staff with their expertise in coordinating timelines early in the process. This increases the likelihood of a streamlined process. Cooperatively staffed support from local government department or division with the authority to administer planning or housing programs helps create an integrated approach to the work of the advisory committee.

VII. General Recommendations and Requirements for Incentive Strategies

This section of the guidebook lays out general recommendations and statutory requirements for jurisdictions developing incentive programs. The recommendations and requirements laid out here are for all incentives. Specific incentive strategies are discussed in detail in Section VIII.

General recommendations for incentive strategies

1. **Eligibility Determination:** Eligibility determination certifies that a project meets affordable housing criteria. The provision of incentives to assist affordable housing projects requires some basic structural elements. Perhaps the most critical element is “eligibility criteria.”

As part of its Incentive Plan, the jurisdiction should include a set of criteria that determine if a given project is eligible for one or more of the proffered incentives. The criteria may be stratified for housing projects that are only partially dedicated to serving low-income households, or for projects in which 100% of the units are considered affordable to a defined income level. The Incentive Plan should include an application process for the jurisdiction to determine if a development is qualified, and for which incentives.

The application should include:

- Proportion of units designated affordable;
- Income levels served; and,
- Specific incentive eligibility.

2. **Incentive Agreement:** For projects that have been approved for certain incentives, the jurisdiction should prepare an agreement that would describe the incentives and set the terms for duration and any other conditions. The agreement should describe pay back for projects that fail to meet the affordability conditions.

The incentive agreement should describe:

- Monetary value of incentives- including fee waivers, land value of donated or discounted land;
- Estimated time saved with expedited reviews;
- Term of affordability;
- Method of tracking, reporting or monitoring; and,
- Reversion in case of default.

3. **Application process:** In some cases, the review and approval of development incentives would be required prior to any request for funding from the jurisdiction or other financing entity. The jurisdiction should prepare an application and procedures for review and approval. The application should include the following:

- Project location;
- Project description- number of units, number of bedrooms, baths;
- Projected income restrictions;
- Other funding sources under consideration or committed; and,
- Type of relief requested.

4. Case by Case Review: The review of incentive plans is undertaken on a case by case basis. Each project is different and may have a variety of needs, so that a “one size fits all” review process is inappropriate.
5. Incentives Based on Demonstrated Need: Incentives should be based upon relevant community needs and supporting data. The jurisdiction should carefully consider the housing needs that strategies intend to address. Incentives should effectively meet those needs. For example, if a critical part of your strategic plan is to end homelessness, then it is important to conduct a careful review of zoning and land development codes. There are often obsolete terms or prohibitions that could inhibit support of a small congregate living center or shared living.
6. Developer Rights to Incentives: Housing assistance incentives should be provided to the developer by right—that is the assistance should be provided administratively and not require a public hearing.
7. Site Plan Design Incentives: The plan should group site plan and site design incentives so that these are viewed simultaneously, to allow for the most flexible and innovative solutions possible. These should be included as a policy in the housing element and should be available by administrative review, rather than through a public hearing.
8. Sustainable Housing Features: Priority may be provided to projects that meet or exceed energy and green or sustainable features.
9. Surplus Lands: The availability of publicly owned land designated as suitable for affordable housing should be accompanied by a complete policy and procedures manual that is separate from the incentive plan. A land bank program requires such policy and operating guidelines that would exceed the content of the incentive plan. The land bank program can be referenced in the incentive plan.
10. Community Land Trusts: The jurisdiction can avoid much of the tracking needed to ensure long term affordability compliance by utilizing the community land trust model. Projects that work via community land trusts are guaranteed to be long-term and to have the proper stewardship required to maintain the original affordability requirements. If this is not the case, requirements for long term affordability should be executed through a mortgage, note, restrictive covenant or land use restriction agreement.
11. Consistency: Housing assistance incentives, while offering alternative compliance with the regulatory framework, must be consistent with other statutory requirements and plans, including the housing element, Local Housing Assistance Plan, Consolidated Plan and Action Plans, and Fair Housing laws.
12. For planning purposed, cross-reference all types of assistance provided by housing strategies and incentives. See Table 2. Incentives and Strategies Matrix, located on the following page.

Table 2. Incentives and Strategy Matrix

Incentive type	Purchase Assistance	Homeowner Rehabilitation	Single Family Development	Rental Construction	Rental Rehabilitation	Special Needs
Expedited permitting		X	X	X	X	X
Fee Waiver or Modification		X	X	X	X	X
Insert fee waiver types						
Density			X	X	X	X
Infrastructure			X	X	X	X
Accessory DU		X	X			X
Site Design			X	X	X	X
Parking		X	X	X	X	X
Setbacks			X	X		X
Lot Size and shape			X	X	X	X
Street requirements			X	X		X
Review Process						
Surplus Land	X		X	X	X	X
TOD			X	X		
Mentoring	X	X	X	X	X	X
Education	X	X	X	X	X	X
Technical Assistance	X	X	X	X	X	X
Green and Energy	X	X	X	X	X	X
Inclusionary			X	X		
Community Land Trust	X	X	X	X	X	X

Statutory requirements for incentive plans

Florida Statute Section 420.9076 (4)

At a minimum, each advisory committee shall submit a report to the local governing body that includes recommendations on, and triennially thereafter evaluates the implementation of, affordable housing incentives in the following areas:

- (a) The processing of approvals of development orders or permits, as defined in Florida Statute 163.3177 (6) (f) (3), for affordable housing projects is expedited to a greater degree than other projects.
- (b) The modification of impact-fee requirements, including reduction or waiver of fees and alternative methods of fee payment for affordable housing.
- (c) The allowance of flexibility in densities for affordable housing.
- (d) The reservation of infrastructure capacity for housing for very low-income persons, low-income persons, and moderate-income persons.
- (e) The allowance of affordable accessory residential units in residential zoning districts.
- (f) The reduction of parking and setback requirements for affordable housing.
- (g) The allowance of flexible lot configurations, including zero-lot-line configurations for affordable housing.
- (h) The modification of street requirements for affordable housing.
- (i) The establishment of a process by which a local government considers, before adoption, policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing.
- (j) The preparation of a printed inventory of locally owned public lands suitable for affordable housing.
- (k) The support of development near transportation hubs and major employment centers and mixed-use developments

Section 420.9076 (8) authorizes the advisory committee to perform other duties at the request of the local government, including:

- The provision of mentoring services to affordable housing partners including developers, banking institutions, employers, and others to identify available incentives, assist with applications for funding requests, and develop partnerships between various parties.
- The creation of best practices for the development of affordable housing in the community.

Mentoring assistance can be provided by connecting housing developers with subject-matter experts, on-site technical assistance, workshops and clinics. Support can also be provided remotely by email, telephone assistance and/or webinars. These services are provided by the Florida Housing Coalition and are available to every SHIP jurisdiction.

What qualifies as an “affordable housing project”?

It is best to have a formal application process in place to determine whether a housing project can be certified as “affordable.” Such a process will prevent time and resources being spent on projects that, ultimately, cannot be certified as affordable.

The minimum requirement for certification is whether the project will result in owner or rental units that are affordable to extremely low income, very low income, or low-income households. This might include housing that

is affordable to moderate-income or housing that is sometimes referred to as “workforce” serving households up to 140% (and sometimes 150%) of area median income.

When a project is certified as an affordable housing project, it may qualify for a number of incentives. Therefore, the certification findings should be specific, so that the finding can be used to determine whether the project qualifies for additional assistance, such as fee waivers or density bonus units.

Projects that are certified as affordable can include projects that are publicly supported, with, for example, SHIP, HOME, Emergency Solutions Grants programs (ESGs), or Housing Opportunities for Persons with AIDS (HOPWA). Projects certified as affordable can also receive financing through local housing finance agencies, public housing authorities, Small Cities Community Development Block Grants (CDBGs), or the Florida Housing Finance Corporation. Projects that are part of an inclusionary zoning ordinance or that are included in a community land trust can also be certified as affordable.

Examples of how some local jurisdictions certify

City of Sarasota

The processing of approvals of development orders or permits for affordable housing projects is expedited to a greater degree than other projects. The committee recommends that any applicant with a project meeting any one of the following conditions be given expedited review and approval:

- Individuals or organizations that are receiving assistance through the Office of Housing and Community Development;
- Builders and developers who are applying for Federal and/or State Affordable Housing Programs;
- Nonprofit organizations that are building affordable housing with a sales price that does not exceed the maximum sales price for the Housing Partnership Program;
- Any organization building affordable housing in the Community Reinvestment Area (CRA) with a sales price that does not exceed the maximum sales price for the Housing Partnership Program;
- Nonprofit organizations that are building rental housing and agree to lease the property for no more than the fair market rent for a period of 10 years;
- Any organization that is building rental housing in the CRA that commits to lease the property for no more than the fair market rent for a period of 10 years;
- Applicants applying for a rezone or special exception for a project where a minimum of 15% of the total units within the development are affordable to households earning less than 100% of area median income; and
- Applicants applying for site and development approval, plats and building permits for any project where a minimum of 15% of the total units within the development are affordable to households earning less than 100% of area median income.

City of Orlando

Affordable Housing Certification Process

The intent of the Affordable Housing Certification Process is to identify those projects that meet the definition of affordable housing. To participate in the Affordable Housing Certification Process, a minimum of 20% of the units in the project must meet the definition of very-low, low-, and/or moderate-income housing. These developments are eligible to receive specific regulatory and financial incentives. The certification process allows the City to more

effectively direct its incentives to those projects that will result in the provision of decent, safe and affordable housing. Further, the certification process provides the developer with early on information regarding available incentives. Another benefit of the Affordable Housing Certification Process is that certified projects receive expedited services from City departments at all steps in the development review and permitting process.

Projects seeking affordable housing incentives must be certified before receiving incentives such as the following: SHIP/HOME funds, capacity reservation set-asides, reduced reservation fees, impact fee grants, discounts, or exemptions, reduced Land Development or Growth Management application fees, or developing a residential project utilizing the Alternative Housing Development standards

The Affordable Housing Certification Process has been amended to include certain incentives for attainable housing developments.

VIII. Incentive Strategies: Details and Examples

There are eleven incentive strategies that the AHAC must consider:

- (a) Expediting processing approvals of development orders or permits for affordable housing projects over other housing projects.
- (b) Modifying impact-fee requirements, including reduction or waiver of fees and alternative methods of fee payment for affordable housing.
- (c) Allowing flexibility in densities for affordable housing.
- (d) Reserving infrastructure capacity for housing for very low-income persons, low-income persons, and moderate-income persons.
- (e) Allowing affordable accessory residential units in residential zoning districts.
- (f) Reducing parking and setback requirements for affordable housing.
- (g) Allowing flexible lot configurations, including zero-lot-line configurations for affordable housing.
- (h) Modifying street requirements for affordable housing.
- (i) Establishing a process by which a local government considers, before adoption, policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing.
- (j) Preparing a printed inventory of locally owned public lands suitable for affordable housing.
- (k) Supporting development near transportation hubs and major employment centers and mixed-use developments.

Each of these strategies is discussed below. Two incentives are required to be adopted: item (a) for expedited permitting and item (i) for a process of ongoing review.

Strategy: Expedited process of development approvals

Florida Statutes, Sec. 420.9076 (4) (a) provides that: “The processing of approvals of development orders or permits for affordable housing projects is expedited to a greater degree than other projects, as provided in Florida Statutes, Sec. 163.3177 (6) (f) 3.”

The requirement to expedite permits for affordable housing projects is one of two required incentives according to Florida Statutes, 420.9071 (16), which is a part of the SHIP definition of “local housing incentive strategies.”

Purpose

“Time is money.” The timing for the review for development approvals can be a factor in the overall cost of the project. Expediting affordable housing projects not only reduces time but can avoid setbacks by having a staff member shepherd a project through the process. The requirement extends to other reviews and approvals, including site plan review, zoning hearings, and special approvals. A builder can schedule construction sooner and begin work sooner when there is a clear intention by the local government to expedite the permit review and issuance process.

Expedited permitting gives the housing staff the opportunity to work closely with the developer to offer additional support or to help them overcome other obstacles that may be delaying a project from getting underway.

Considerations

- Expediting permits requires affordable housing projects to be placed ahead of other projects. This may result in tension with other developers whose projects are therefore put behind.
- It would be beneficial to ensure that local government staff understand the importance of reducing permitting time and expense to publicly-supported projects.

Methodology

According to Florida Statutes, 163.3164 (7) - (8), a permit is a development order, which means “any order granting, denying, or granting with conditions an application for a development permit. A development permit includes any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land.”

Local government staff should embrace the breadth of this requirement for expedition, and possess significant knowledge and resources to support affordable housing. They should expedite and prioritize all areas requiring land use permitting or approvals. This action is one of only two statutorily required regulatory incentives and is considered to be of high value for promoting affordable housing.

Any step that is involved in the builder’s attempts to develop a parcel of land should be expedited. Staff who work in the engineering and zoning departments must be involved and fully informed of what is expected of them regarding expedited permitting for affordable housing projects.

How permits are expedited is based on the size and complexity of the existing permit review process. Applications must be flagged in some manner, such as with a brightly colored cover sheet, with the certification information entered and signed by the housing department. Such a form might have “call with questions” contact information

and further instructions on the mandate to prioritize this application. Electronic systems might have a required field indicating that this is an affordable housing project.

Task completion entities should be able to verify that the project was reviewed expeditiously and immediately forwarded to the next task for final approval and notification of the approval to the builder. Alternatively, the local jurisdiction could provide a concurrent preapplication/predevelopment review process to bring all the departments that will be required to sign off on the development into a preapplication/predevelopment review meeting.

Examples

Pasco County

Developments that have received a certification as affordable will receive expedited review – including single and multi-family, attached or detached, residential and planned, or mixed developments.

Staff will assist applicants to submit only a fully completed application before the expedited review begins. Once the completed application is accepted, the Director of Growth Management or an assignee will shepherd the application through each level of review. In no case will an application be set aside while awaiting a decision. The application is returned to the Director immediately after the review is completed. The Growth Management Director has the authority to approve developments -those that do not require a comprehensive plan amendment of projects below 100 units- without submittal to a reviewing committee. The county uses a yellow band to identify certified housing applications.

- *For Single Family development projects:* SHIP staff email the central permitting manager, who pulls out the permit request for the contractor/builder and gets it processed right away.
- *For Multi-Family development projects:* SHIP staff arrange a meeting with the developer and representatives from the engineering, development services, zoning, and growth management departments. Each department indicates upfront what they are going need to process the application. Each commits to review applications swiftly. In this fashion, every point of review is expedited.

Lee County

A green cover sheet is placed on top of all qualified application packages. Staff are instructed to direct any questions or issues to the Housing Staff who will then work with the applicant to provide more information or correct insufficiencies.

City of Orlando

The Housing and Community Development Department, the Planning Division, and the Office of Permitting Services worked together to form the Expedited Housing Development Approval Process. A Housing Expediter is assigned who serves as the lead staff member responsible for coordinating the City's review through the various departments. The Expediter performs an initial review of the project applying for certification to determine whether it meets income criteria. The Expediter then communicates with other departments and serves as the key contact between City staff and the project developer. In addition, the Planning Division and Permitting Services Division each assign a staff person to serve as Ombudsman for certified housing projects. This ensures

that issues are addressed early and can be resolved quickly. The City of Orlando also prioritizes projects meeting the City's residential green building principles.

Strategy: Impact fee modifications, waivers, or reimbursement

Florida Statute 420.906 (4) (b) “The modification of impact-fee requirements including reduction or waiver of fees and alternative methods of fee payment for affordable housing.”

Purpose

Impact fees are a major expense in developing newly constructed housing. By modifying impact fee requirements to reduce the cost, the cost of developing housing can be reduced and the savings passed on in the form of lower rents or lower sales prices. Reducing impact fee costs can also result in the reduction of the need for local SHIP funds. This can make SHIP and other housing dollars go further and result in more affordable units. Reduced, deferred or waived impact fees can also count as a local government contribution in the Low-Income Housing Tax Credit (HC) application program of the Florida Housing Finance Corporation. Adequate local government contribution will allow an application to score higher points, making the project more competitive.

Impact fees are not the only type of fee that may be modified with the intent of reducing the cost of development. Other fees include but are not limited to:

- Informal Review;
- Site Plan Review;
- Landscape Plan;
- Platting and Subdivision;
- Building Permit;
- Variance or Special Exception;
- Impact fee:
 - Roads;
 - Parks;
 - Infrastructure;
 - Schools;
- Concurrency Capacity Availability or Encumbrance.

Local governments rely on impact fees to pay for the services required when new residents move into a community as a result of development. The government may charge fees for increased school enrollment, road capacity, and utility access. By reducing or waiving the burden to the affordable housing developer, the local government may not have to provide as much subsidy to ensure that the development is financially feasible. They can also ensure long- term affordability by providing terms that require repayment with interest if the property does not meet affordability terms at a future date.

Considerations

- First and foremost, it is imperative that local government is provided assurance that a waiver or modification of impact fees will result in greater affordability to the consumer, not greater profitability to the developer.
- Impact fees are based upon a nexus argument that development creates a definable impact on public infrastructure, including roads, sewer, water, parks, schools, etc. Without these fees, local government may need to rely on other sources of existing revenue or increase fees on non-affordable projects.

- Some legal advisors take the position that waiving impact fees is not permissible. In these cases, it is possible for the fee to be paid, but by other sources. One such source is the interest that has accrued on the impact fee financial accounts. This action simply moves interest money back to the impact fee income stream.
- Local governments may or may not have impact fees that they can modify for affordable housing developers. Further, some departments may rely solely on impact fees to fund needed improvements.
- Since utilities and roads are critical infrastructure necessary for any housing development, it is essential that they are funded, and if impact fees are the only source to fund improvements, it may be necessary to use local SHIP funds to pay for improvements or in lieu of the developer's payment.

Methodology

Fee modification methods can include, but are not limited to, the following:

- Waiver or forgiveness of fees;
- Discount or reduction of fees;
- Loan- payable in favorable terms, with payments deferred until a pre-designated time; and,
- Reimbursement- fees are paid at time of application and are reimbursed upon completion of development or other point in time.

Fee waiver: To waive impact fees, the impact fee ordinance would need to be amended to provide the conditions for the waiver. When impact fee revenue is pledged for the repayment of a bonded improvement, it is likely that the covenants for the bonds would allow forgiveness. If this is the case, then an alternative source of funding might be considered. Future bond issues should be evaluated for the possibility of including a built-in waiver for certain circumstances, such as affordable housing.

Fee deferment: To defer impact fees, the ordinance needs to contain a provision for the terms of the deferral and an agreement or lien needs to be in place to describe when and how the fees would be repaid.

Fee modification: The impact fee amount can be adjusted in the ordinance for smaller or lower cost units. Because impact fees are regressive - fees are typically collected on a per unit basis rather than on a square-foot or value basis - smaller affordable homes pay the same fee as large homes. Impact fees could be modified for affordable housing by restructuring the fee amount based on the size or the type of the unit. For example, a proposed housing project targeted to seniors might be eligible for a reduced impact fee for roads or school impact, along with other provisions such as reduced parking spaces.

Alternative sources to pay impact fees

This might be from the interest on the impact fee account. The fee can be reduced or discounted with the balance paid from the interest. It is not recommended that SHIP or other housing dollars be used to subsidize impact fees as these funds can be better used for direct housing costs, such as construction or down payment assistance. Any adjustments or exclusions need to be spelled out in the ordinance. Finally, because impact fee programs are dynamic and come under discussion frequently, housing staff and advocates should be aware of the changes in relation to impact fees - especially impact fee increases. Staff and advocates should become an active part of impact fee discussions. This ongoing responsibility is part of the required incentive strategy to maintain an ongoing process of review.

Examples

City of Orlando- excerpt from Incentive Section of the Local Housing Assistance Plan

Description: The sewer benefit fee and the transportation impact fee are the only two impact fees the City of Orlando charges for new construction. In addition, the Orange County School Board levies a school impact fee for residential developments. As an incentive for the production of affordable housing, the City established an Affordable Housing Impact Fee Program that provides a full or partial reimbursement for sewer and school impact fees, and a Transportation Impact Fee Exemption Program that exempts certified affordable housing developments from the payment of the transportation impact fees for affordable units.

Established policy and procedures: To receive reimbursement of the sewer and school impact fees, developers must pay all impact fees when building permits are issued. After the sale of the housing unit at or below the City's maximum sales price, or after the housing unit is rented at or below the established HUD rents, the impact fees are reimbursed by the City, provided funding is available. The reimbursement is available on a first-come, first-served basis. Another benefit available to certified affordable housing developments is the Transportation Exemption Impact Fee Program. The program offers a partial exemption for projects that have received affordable housing certification.

Descriptions of the available impact fee benefits are below:

Reimbursement of sewer impact fees:

- 100% reimbursement from SHIP funds for eligible affordable units if they meet the City's adopted residential green building criteria for affordable housing projects; or
- 75% reimbursement from SHIP funds for eligible affordable units if they do not meet the City's adopted residential green building criteria for affordable housing projects.

Exemption of transportation impact fees:

- 100% exemption of the transportation impact fees for eligible affordable housing units if the certified housing project meets the City's commuter criteria. *
- 50% exemption of the transportation impact fees for the eligible affordable housing units if the certified housing project does not meet the City's commuter criteria but is accessible to grocery stores, public schools, pharmacies, medical facilities, financial institutions, or a post office via a public transit stop located within a ¼ mile distance.
- 75% exemption of the transportation impact fees for the eligible affordable housing units in certified attainable housing projects if the certified housing project meets the City's commuter criteria.
- 25% exemption of the transportation impact fees for the eligible affordable housing units in certified attainable housing projects if the certified housing project does not meet the City's commuter criteria but is accessible to grocery stores, public schools, pharmacies, medical facilities, financial institutions, or a post office via a public transit stop located within a ¼-mile distance.

*To meet the City of Orlando's commuter criteria, a development must be located within a ¼ mile distance to a City-designated Activity Center or a light rail or commuter rail station.

Reimbursement of school impact fees:

- 25% reimbursement from SHIP funds for eligible single-family affordable housing units; or,
- 50% reimbursement from SHIP funds for the eligible multi-family affordable housing units.

Alachua County

Fee modification: The County's impact fee amounts are not collected on a per-unit basis but rather on a square-foot basis.

Orange County

A deferral for the payment of impact fees is available to all single-family residences and duplexes until issuance of a Certificate of Occupancy. Multi-family projects that are certified as affordable may defer the payment of the impact fee until power is authorized for the first building or until the first Certificate of Occupancy is issued.

Lee County

The impact fee for Lee County contains a provision for the waiver of all impact fees, except school fees, within its three enterprise zones. Lee County also provides a School Impact Fee Rebate (SIFR) for certified affordable housing units. A nonprofit affordable housing developer can apply for the SIFR at the time of permitting. After the fee is paid and the home is completed, the lower-income purchaser of the home receives a 50% rebate that is paid directly to their first mortgage holder to reduce their principal. For-profit builders can also participate for a 25% rebate. The rebate program is funded by the interest that accrues on the impact fee account. Thus, the school board does not give up real income but part of the interest on the account. There is a \$200,000 cap on the program that is renewable.

Collier County

Collier County has a long-standing impact fee deferral program. Using building permit fee revenues, the fee is paid on behalf of the affordable home at the time of permitting. This is a loan that is to be repaid within ten years. There is a lien that is placed on the property.

Strategy: Flexibility in density

Florida Statute 9076 (4) (c): “The allowance of flexibility in densities for affordable housing.”

Relevant Statutes

Density bonus is a voluntary incentive that should be available to certified affordable housing projects by right. Florida Statutes provide direction for local governments choosing to make this available:

- Section 420.615 of the Florida Statutes states that “[a] local government may provide density bonus incentives pursuant to the provisions of this section to any landowner who voluntarily donates fee simple interest in real property to the local government for the purpose of assisting the local government in providing affordable housing. Donated real property must be determined by the local government to be appropriate for use as affordable housing and must be subject to deed restrictions to ensure that the property will be used for affordable housing.”
- The statute requires that, as part of the approval process, the local government adopt a comprehensive plan amendment for the receiving land that incorporates the density bonus. It further provides that the plan amendment shall be adopted in the manner required for small-scale amendments under section 163.3187, Florida Statutes.

Purpose

Increasing the maximum units allowable on a project site helps to make the project “financially whole” when producing affordable housing. The local land use code dictates a maximum number of housing units that may be developed on a certain size land lot. A jurisdiction may increase this maximum if a builder develops affordable housing units. The presence of bonus units will allow a project to sell more homes or rent more apartments and thus meet financial feasibility criteria. A developer of affordable housing should be able to qualify for bonus density units by right if other development criteria are met.

It should be noted that the concept of bonus units provided to a developer who is NOT building affordable housing, but is contributing either land or funding, would be considered an inclusionary housing or inclusionary zoning strategy. “Inclusionary housing” is addressed in this section on density because if a local government chooses to implement inclusionary housing policies to create mixed income housing, it will need to include the density details in that ordinance.

An increase in density offers an economic incentive. The allowance of full density allowed by land use and zoning regulations, as well as additional approved units allowed by density bonuses, creates the opportunity for an affordable housing project to be financially feasible. The sale of more units or the leasing of more apartments offsets the lower sales price or rent amounts for each affordable unit.

Considerations

- The implementation of a density bonus program requires skillfully prepared regulations, standards and agreements to effectively ensure that the bonus units are affordable or that a payment or exchange in lieu is effective.
- In areas where there is not a high demand for density, such as rural areas, the incentive would not be effective, unless it was a large-scale, master-planned development.

Elements of an inclusionary zoning ordinance

“Inclusionary housing,” is also known as “inclusionary zoning.” It is a land use tool that is typically a solution more than it is an incentive. The primary purpose of inclusionary zoning is to increase the supply of affordable housing concurrently with the development of market-rate housing. Inclusionary zoning is an approach that ensures that affordable units are created with limited public expenditure.

At a time when the federal government is taking less responsibility for providing affordable housing by cutting funds for housing vouchers and other programs, local public funds for affordable housing are in short supply. Affordable housing programs that leverage private-sector funds, such as inclusionary zoning, are a way to stretch taxpayer dollars.

Proponents of inclusionary zoning argue that a number of other benefits occur. If new development occurs in metropolitan centers, inclusionary zoning can result in affordable units that are closer to jobs and transportation. In addition, because of the density bonuses awarded for affordable units, inclusionary zoning can lead to higher-density development. The higher-density and infill development that can result from inclusionary zoning reduces the demand for fringe development. This, in turn, reduces the need for new infrastructure, shortens commutes, and reduces congestion.

Threshold size

Inclusionary zoning ordinances typically establish a minimum project size before policies are applied. This threshold should be large enough to contribute to the financial feasibility of the required affordable units.

Percentage set-aside

The percentage of affordable units included in new development should consider the following: the financial feasibility of producing the affordable units, the incentives or cost offsets available to developers to produce the affordable units, the need for affordable units, and the strength of the local housing market. Nationally, inclusionary zoning ordinances have required developers to set aside 5%–35% of their new housing developments as affordable, although requirements of 10%–25% are most common. The share of affordable units required often varies, depending on whether the units will be for homeownership or rental, and whether the income targeted is moderate-, low-, or very-low.

Cost offsets

Under an inclusionary zoning ordinance, one of the primary cost offsets offered to developers in exchange for producing affordable units is a density bonus. A density bonus allows the developer to construct a certain number of additional market rate units beyond what is normally allowed under the current zoning ordinance, in exchange for providing a specified number of affordable units.

In addition to density bonuses, there are several ways of reducing the costs of a development to enable the construction of affordable housing. For example, developers can be given waivers from development standards, and/or receive waivers for fees such as demolition, water and sewer charge and utility connection fees. Developers may also be eligible for reduced parking requirements, or other benefits provided to certified affordable housing projects, including expedited permitting.

Statutory exception for inclusionary zoning

The Housing Element requirements include that every local government have adequate sites for affordable housing and provide for housing all its current and future anticipated populations, including special needs populations. These requirements are in Chapter 163.3177 (6) (f) of the Florida Statutes.

In response to a concern that inclusionary zoning ordinances might be challenged under Florida's State Statute prohibiting price and rent control, the Florida Legislature carved out an exception to the price and rent control statutes for land use mechanisms used to increase the supply of affordable housing, specifically citing "inclusionary housing ordinances":

- Section 166.0415 Affordable housing. –Notwithstanding any other provision of law, a municipality may adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing ordinances.
- Section 125.01055 Affordable housing. –Notwithstanding any other provision of law, a county may adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing ordinances.

Income groups to be served

"Affordable housing" must be defined by the inclusionary zoning, and a methodology established for determining the sales price or rent of an affordable unit. Inclusionary zoning ordinances generally target households with "low" or "very low" incomes as defined by HUD, where low-income is a household income from 50% to 80% of the area median income, and very low-income is below 50% of the area median income. Some ordinances allow "affordability" to be defined to include moderate-income households, or those with incomes up to 120% of the area median income or higher. Income requirements are generally stricter for rental units than for units intended for ownership. In the case of units for sale, "affordable housing" means housing in which principal, interest, taxes, and insurance make up no more than 30% of the gross household income. For rental housing, "affordable" means housing for which the rent, heat, and utilities other than telephone constitute no more than 30% of the gross annual household, adjusted for household size.

Duration of affordability

To preserve units that are produced under inclusionary zoning ordinances as affordable, a control period is established. During this period, rental and ownership units must remain affordable. New tenants and buyers must meet income requirements, and the rent or sales price must be established according to the current area median income (interest rates may also be a factor for ownership units). Home buyers are typically allowed to keep a portion of the proceeds from the sale or to earn a specified rate of appreciation on the unit. Monitoring is important to assure continued compliance with the initial affordability requirements. A local agency or other monitoring agent must be established for low- and moderate-income housing developed under inclusionary zoning. A community land trust is well suited to manage inclusionary housing units, providing a pipeline of income eligible tenants and buyers.

Example

Tallahassee: Inclusionary housing ordinance

In exchange for requiring 10% of the units to be affordable, the City of Tallahassee's ordinance provides a 25% density bonus as well as housing design flexibility, including relief from setback and minimum lot size requirements.

This inclusionary housing ordinance was challenged by the Florida Home Builders Association as an unlawful taking, a violation of substantive due process, and an unlawful tax. On November 20, 2007, the Circuit Court of the Second Judicial Circuit granted summary judgment in favor of Tallahassee on all three counts. The trial court found the inclusionary housing ordinance to be a land use regulation under the City's police power, and not a taking of any type. The court recognized that the inclusionary housing ordinance provides a number of benefits to developers.

Methodology

Sample language for Housing Element

The following may be adapted and used to address the density bonus incentive in the Housing Element:

Goal: Density Bonus Program. The County will have an effective Density Bonus program for affordable housing that increases the supply of units and offsets the development costs of producing a variety of ownership and rental housing.

1.1 Objective: Provide criteria for certified affordable housing projects within the Medium and High Density Residential Development areas for a 10% density bonus according to the following policies:

1.1.1 Density Bonus units must be reserved for households with very low, low or moderate income as defined in the Local Housing Assistance Plan;

1.1.2 Density Bonus units must remain affordable for a minimum of 30 years [or consider a longer period] or be deeded to a Community Land Trust;

1.1.3 Site location on a major or minor arterial or major collector street as defined in the Traffic Circulation Element of the Comprehensive Plan;

1.1.4 Site location of medium density designation may share a boundary with a single-family zoning district;

1.1.5 Site location of high density designation may not share a boundary with a single-family zoning district;

1.1.6 Urban services are available including water and wastewater service from a regional public utility as defined in the Comprehensive Plan Data Inventory and Analysis (including the Potable Water [Services] Element and Wastewater Element [Sanitary Sewer Services Element]);

1.1.7 Applicant provides significant open space buffer, natural landscape including a landscaped berm where appropriate, plant material and/or an aesthetic wall or fence to effectively shield the residential use from any existing adjacent nonresidential use or from any single-family use;

1.1.8 For conventional zoning, administrative relief and flexible performance standards are available similar to that provided in the Planned Unit Development or Mixed Use Planned Development review procedure;

1.1.9 Height limitations shall be provided by the Land Development Regulations;

1.1.10 Applicant provides that all performance standards shall be met.

Additional goal setting may include the formation of a community land trust:

4.0 Goal: The County will seek to create a permanent inventory of affordable housing units in order to meet current and future housing needs.

4.1 Objective:

4.1.1 Policy: The affordability period will be a minimum of 20 years [or consider a longer period] under the density bonus program unless the property is deeded to a community land trust.

4.1.2 Policy: The County will form a jurisdiction wide Community Land Trust that will ensure that subsidized or otherwise resale restricted properties remain affordable through a 99-year renewable ground lease and that subsequent residents are restricted by income level.

Sample language for the Land Use Element of the Comprehensive Plan

The Future Land Use Element should also address the bonus density incentive. Sample language may include the following:

14.03 Density Incentives. A 10% density bonus shall be available over the standard density range. Units produced under the inclusionary ordinance may utilize this provision; or,

All certified affordable housing projects will have by right a 50% density bonus so long as the density does not exceed the density limit for the land use category of the Future Land Use Plan.

Example

City of Orlando

Description: The City of Orlando operates a voluntary density bonus program. The program offers a density bonus in several residential, office, and commercial districts. In exchange for more density, the developer must commit to build affordable housing units on-site. However, instead of building affordable units on-site, the developer may choose to provide an in-lieu contribution to the “City of Orlando Trust Fund for Low- and Very Low-Income Housing.”

The Land Development Code requires a Neighborhood Compatibility Review for all developments requesting a density bonus. The purpose of the review is to ensure that the intensity of a development utilizing a density bonus remains compatible with adjacent neighborhoods. All variances, except variances to height requirements, are prohibited within developments that have received density bonuses. If the Neighborhood Compatibility Review is favorable, the applicant can increase the density of development in accordance with the approval.

In return for the density bonus, the developer is required either to provide on-site affordable housing units equal to the number of additional units permitted by the bonus or to contribute a percentage of the total construction costs to the trust fund at the time of permitting. At the time of building permitting, the Building Official determines the amount of the contribution based on 2% of the total construction costs of the development. The on-site alternatives require that the affordable units be devoted by deed restriction to low- and/or very low-income households.

Strategy: Reservation of infrastructure capacity

Florida Statute 420.9076 (4) (d): “The reservation of infrastructure capacity for housing for very-low-income persons, low-income persons, and moderate-income persons.”

Relevant Statutes

The Community Planning Act of 2011 was enacted by the Florida Legislature to exempt communities, resulting in removing parks and recreation, schools and transportation from concurrency requirements in their comprehensive plans. Concurrency for sanitary sewer, solid waste, drainage and potable water infrastructure remained mandatory. Local governments may voluntarily elect to require concurrency for parks and recreation, schools, transportation or other facilities. The impact of concurrency on the viability of affordable housing is that of cost and competition with private-market developments to reserve capacity.

163.3180 Concurrency

(1) Sanitary sewer, solid waste, drainage, and potable water are the only public facilities and services subject to the concurrency requirement on a statewide basis. Additional public facilities and services may not be made subject to concurrency on a statewide basis without approval by the Legislature; however, any local government may extend the concurrency requirement so that it applies to additional public facilities within its jurisdiction.

Florida Statutes, Sec. 163.3180 (5) (f) 6 allows local governments that elect to retain transportation concurrency in their comprehensive plans to reduce impact fees or local access fees to promote affordable or workforce housing.

Purpose

The reservation of infrastructure capacity is based upon local requirements in largely urban areas, for future developments to make a reservation to guarantee the new development will meet concurrency requirements by meeting designated levels of service for certain types of infrastructure. Reservation is the act of setting aside a portion of available infrastructure capacity necessary to accommodate valid intermediate or final development orders.

Typically, a local concurrency ordinance requires that public facilities and services that are needed to support development be available “concurrently” with the impacts from each development. Facilities and services may include the following:

- Transportation (roadways);
- Public Transit;
- Water supply;
- Sanitary Sewerage;
- Solid waste disposal;
- Flood protection;
- Schools; and,
- Parks.

The designated concurrency review agency is responsible for maintaining data on the current level of service standards for the public facilities and services. This will inform future development of the exact nature of the infrastructure capacity available and the impact requirements that may be placed upon a given development.

This incentive is not a significant factor in areas that may already have infrastructure in place, such as urban infill areas or urban service areas. Small scale developments, as well as those proposed to be located in designated target areas such as community redevelopment areas or enterprise zones, may be exempt from concurrency requirements. In addition, developments located within a designated vicinity to mass transit systems, such as light rail, may also be exempt.

It is up to the community to decide how it can assist affordable housing projects in reserving infrastructure capacity. One way is to waive the filing fees which can reduce overall project costs. Another is to give certified affordable housing projects priority so that the availability of infrastructure would not be a roadblock to completing a project.

Considerations

- Non-urban areas probably will not need this type of incentive. However, in urban areas where concurrency is a significant permitting factor, the local government will need to make a choice in prioritizing available capacity for market rate, commercial or certified affordable housing projects.
- There can be a cost differential if fees are waived or deferred that can affect capital improvement plans.

Methodology

The Local Government Comprehensive Plan must address this incentive, as it has an impact on several elements including Capital Improvements, Future Land Use, Infrastructure, and Housing. Florida Statutes, Sec.163.3180 (5) (f) authorizes a level of relief by allowing local governments that require transportation concurrency to reduce impact fees or local access for affordable or workforce housing.

A procedure for the certification of projects as affordable is essential to ensure that this provision is used properly with the intended results.

Sample text for Comprehensive Plan

14.05 Reservation of Infrastructure. The Jurisdiction maintains the right to reserve infrastructure concurrency for certified affordable housing projects.

Strategy: Accessory dwelling units

Florida Statute 420.9076 (4) (e): “The allowance of affordable accessory residential units in residential zoning districts.”

Relevant Statutes

Florida Statute 163.31771 Accessory dwelling units. (1) The Legislature finds that the median price of homes in this state has increased steadily over the last decade and at a greater rate of increase than the median income in many urban areas. The Legislature finds that the cost of rental housing has also increased steadily and the cost often exceeds an amount that is affordable to extremely low-income, very low-income, low-income, or moderate-income persons and has resulted in a critical shortage of affordable rentals in many urban areas in the state. This shortage of affordable rentals constitutes a threat to the health, safety, and welfare of the residents of the state. Therefore, the Legislature finds that it serves an important public purpose to encourage the permitting of accessory dwelling units in single-family residential areas in order to increase the availability of affordable rentals for extremely low-income, very low-income, low-income, or moderate-income persons.

Purpose

An accessory dwelling unit (ADU) is a residential unit that is secondary to the primary residence of the homeowner. It can be an apartment within the primary residence or it can be an attached or freestanding home on the same lot as the primary residence. The concept of an accessory dwelling unit is to have an additional complete residence, meaning a place for sleeping, bathing, and eating independent of the primary home. These smaller housing units are typically infill units built where there is existing infrastructure, making greater use of the already developed land.

The ADU offers an incentive for infill development, which uses existing infrastructure and can provide affordable housing for low- and moderate-income households. Allowing accessory dwelling units could, in theory, become a popular, successful incentive strategy, since ADUs offer a viable alternative to single-family homes in the traditional sense. Removing the land use barriers which prevent accessory dwelling units from being built may be all that local government needs to do for affordable accessory dwelling units to be built.

An accessory dwelling unit creates affordable housing in two ways: the secondary (accessory) dwelling is a small rental unit that will ordinarily rent at a price within the means of lower-income persons; at the same time, the rental income from the accessory dwelling unit can render the primary residence more affordable by virtue of the income it generates for the resident owner of the primary residence.

The American Association of Retired Persons (AARP) sees that the use of ADUs can assist the elderly to “age in place.” The owner of a primary house and ADU may choose to live in the smaller unit and rent out what was the primary residence, if permitted locally. For a single elderly homeowner living on a fixed income, this arrangement can provide the perfect affordable living solution: a more appropriately sized living space and a higher rental income. ADUs are particularly well suited for the lower-income elderly because in addition to increasing affordability, the elderly homeowner may also obtain companionship and needed services from the tenant in the ADU.

Since the purpose in permitting accessory dwelling units is to increase the supply of affordable housing, local governments should place conditions upon the use of ADUs to avoid an “illegal use” such as a Bed and Breakfast. Local governments could use a loan program to assist in developing the unit, as an effective way to assure affordability through a recorded land use restriction agreement made in conjunction with the loan.

Considerations

- Accessory dwelling units can be a very attractive incentive for single-family homeowners who wish to take advantage of the opportunity to increase the density of their homestead.
- The premise of the ADU is that residents would be small households, perhaps seniors or singles with lower income or a disability.
- It is possible that if not monitored regularly, these units could be used as vacation rentals that would be a more intensive use than originally contemplated. Another unintended usage would be student housing. Even so, the ADU as a “tiny home,” duplex or triplex can increase the supply of affordable housing while also providing a homeowner with extra income.
- In planning to use this incentive, it is important that measures are taken to avoid abuse of what can be a significant source of affordable housing and one that may not require financial subsidies.

Methodology

Virtually all ADU ordinances require the owner to reside in either the primary or the secondary unit.

- **Size regulations:** Consider standards to maintain the aesthetic integrity of the single-family neighborhood. Performance standards may work better than arbitrary size limitations to address neighborhood concerns.
- **Occupancy restrictions:** Some ordinances may prescribe the maximum number of people who can live in the ADU or the type of renters, such as limiting the rental to elderly or very low-income households.
- ADUs that are built with SHIP funds must comply with all SHIP rental regulations for the accessory unit. Staff must implement a monitoring plan to monitor an ADU annually to determine if the resident is still income eligible.
- Waiver of impact fees or impact fee based on square footage rather than by unit may be required to make an ADU financially feasible.

Example

Citrus County

The following text comes from the County’s land development code. It permits ADUs on lots that are one acre or larger, since the County wants to ensure proper spacing to allow for well and septic requirements.

4451. Accessory Dwelling Units

- A. “Accessory dwelling unit” means an ancillary or secondary living unit that has a separate kitchen, bathroom, and sleeping area, existing either within the same structure or on the same lot, as the primary dwelling unit. The purpose of this section is to provide for inexpensive housing units. Standards are designed to protect adjacent properties from adverse impact as well as to protect the general public. Accessory dwelling units shall enhance and be compatible with the neighborhood in which they are located.
- B. General Requirements. All accessory dwelling units shall meet the following standards:
 1. No more than one accessory dwelling unit shall be permitted on any one residential lot.
 2. The living area of an accessory unit shall be a maximum of 40 % of the principal residence or 750 square feet, whichever is less. The accessory unit shall contain no more than two bedrooms.

3. The proposed water supply and sewage disposal facilities must be adequate for the projected number of residents, as determined by the State of Florida Department of Health and/or Citrus County Utilities.
- C. Attached Accessory Dwelling Units. Attached accessory dwelling units may be allowed in single family homes, through a Level I review, provided that ALL of the following requirements shall be met:
1. Any attached accessory unit shall be located within the principal structure. Principal structure shall be construed to mean a dwelling unit or house located on a lot, and not any other accessory structure. An accessory dwelling unit shall be construed to be detached from a principal structure if connected only by a breezeway, roofed passage, or similar structure, and shall be subject to a Level II Conditional Use process pursuant to Section 4451.D.
 2. The attached accessory dwelling unit shall be located and designed not to interfere with the appearance of the principal structure as a one-family dwelling unit. The attached accessory dwelling unit may occupy the first or second story of a two-story residence.
 3. A Level II Conditional Use pursuant to LDC Section 4451.D shall be required for an accessory dwelling unit when any of the requirements in C.1 through C.2 cannot be met.
 4. An affidavit regarding rental at an affordable rate is **NOT** required for an attached accessory dwelling unit.
- D. Detached Accessory Dwelling Units. Detached accessory dwelling units may be allowed, through a Level II Conditional Use, subject to the following supplemental standards:
1. Detached accessory dwelling unit. A detached accessory dwelling unit may be completely detached from a principal structure or connected by a breezeway, roofed passage, or similar structure. The accessory unit shall not be sold separately and may be rented.
 2. Principal structure. A single-family dwelling exists on the lot of record or will be constructed in conjunction with the accessory unit.
 3. Occupancy. The property owner must occupy either the principal or accessory dwelling unit. The occupancy of the accessory unit shall be limited to two adults and their children.
 4. Lot size. Detached accessory dwelling units may be developed on any lot of record that is one acre or more in size.
 5. Setbacks. Setbacks for accessory dwelling units shall meet setbacks for accessory structures, pursuant to LDC Section 4420.
 6. Design. The accessory unit shall be similar to the primary residence in exterior wall materials, window types, door and window trims, roof materials and roof pitch.
 7. Height. Detached accessory dwelling units shall be limited to one story, except that they may occupy the second story above a detached garage.
 8. Screening. Landscaping and fencing shall provide privacy for, and be compatible with, adjacent properties.
 9. Supplemental Design Standards in any adopted Special Overlay District. Accessory units shall comply with all supplemental design standards applicable to residential projects.
 10. Location limitations. Detached accessory dwelling units shall not be located in the following areas, as adopted in the LDC and the LDC Atlas:
 - a. Inside the Coastal High Hazard Area (CHHA).
 - b. Inside the 5-mile radius overlay zone around the Crystal River Power Plant.
 11. Compliance. The following shall be submitted with the Conditional use application for a detached accessory dwelling:
 - a. A site plan and elevation drawings, of both the primary and accessory dwelling units, shall be submitted to ensure that the development standards required herein are adhered to.

- b. An affidavit shall be submitted which attests that the accessory unit or the primary unit is rented at an affordable rate to a very-low-income, low-income, or moderate-income persons. Affordable rate is as defined in Land Development Code Section 1500.
- c. Construction of affordable accessory units that includes public/private partnerships, such as “Habitat for Humanity”, are encouraged.

Sample text for the Housing Element

The following language may be added to the Housing Element.

1.2 Objective: Provide for the approval of accessory dwelling units subordinate to single family homes that are located in Agricultural (2.5 and 5), Residential Estate, Residential Suburban, Residential Urban and Mixed-Use Development land use categories. The following policies shall apply to accessory dwelling units:

1.2.1 Accessory dwellings shall be subordinate to the primary dwelling and not exceed 50% of the total square foot are of the primary dwelling and in no case may exceed 1,200 total square feet.

1.2.2 Accessory dwellings by nature are affordable and are not subject to any tests for affordability to lower income residents.

1.2.3 Accessory dwelling units may be attached to the primary dwelling or detached. They must be architecturally compatible and comply with all setbacks and other performance standards.

1.2.4 Accessory dwellings are not permitted on barrier islands.

Sample text for the Future Land Use Element

14.07 Accessory dwelling units are permissible as a subordinate unit to single family homes that are located in Agricultural (2.5 and 5), Residential Estate, Residential Suburban, Residential Urban and Mixed-Use Development land use categories. The following policies shall apply to accessory dwelling units:

14.07.01 Accessory dwellings shall be subordinate to the primary dwelling and not exceed 50% of the total square foot are of the primary dwelling and in no case may exceed 1,200 total square feet. The accessory unit need not be attached to the primary dwelling unit.

14.07.02 Accessory dwellings by nature are affordable and are not subject to any tests for affordability to lower income residents.

14.07.03 Accessory dwelling units may be attached to the primary dwelling or detached. They must be architecturally compatible and comply with all setbacks and other performance standards.

14.07.04 Accessory dwellings are not permitted on barrier islands.

Additional resources related to accessory dwelling units

Accessory Dwelling Units Model Local Ordinance, Public Policy Institute, American Planning Association

- AARP engaged the APA to develop a model state act and local ordinance as a resource for meeting the affordable needs of elder Americans.

Municipal Research & Service Center of Washington: Accessory Dwelling Units Issues and Options

- <http://mrsc.org/getmedia/54c058a5-4d57-4192-a214-15f2fa5ac123/Accessory-Dwelling-Units.pdf.aspx?ext=.pdf>

Strategy: Reduction of parking and setback requirements

Florida Statute 420.9076 (4) (g): “The reduction of parking and setback requirements for affordable housing.”

Purpose

The modification of parking and setback requirements can resolve issues an affordable housing project might have in design and siting in an infill area. While the intent of setbacks is to create consistency in building massing and to preserve sight lines, utility easements, or future rights of way, there are many cases when the modification of these requirements can result in sufficient land area for the development. The result of traditional deep setback requirements are large lot sizes and when combined with minimum dwelling sizes result in neighborhoods that are priced out of range to lower-income residents. Setback requirements that are reduced for affordable housing projects can result in more integrated neighborhoods, as well as making them more accessible to shared living arrangements.

Some housing developments—including those focused on housing for elderly residents or people with disabilities—may benefit from a reduction in the required number of parking spaces required by the land use code. Similarly, builders may benefit from the flexibility in design that comes with reductions in setback requirements for the sides of a lot. Although 15-foot side setback requirements are common, allowing smaller setbacks may offer more freedom when arranging a home on a lot. One example of flexible lot configuration is zero-lot-line configuration. This option could allow a builder to locate two neighboring houses back-to-back, with a common wall between them on the lot line, solid all the way to the gable. In this design, the lot line is the property line for purposes of the legal description, and so this configuration is not considered multi-family housing. These modifications need to be reviewed on a case by case basis.

Considerations

- It is important that the relaxation of certain development regulations does not have a negative visual or functional result.
- It is important to determine whether the proposed project is required to remain in the proposed use for a long period of time and that a strategy be in place to revert to original standards if the use is not continued. This is a practical matter that should be resolved by the reviewers.

Example

City of Orlando

Neighborhood Compatibility Review Criteria. Because alternative housing development permits significantly reduced front- and rear-yard setbacks, these development standards may, in some instances, be insufficient to ensure compatibility with the surrounding block face. In order to ensure that the design of an existing platted infill lot utilizing alternative housing development remains compatible with existing development within the block face, the Technical Review Committee (TRC) shall issue a written report determining whether the use of the alternative development standards will have a significantly greater negative impact on the block face than infill development developed in accordance with the general development standards of the applicable zoning district. The comparison shall be based upon a comparison of the proposed infill development utilizing the alternative development standards, the general development standards of the applicable zoning district, and the existing development within the surrounding block face and shall address:

- Whether the proposed building setbacks vary significantly from the applicable zoning requirements and the existing setbacks within the block face;
- Whether the proposed building envelope is appropriate for the block face and for the width and depth of the infill lot;
- Whether building setbacks significantly decrease sight-line separation between building sites; and
- Whether the massing of the proposed infill development is appropriate for the surrounding block face.

Neighborhood Compatibility Review Findings. The Technical Review Committee shall issue written findings of impact at any time before the issuance of alternative development approval. If a significant negative impact is present, the TRC shall deny the request or, as a condition of alternative development approval, shall require compliance with enhanced development standards to remove the negative impact. Such enhanced development standards may include increased building setbacks, reduced building massing, and/or reorientation of the building. Whenever the applicant disagrees with the decision of the TRC or any conditions and safeguards imposed by the TRC, the developer may elect to appeal the application to the Municipal Planning Board (MPB). Such appeal shall be filed within 10 days of the TRC decision or determination. The MPB shall review the decision and approve, deny, approve with modifications or refer the matter back to the TRC for further consideration based on specific instructions. If the TRC determines that there is no negative impact, or if the developer agrees to comply with enhanced development standards set by the TRC, then the developer need only submit all necessary documents for building permitting in accordance with the TRC approval and the requirements of Chapter 65, Part 2C.

Setbacks

Principal building setbacks. Except as otherwise specifically permitted, the following standards shall apply. The front yard setback shall be measured from the face of the structure to the property line or, if present, the city services easement. If the Developer elects a 0-ft. side yard setback, the project shall be platted as a zero-lot-line, z-lot, or Attached Dwelling development utilizing the Alternative Development standards. For zero-lot-line or z-lot development, access and maintenance easements shall be required in accordance with the zero-lot-line development standards. For Attached Dwelling development, there shall be no minimum building separation requirement; however, a minimum perimeter setback of 10 ft. shall be required in accordance with the Attached Dwelling development standards.

Sample text for Comprehensive Plan for parking relief

14.06 Parking relief. Parking requirements for affordable housing projects shall be considered on a case by case basis administratively with consideration of the demographics of the intended residents of the property, the availability of mass transit or off-site parking.

Sample for street parking alternative

Parking relief

Parking requirements shall be considered on a case by case basis administratively with consideration of the availability of mass transit or off-site parking.

Strategy: Flexible lot considerations

Florida Statute 420.9076 (4) (f): “The allowance of flexible lot configurations, including zero-lot line configurations for affordable housing.”

Purpose

Minimum parcel/ large lot and setback requirements prevent development of smaller homes. Development regulations that include standards such as large lot and setback requirements prevent the development of smaller homes. A zero-lot line incentive allows a builder to place a unit on the edge of the side boundary of the lot. This exposes a significant strip of usable land on the other side boundary, which the home owner may be able to use in some way.

Considerations

- Granting relief for lot configurations should be made on a case by case basis to avoid unintended negative impacts on the appearance and functionality of a lot and the streetscape.
- Setback relief for the installation of accessibility modifications, such as a ramp that must be built within a setback, should be by administrative approval. This request is in the form of a reasonable accommodation and should be treated as such.

Methodology

The availability of alternative site criteria should be included in the zoning and land development regulations with a specific procedure for review and approval. The approval should be administrative and not require a public hearing.

Example

City of Orlando

Site design incentives: Certified affordable housing projects or projects with a minimum of 20% affordable housing units are eligible for flexibility and administrative relief for site design elements. This is to allow for the additional density permitted through the inclusionary ordinance. Developments submitted under conventional zoning shall receive the same flexibility in interpretation of the performance standards as a Planned Unit Development. Administrative relief may be granted for all aspects of the Development Review Procedures provided the overall development is consistent with the Comprehensive Plan.

Open space: A 50% open space requirement reduction is permissible for certified affordable housing projects.

Setbacks: Setbacks for certified affordable housing projects may be varied or reduced from standard requirements on a case by case basis and approved administratively by the Growth Management director.

Zero-lot line development: Certified affordable housing projects may request zero-lot line configurations on a case by case basis where and approved administratively by the Growth Management director.

Strategy: Modification of street requirements

Florida Statute 420.9076 (4) (h): “The modification of street requirements for affordable housing.”

Purpose

The modification of street requirements can reduce developer costs.

An affordable housing development may benefit from modifications to street requirements in the land use code. Modifications may free up land for lots and may allow for more flexible design.

Building codes list a number of requirements related to streets: curb allowances, drainage requirements, utility easements, requirements for a bike path, and/or parking on both sides of the street.

An example illustrates how affordable housing may benefit from modification of street requirements:

Some affordable housing subdivisions or rental properties may benefit from an allowance for parking on only one side of the street. This reduces the required width for the road, which reduces paved area and its accompanying drainage and water retention area requirements. By designing for parking on one side of the street, rather than no street parking, a developer avoids a design that devotes too much space to parking in a garage, carport or elsewhere on the lot. This example demonstrates that there are trade-offs to be considered with each modification to street requirements.

Often, regular zoning comes with standard street requirements. If, however, a developer chooses the Planned Unit Development option, street requirements and more may be negotiated. This approach requires a public hearing, however, which might attract neighborhood opposition. As an alternative, address street modifications through “administrative procedures,” granted on a case by case basis by Planning or Development Services staff as they review the details of each project.

Considerations

- Some affordable housing subdivisions or rental properties may benefit from an allowance for parking on only one side of the street. This reduces the required width for the road, which reduces paved area and its accompanying drainage and water retention area requirements. By designing for parking on one side of the street, rather than no street parking, a developer avoids a design that devotes too much space to parking in a garage, carport or elsewhere on the lot. This example demonstrates that there are trade-offs to be considered with each modification to street requirements.
- Often, regular zoning comes with standard street requirements. If, however, a developer chooses the Planned Unit Development option, street requirements and more may be negotiated. This approach requires a public hearing, however, which might attract neighborhood opposition. As an alternative, address street modifications through “administrative procedures,” granted on a case by case basis by Planning or Development Services staff as they review the details of each project.
- With most regulatory reform incentives, an important consideration is to avoid the unintended consequence of creating a substandard neighborhood. The AHAC statute says to “recommend specific actions or initiatives to encourage or facilitate affordable housing while protecting the ability of the property to appreciate in value.”

Example

An allowance for parking on one side of the street: This incentive reduces the required width for the road, reduces paved area and accommodates drainage or water retention. This design allows for parking on the street instead of garage or carport, which can reduce construction costs. However, this approach may require a public hearing.

Strategy: Ongoing regulatory review process

Florida Statute 420.9076 (4) (i): “The establishment of a process by which a local government considers, before adoption, policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing.”

Like having an expedited process for the review of affordable housing development, this incentive is required to be adopted.

Purpose

The purpose of this incentive is to provide oversight of proposed new regulations. This oversight may help minimize additional development costs. By some estimates, regulatory requirements account for a large portion of total building costs. Each local community is challenged to think creatively about ways to reduce regulatory costs. This incentive creates an awareness of the potential impact that proposed regulations can cause, as well as the economic impact of these decisions on affordable housing. It is a way to require the local government to consider and perhaps weigh or balance the government action’s impact on the ability of the private sector to develop affordable housing. This is akin to an economic impact statement.

This impact is required to be tracked by City/County staff and reported each year with the submission of the Annual Report. The chief elected official or designee must execute a certification where it is confirmed that there is an ongoing process for review of local policies, ordinances, regulations, and plan provisions that increase the cost of housing prior to their adoption, and the cumulative estimated cost per newly constructed housing per housing unit, and the estimated cost of these action for each State fiscal year. They must also report the cumulative cost per rehabilitated housing per housing unit, from these actions for each fiscal year and the estimated cost for that year.

Considerations

The implementation of this process requires an affordable housing economic impact analysis to be provided to elected officials when they are considering each policy, procedure, ordinance, regulation, or plan provisions before adoption. It requires the staff assigned this task to determine if decisions have a financial impact on affordable housing and the actual dollar amount of this impact if the policies, procedures, ordinances, regulations, or plan provisions are approved.

Methodology

Determining how staff will identify the impact of policies, procedures, ordinances, regulations, or plan provisions before their adoption requires that a process be set in place and key personnel identified who are responsible for this ongoing review. To properly implement this requirement, the key staff involved with the review must have access to all proposed policies, procedures, ordinances, regulations, or plan provisions with sufficient time before they are presented to the City/County Commission or government body to review the proposed change, identify if there is a financial impact on affordable housing, and the exact amount of that impact. This may require additional research, meeting with other government staff and attending council and commission meetings to provide this information to the government body before the policy, procedure, ordinance, regulation, or plan provision is adopted. This requirement does not prohibit local government from taking actions that increase the cost of housing; it is meant to assure that if they choose to do so, they do it knowingly.

Examples

City of Orlando

Description: The Florida Statutes require local governments to establish a process by which a local government considers, before adoption, policies, procedures, ordinances, regulations, or plan revisions if the adoption increases the cost of housing. Land Development Code (LDC) amendments and Growth Management Plan (GMP) amendments are reviewed by the Planning Division and the Municipal Planning Board. Final review and approval is by City Council. Those responsible for reviewing proposed ordinance and policy amendments consider a variety of issues including the reason(s) why the amendment is being proposed and whether the regulations and policies within the LDC and GMP respectively support the proposed amendment.

Established policy and procedures: All LDC and GMP amendments that may impact the development of affordable and attainable housing are reviewed by the Housing Expediter and the Affordable Housing Advisory Committee before submission to City Council for approval. During the review of the proposed policy or regulation, staff performs research on the impacts of that policy or regulation on housing cost in the Technical Review Committee Project and Analysis Report. Staff from the initiating department/division discusses the policy impact with the Housing Expediter. The Housing Expediter then schedules a meeting to present the policy amendment to the AHAC with a Housing Impact Statement detailing the economic impact for the development of affordable or attainable housing. Recommendations by the AHAC regarding the impacts of the proposed regulations or policy on housing costs are included in the MPB report for recommendation to City Council, who makes the final decision.

Hillsborough County

Example of an ongoing process for review of local policies, ordinances, regulations and plan provisions that increase the cost of housing prior to their adoption:

The Board of County Commissioners approved the creation of a permanent Affordable Housing Advisory Board (AHAB) to advise and make recommendations to the Board of County Commissioners and Affordable Housing Services on issues affecting affordable housing development. The AHAB is to assist the County in developing new programs and policies in order to foster the development and preservation of attainable housing for those County residents who desire to live in safe, decent and affordable housing. County housing staff shall draft an Administrative Directive for consideration by the County Administrator establishing a requirement for consultation among the relevant departments or offices before drafting policies, procedures, ordinances, regulations or plan provisions to determine the effect on affordable/workforce housing development or the cost of housing development. This includes activities which may impact the protection of current affordable/workforce housing or the rehabilitation of the existing housing stock for low-income homeowners/buyers.

Strategy: Surplus lands inventory

Florida Statute 420.9076 (4) (j): “Prepare a printed inventory of locally owned public lands suitable for affordable housing. Determine a method for selling or donating this land for affordable housing development.”

Relevant Statutes

The formation of a surplus and inventory for affordable housing is a statutory requirement.

Beginning in July 2007, and every three years thereafter, each county and municipality in Florida must prepare an inventory list of all the real property it owns that is appropriate for use as affordable housing. (See respectively, Sections 125.379 and 166.0451, Florida Statutes, 2006).

The inventory list must go to a public hearing, and it may be revised afterward. Following the public hearing, the governing body must adopt a resolution that includes the inventory list.

- Florida State Statutes 125.379 & 166.041 passed in 2007, commonly known as the Surplus Lands Bill.
- These statutes mandated that by July 2007, and every 3 years thereafter, each county and municipality shall prepare an inventory list of real property within its jurisdiction to which the county or municipality holds fee simple title that is appropriate for use as affordable housing.

Section 420.615, Florida Statutes

A local government may provide “density bonus incentives” to any landowner who voluntarily donates land to the local government for affordable housing.

- The land must be subject to deed restrictions.
- The additional units built do not have to be affordable.

Purpose

Discounted or donated land can significantly reduce the cost of developing affordable housing. Locating suitable land for affordable housing can be challenging. Surplus public land is a valuable resource, and it is essential to have guidelines to ensure that these parcels are properly identified and used for affordable housing.

Available land that is suitable for affordable housing development is a primary concern for housing providers. A land bank is an active and thorough tool that can be used to implement the surplus land statute. With appropriate disposition, policies can create more opportunities for the successful development of affordable housing.

Considerations

- A properly managed land bank requires a commitment of staff time.
- The resolution of title issues requires legal action and incurs costs for counsel and quiet title actions.
- Disposition policies that are not properly designed can result in either too little activity due to burdensome requirements or excessive demand from private developers who may be able to sidestep affordable housing provisions.

Methodology

The land bank is an ongoing program; to be truly effective it will require staff resources and should become an integral part of the housing planning process. The essential components are an Action Plan, and Operating Procedures. An advisory committee can serve as the oversight group that reviews and possibly improves upon the land inventory that is being developed and maintained as well as disposition procedures.

Greater commitment to finding or creating appropriate parcels can render the surplus lands initiative more successful. The three examples below illustrate this:

1. Oftentimes, local government obtains title to environmentally sensitive properties for conservation, but not all the land obtained in a particular transaction is environmentally sensitive or important for conservation. In that instance, lands for affordable housing may be derived from separating non-sensitive lands from environmental acquisitions.
2. With property appraisal data readily available on-line and the large number of realtors who are both affordable housing advocates and knowledgeable about local inventory, an advisory committee may be in the position to ask why a certain parcel is not on the list. Remember, the list initially submitted for review at the public hearing may not be the list that is ultimately adopted by resolution.
3. The amended statute that requires land inventories offers complementary provisions to all special districts, created under a special act or general law, including all independent districts, community development districts, fire control districts, and water districts to provide housing and housing assistance for its employed personnel whose total annual household income does not exceed 140% of the area median income. Consider reaching out to these special districts, since the people in the business of providing these government infrastructure services may have little understanding about what affordable housing is, how it is developed, and what financial programs are available to assist their employees.

Escheated properties

In cases where the property has escheated pursuant to Florida Statute 592 (3) the county is required to convey the property to the city in which the land is located but only if certain conditions apply. In the event the city does not accept title to the property, the disposition of the property would be at the county's discretion. This underscores the importance of a policy for affordable housing land banking.

Steps to establish and operate a Land Bank Program

Phase I Establish Land Bank Program

- Appoint staff to implement the program;
- Appoint advisory committee (may be sub-committee of AHAC);
- Review the county and city owned land inventory;
- Review all outstanding code liens;
- Review status of abandoned or tax foreclosed properties;
- Review status of escheated properties;
- Develop a spreadsheet or other database that includes the parcel identification, legal description, address, ownership, site dimensions, known tax or code liens, type of deed (tax or otherwise) current zoning and land use and a comment on suitability;

- Solicit offerings of properties from the private sector; conduct due diligence, add to land bank for future purchase consideration;
- Categorize or prioritize parcels for quiet title action; and,
- Provide funding for legal services to conduct legal proceedings.

Phase 2 Develop Operating Procedures

- Develop Acquisition Procedures; and,
- Develop Disposition Procedures.

Phase 3 Activities

- Identify remediation requirements so properties are insurable for title insurance.

Due diligence

When determining if a lot is suitable for affordable housing, consider the following forms of due diligence:

- Environmental conditions;
- Available infrastructure;
- Access by public roads;
- Zoning and Land use classifications;
- Proximity to transportation, services and employment centers;
- Size and dimensions characteristics with consideration for assemblage; and,
- Consolidation with other parcels.

Sample text for the Housing Element

The following language may be added to the Housing Element. Note that this is not the complete requirements for a housing element but just the currently reviewed areas for strategic planning improvements.

1.3 Objective: Initiate the operation of a publicly-owned land bank with the purpose of providing land for affordable and workforce housing in conjunction with local private nonprofit housing providers.

1.3.1 Policy: The County will adopt Land Bank Guidelines to direct and clarify the land bank program including goals, priorities, principles and policies for both acquisition and disposition.

1.3.2 Policy: The County will comply with Florida Statutes in the identification of surplus property suitable for affordable housing through a minimum of a bi-annual survey and report. The disposition of such properties will comply with the Land Bank Guidelines

Disposition of surplus land

The disposition of surplus lands should further the goals of the Local Housing Assistance Plan and the Housing Element of the Comprehensive Plan. Convey parcels to projects that can be occupied within 24 months with appropriate long-term affordability through land trust, deed restrictions or mortgages. The advisory committee has the opportunity to establish or improve upon the policies for land disposition. Parcels might, for example, be reserved for those recipients who are part of ongoing affordable housing partnerships. Each local government may decide to prioritize the use of surplus land for those lowest income applicants most in need, or for uses identified as priorities in the comprehensive plan. Each community may decide whether to allow for-profit developers to develop on surplus land, or may only provide such land for nonprofit developers. Consider also that

local governments throughout Florida are currently faced with the displacement of mobile home park residents; putting public surplus lands into the hands of a nonprofit to provide permanent housing for displaced mobile home park residents may be ideal for many communities.

Examples

Sarasota

Some communities that have large platted lands may hold title to hundreds of lots that have escheated to the county. Sarasota County was one such jurisdiction. Some of these were sold to raise funds for public projects and some were dedicated to affordable housing. There are special legal procedures for returning escheated properties to the tax rolls, which is why the city or county attorneys are essential partners in this process, as well as title clearing efforts.

Palm Beach County

As required by Florida Statute 166.0451, the Department of Housing and Community Development maintains a listing of City owned properties that are appropriate for use as affordable housing. The property list shall be updated and provided to the City Commission for surplus approval when surplus is required and for information purposes no less than annually.

The Department of Housing and Community Development is, upon approval of this Housing Assistance Incentives, authorized to dispose of the properties for affordable, attainable or workforce housing purposes with the advice and consent of the Mayor. The Mayor is authorized to execute all documents necessary achieve the disposition. The methods of disposition may include:

- Sale of the properties with the proceeds going to the Housing Trust Fund;
- Transfer of properties, at no cost, to a nonprofit for the development of affordable housing;
- Selling to nonprofits or private parties with a provision that the property be used for an affordable, attainable or workforce housing projects; or,
- The City may retain the properties to build or preserve affordable, attainable or workforce housing.

The City Commission shall be advised of all such dispositions on a quarterly basis.

Sanibel Island

Sanibel Island in Lee County has over 4,200 employees who commute over 40 miles per day to work. With the island at build-out, Community Housing Resources, Inc. (CHR) ventured off island to partner with Shell Point Retirement Community, to join forces in seeking the donation of surplus land from Lee County's inventory. With their eye on a 20-acre parcel just off the island's causeway, CHR formed a subsidiary, Island Coast Community Land Trust and signed a two-year exploratory agreement with Shell Point to develop a variety of housing types to serve both island and Shell Point workers who are burdened by lengthy commutes and a shortage of affordable housing. Six units were completed on the parcel which were sold as land trust homes to island workforce households.

Strategy: Transportation hubs and transit-oriented development

Florida Statute 420.9076 (4) (k): “The support of development near transportation hubs and major employment centers and mixed uses”

Purpose

Development near transportation hubs: Land use requirements that support development near transportation hubs and major employment centers help low- to moderate-income residents use public transportation, reducing their transportation costs. In many urban areas of Florida, the costs of owning and maintaining an automobile is the second largest expense after housing. Relaxing land use requirements can result in more units being built. This can reduce the price of the units making them more affordable.

By concentrating development around transit hubs, local government can make public transportation more convenient to users and improve ridership. Further, by having citizens use public transit, there is less pressure to expand roads, which can be very costly in highly urbanized areas. Transit hubs are typically not in residential areas, so the massing of densities is usually appropriate for the neighborhood.

Transit-oriented development

More Florida communities are developing rail transit systems. In 2012, the Florida Department of Economic Development prepared a framework and guidelines to help communities plan for development within the vicinity of transit stations. This planning framework is generally referred to as Transit Oriented Development (TOD) and was included as an incentive in the SHIP program. TOD recognizes that urban and regional planning can support viable transportation infrastructure that can reduce transportation costs for residents while at the same time reducing dependence on fossil fuels.

Proper planning of transit centers can boost ridership, spur economic development, limit sprawl, and minimize the impact of traffic congestion. It can also alleviate the need for lower-income households to rely solely on personal automobiles which can result in great financial opportunities for housing, health care and/or education.

TOD planning is focused on land use patterns within a quarter to a half-mile of transit stations. This planning area has been shown to have increased property values. This increase, ironically, can result in pricing lower-income or workforce households out of the neighborhood transit area. It is important to prioritize the development of affordable housing in transit station neighborhoods. This can be done with regulatory incentives that would include any of the Incentive Plan methods, but also financial incentives. Financial incentives could include giving higher scores to applications for funding that are in TOD areas. Other development incentives can include the enhancement of walking and cycling opportunities to coordinate with the TOD system.

TOD incentives or strategies can include the following:

- Expedited permit review;
- Funding priorities placing higher scores on applications;
- Flexible residential development strategies such as density and site criteria;
- Reduced impact fees;
- Inclusionary housing program;
- Land acquisition and land banking reserved sites for residential development that targets workforce households; and,
- Reduced parking requirements.

TOD methods may not be relevant in suburban or rural areas but the strategies reflect an effort to limit sprawl and encourage centralized development which can benefit the workforce.

A Transit Oriented Development Site should:

- Be a mixed-use project;
- Incorporate features to encourage transit ridership;
- Have an activity center with a proposed transit station or stop;
- Be located within a radius of one-quarter to one-half mile from an existing transit station or stop; and,
- Be designed at no less than 90% of the maximum floor area ratio (FAR) or 90% of the maximum density allowed.

Considerations

- In the absence of inclusionary zoning, there is no incentive for the developer to utilize the increase densities or relaxed land regulations to increase the supply of affordable housing. By increasing the number of households, schools and basic services will also need their capacity increased.
- Public transportation hubs are not typically found in the less urbanized regions of the state. In addition, citizens may prefer to live in suburban subdivisions when available, and at a reasonable cost, over a highly concentrated development.

Methodology

There are a number of methods to relax land regulations to allow more units to be built near transit hubs. Densities can be increased as part of an overlay district. Also, land development regulations regarding parking, height, and green space can all be relaxed to allow more housing to be built.

Examples

City of Tampa

Under the Comprehensive Plan there are established criteria for main corridors. Light rail routes will be focal points for proposed affordable housing. Most bus routes are currently accessible along main corridors. The Comprehensive Plan incorporates significant use of transit.

The City's policy is to determine the future needs of the aging population and address those needs in the Comprehensive and Consolidated plans. Future needs of disabled population for housing is also a key concern.

The City's policy is to focus recommendations on the Urban Core and transit/economic development areas, but not to the exclusion of the rest of the City. The City will also explore funding from SMART grants.

City of St. Petersburg

The City supports development near transportation hubs and major employment centers. Moreover, the City supports mixed use development. In order to be successful, development near transportation hubs and employment centers typically includes a mixture of land uses, as well as higher densities and higher floor area

ratios. The City's land development regulations (LDRs) encourage mixed-use and mixed-income, higher-density development that is concentrated along major corridors and within five designated activity centers: Gateway, In town/Downtown, Central Plaza, Central Avenue Corridor and Tyrone area.

IX. Distinguishing Between the AHAC Report and the LHAP

Recommendations of the AHAC Report are incorporated into the LHAP

The AHAC recommends incentive strategies to the local government. Those recommendations which local government adopts are incorporated into the local housing assistance plan. The LHAP is defined in the SHIP Statute as “a concise description of the local housing assistance strategies adopted by the local government resolutions with an explanation of the way in which the program meets the requirements of subsection 420.907-420.9079 and corporation rule.”

Compare and contrast AHAC and LHAP

While the AHAC Report summarizes the process and outcome of the committee’s review of the SHIP community’s land use, zoning policies and practices, the LHAP is a comprehensive planning document that not only identifies the recommended strategies from the AHAC Report but also includes policies and procedures to implement housing activities and the incentive strategies. The LHAP also identifies the funding levels and proposed outcomes for each housing strategy.

The required elements of the LHAP are identified in the SHIP Statute at 420.9075. The LHAP template includes the following sections:

- Section I - Program Details;
- Section II - Housing Strategies;
- Section III - Incentive Strategies; and,
- Section IV – Exhibits.

Section III, Incentive Strategies, identifies the two mandatory incentive strategies (expedited permitting and ongoing review process) and requires that the local government describe the procedures it will use to implement each strategy. The template also allows for the insertion of any additional incentive strategies the city or county may choose to adopt.

Overview of the 3-year LHAP update

Local governments are required to update their LHAP every three years. Table 3. LHAP Due Dates, found on the following page, provides the LHAP deadlines for each SHIP recipient for 2017-2019.

Table 3. LHAP Due Dates

	New LHAP Due May 2, 2017	Current		Due May 2, 2018	Current		Due May 2, 2019	Current
1	ALACHUA	6/30/2017	1	BAY	6/30/2018	1	BRADFORD	6/30/2019
2	BAKER	2017	2	BREVARD	6/30/2018	2	CALHOUN	6/30/2019
3	COLUMBIA	2017	3	GULF	6/30/2018	3	CITRUS	6/30/2019
4	DESOTO	2017	4	HARDEE	6/30/2018	4	CLAY	6/30/2019
5	DIXIE	2017	5	INDIAN RIVER	6/30/2018	5	DADE	6/30/2019
6	GADSDEN	2017	6	JACKSON	6/30/2018	6	FRANKLIN	6/30/2019
7	HAMILTON	2017	7	JEFFERSON	6/30/2018	7	FLAGLER	6/30/2019
8	HENDRY	2017	8	LAKE	6/30/2018	8	GILCHRIST	6/30/2019
9	HERNANDO	2017	9	MANATEE	6/30/2018	9	GLADES	6/30/2019
10	LAFAYETTE	2017	10	NASSAU	6/30/2018	10	HIGHLANDS	6/30/2019
11	LEE	2017	11	ORANGE	6/30/2018	11	HILLSBOROUGH	6/30/2019
12	LEON	2017	12	PASCO	6/30/2018	12	HOLMES	6/30/2019
13	LIBERTY	2017	13	PINELLAS	6/30/2018	13	LEVY	6/30/2019
14	MADISON	2017	14	PUTNAM	6/30/2018	14	MARION	6/30/2019
15	MARTIN	2017	15	TAYLOR	6/30/2018	15	MONROE	6/30/2019
16	POLK	2017	16	WAKULLA	6/30/2018	16	OKEECHOBEE	6/30/2019
17	St. JOHNS	2017			6/30/2018	17	PALM BEACH	6/30/2019
18	SUWANNEE	2017				18	ST. LUCIE	6/30/2019
19	UNION	2017			18	SANTA ROSA	6/30/2019	
	WASHINGTON	2017		Cities	LHAP	20	SEMINOLE	6/30/2019
	Cities	LHAP	17	BOYNTON BEACH	6/30/2018	21	SUMTER	6/30/2019
20	BRADENTON	2017	18	CLEARWATER	6/30/2018	22	VOLUSIA	6/30/2019
21	DAYTONA BEACH	2017	19	FORT PIERCE	6/30/2018	23	WALTON	6/30/2019
22	GAINESVILLE	2017	20	ORLANDO	6/30/2018			
23	LAKELAND	2017	21	PANAMA CITY	6/30/2018			
24	NORTH MIAMI	2017	22	POMPANO BEACH	6/30/2018		Cities	LHAP
25	PALM BAY	2017	23	ST. PETERSBURG	6/30/2018	24	BOCA RATON	6/30/2019
26	WINTER HAVEN	2017	24	WEST PALM BEACH	6/30/2018	25	CAPE CORAL	6/30/2019
						26	COCOA	6/30/2019
	Interlocals	LHAP		Interlocals	LHAP	27	DEERFIELD BEACH	6/30/2019
27,28	CHARLOTTE/PUNTA	2017	25,26	Duval Jacksonville	6/30/2018	28	DELRAY BEACH	6/30/2019
29,30	Sarasota /Sarasota Co	2017				29	DELTONA	6/30/2019
				Total Due 2018	27	30	FORT LAUDERDALE	6/30/2019
	Total Due 2017	30				31	FORT MYERS	6/30/2019
						32	HALEAH	6/30/2019
						33	HOLLYWOOD	6/30/2019
						34	LARGO	6/30/2019
						35	LAUDERHILL	6/30/2019
						36	MARGATE	6/30/2019
						37	MELBOURNE	6/30/2019
						38	MIAMI	6/30/2019
						39	MIAMI BEACH	6/30/2019
						40	MIAMI GARDENS	6/30/2019
						41	MIRAMAR	6/30/2019
						42	OCALA	6/30/2019
						43	PEMBROKE PINES	6/30/2019
						44	PLANTATION	6/30/2019
						45	PORT ORANGE	6/30/2019
						46	PORT ST. LUCIE	6/30/2019
						47	SUNRISE	6/30/2019
						48	TALLAHASSEE	6/30/2019
						49	TAMARAC	6/30/2019
						50	TAMPA	6/30/2019
						51	TITUSVILLE	6/30/2019
							Interlocals	LHAP
						52,53	BROWARD/CORAL	6/30/2019
						54	TOWN OF DAVIE	6/30/2019
						55,56	COLLIER/NAPLES	6/30/2019
						57,58	ESCAMBIA/PENSACOLA	6/30/2019
						59,60	OKALOOSA/FT. WALTON	6/30/2019
						61,62	OSCEOLA / KISSIMMEE	6/30/2019
							Total Due 2019	62

LHAP approval process

1. The local governing body adopts recommendations as an LHAP amendment.

SHIP recipients are required to amend their LHAP within 12 months of adopting the original LHAP, in order to incorporate the local housing incentive strategies (Statute Subsection 420.9076 (1)).

Subsequent LHAPs must be amended within 90 days after the local government receives the final AHAC Report. The LHAP must include the two required strategies, and the local government must consider any other strategies proposed by the advisory committee. The adopted LHAP must then be submitted to the Florida Housing Finance Corporation.

2. Notify the Florida Housing Finance Corporation.

Initially, the LHAP documents must be submitted electronically in their current file format (Microsoft Word or Excel). The email should state that the LHAP is being amended. The documents should be sent to the SHIP Program Administrator as follows:

To: Robert.dearduff@floridahousing.org

Subject Line: LHAP Amendment from <Local Government Name>

The SHIP jurisdiction should follow-up by sending the original LHAP and exhibits by certified mail to the Florida Housing Finance Corporation.

Mr. Robert Dearduff
Florida Housing Finance Corporation
227 N Bronough Street Suite 5000
Tallahassee, FL 32301

X. Beyond Incentive Strategies: Other Possible AHAC Responsibilities

The primary task assigned by the SHIP Statutes to the AHAC members is to recommend incentive strategies. After this task is completed, once every three years, the AHAC is to evaluate whether those incentives that were previously adopted have been appropriately implemented. The members should also consider whether additional incentives should be recommended. In some communities, the AHAC continues to meet periodically, with annual, quarterly, or more frequent meetings. These AHAC members may be assigned additional responsibilities. If responsibilities are thoughtfully assigned, an AHAC may save staff time and serve as a helpful additional level of program quality control. Committee members may contribute ideas to improve the SHIP program, and the AHAC's recommendations may carry weight as city or county commissioners consider changes to SHIP strategies, policies, and procedures.

Review or propose new strategies

In some cases, SHIP staff may present new strategies for spending SHIP funds to the AHAC members to gain their support and recommendation before seeking adoption by the governing board. In other cases, AHAC members respond to trends they see in housing for which they need to recommend new SHIP-funded assistance strategies.

In recent years, SHIP jurisdictions have explored strategies focusing on veterans' assistance, rent subsidies for homeless households, community land trusts, foreclosure prevention, and more. AHAC members might develop additional ideas by attending the Florida Housing Coalition's annual conference or free workshops, as well as reviewing the Coalition's past journals and training materials. These are available on www.flhousing.org.

Enhance existing strategies

Committee members might join staff in suggesting additions to commonly used strategies. They might consider changes to the SHIP Maximum Awards, or suggest an improvement to the application process or recommend offering priority assistance to certain types of applications. For example, applicants who are elderly or who have disabilities could receive priority assistance in several SHIP jurisdictions. The AHAC might address the types of Eligible Housing Recommend that manufactured housing, also called mobile homes, be eligible for purchase assistance or repair (as long as they are constructed after 1994, a statutory requirement).

Community outreach and feedback

The members of an advisory committee are intentionally selected because of their networks, spheres of influence, and relationship to affordable housing. AHAC members are encouraged to share with their network the details of how to apply for SHIP assistance and SHIP successes. AHAC members can be the eyes and ears for the community. They may observe changing trends in housing need, barriers to SHIP success, or potential sources of housing assistance to leverage with SHIP. These and other observations may be used to improve SHIP strategies.

AHAC members may also assist with "ongoing review," the SHIP mandatory affordable housing incentive addressed earlier in this guidebook. "Ongoing review" involves the establishment of a process by which a local government considers, before adoption, policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing. If an AHAC meets monthly or more frequently, it could adopt the responsibility of monitoring all local government actions related to housing in advance of the next city or county commission meeting.

Monitor ongoing assistance

The AHAC may request that staff provide an updated SHIP tracking spreadsheet at each AHAC meeting. This tool will assist advisory members in reviewing staff's progress related to SHIP expenses, encumbrances, set-aside compliance, and upcoming deadlines. In cases where a jurisdiction is close to missing an expenditure or encumbrance deadline, AHAC members can join staff in making a plan to ensure compliance. In-depth training on SHIP tracking and reporting may be viewed on the Florida Housing Coalition's website www.flhousing.org.

Provide input on SHIP procedures

It is not the role of the AHAC to be involved in day-to-day operations of the SHIP program. That deep level of program administration is completed by SHIP staff, who are guided by the LHAP, the SHIP Statute and Rule, and local policies and procedures manuals.

The AHAC should avoid serving as a loan committee or otherwise assisting with applicant processing and other administrative duties. This type of arrangement may be counter-productive to a program, adding another layer of bureaucracy to the process, and possibly resulting in a poorly-run program, potential conflict of interest issues, or potential program compliance problems. The application process and eligibility determination should be completed by SHIP staff, based on written guidelines, to ensure that the commitment of a SHIP affordable housing award would not be contingent on AHAC review or approval.

XI. Appendix

Frequently asked questions

This list of frequently asked questions is provided as a quick reference. In many cases, the topics referenced below are addressed in greater detail in other sections of this guide.

Question: How does the Sunshine Law apply to our SHIP advisory committees?

Answer: When dealing with advisory committees it is very important to keep in mind the requirements of Florida's open meetings laws. Any local government appointed committee that is part of a fact-finding commission, or any board or committee that has final decision-making authority is covered by these laws. There is a strong legislative and judicial presumption in favor of openness. If you have any questions about these requirements, consult with your city attorney, county attorney, or other appropriate legal counsel.

Question: Do I have to use the AHAC Report template?

Answer: No, the AHAC Report template provided in this Appendix is available for your use, but is not required. However, the Florida Housing staff requests that incentive items (a) through (k), outlined in the SHIP Statute, be included in the report and explicitly cited, even if the advisory committee voted not to recommend the strategy.

Question: Our advisory committee report is going to the Board of County Commissioners on November 12, before a December 31st deadline. Will November 12th mark the start of our 90-day clock for the Board to adopt any incentives or do we still have until March 31 of next year?

Answer: Your 90-day clock begins when the advisory committee submits its report to the Board. The last day allowed by statute to submit the AHAC Report to the governing body is December 31, making the 90-day deadline March 31 of the following year. According to Florida Statutes, Sec. 420.9076 (6), "Within 90 days after the date of receipt of the local housing incentive strategies recommendations from the advisory committee, the governing body of the appointing local government shall adopt an amendment to its local housing assistance plan to incorporate the local housing incentive strategies it will implement within its jurisdiction."

Question: Can the County Commissioners approve the incentives and adopt the amendment to the LHAP at the same time, or do they have to approve the incentives before adoption into the LHAP?

Answer: There is nothing in the statute or rule that requires the incentives to be adopted prior to amending your LHAP. However, the incentives that are adopted may require a Comprehensive Plan Amendment or ordinance or policy change prior to incorporation into the LHAP that will need to be approved by your Board separately.

Question: Is it the adoption of the incentives that must to be completed by resolution or the adoption of the amendment to the LHAP that has to be done by resolution?

Answer: The amendment to the LHAP must be adopted by resolution.

Question: When we advertise the public hearing on our AHAC incentives, how much notice are we required to give?

Answer: Both the rule and the statute are silent on this issue, so check to see if you have any local policies that govern advertisement of public hearings. If not, 15 to 30 days of notice would provide sufficient time for the public to review the plan and make arrangements to attend.

Question: What if the AHAC does not make recommendations on changes to the current incentives nor recommends new incentives? Also, what if the Board does not adopt any new incentives and keeps the current two required incentives as they currently exist in the LHAP? Does this have to be spelled out in a report?

Answer: You must produce an advisory committee's report which provides evidence that the incentives listed in Sec. 420.9076 (4), Florida Statutes, have at least been reviewed and the AHAC recommended that no changes be made. This must be provided to Florida Housing and your city or county commission. A copy of the report must be submitted to Florida Housing as outlined by Florida Statutes, Sec. 420.9076 (7).

Question: How long should the terms be for members of the Affordable Housing Advisory Committee?

Answer: The SHIP Statute and Rule are silent on this point, but you should check to see if your jurisdiction has policies related to the terms of committee and task force members. Consider the value in having some of the committee members serve three years, long enough to help inform the next report due three years after the one you create.

Question: Regarding the advisory committee member who must be a "citizen who is actively engaged in the residential home building industry", does our local Habitat affiliate fit this description? What about an engineer or architect?

Answer: Yes, Habitat for Humanity is definitely in the building industry aligned with affordable housing. The same is true for an engineer or architect, so long as you can document his or her connection with affordable housing.

Question: Who specifically is supposed to lead the advisory committee meetings?

Answer: There is no guidance in the SHIP Statute or Rule about who leads meetings or about how many meetings to hold. However, this guidebook recommends that a committee chairperson be elected by the AHAC. The number of meetings are indexed to the volume of work which the AHAC members must do to accomplish its mandate; remember that the AHAC meeting is a public meeting and must be noticed. SHIP requires the committee to produce a written report of recommendations, which must be presented to your commission. Each committee member must vote on whether to accept each recommendation. The Statute outlines several topics that the committee must consider. Some committees have one or two outspoken and forward-moving leaders. Others do not, so staff keeps the group moving toward the point when it can produce its report. As much as possible, encourage committee members to set their own plan for meeting and discussing these topics.

Question: Please clarify the role of the local housing partnerships and distinguish it from the local Affordable Housing Advisory Committee.

Answer: Since the SHIP statute addresses both entities, it is easy to become confused on this issue. Sec. 420.907, Florida Statutes, the SHIP Statute, details specific information about the formation, powers and duties, and required membership of the Affordable Housing Advisory Committee. Advisory committee members must be appointed by local government resolution, must follow all laws related to government in the sunshine, and has as its specific statutory charge the recommendation of local housing incentive strategies to the local governing body.

While the presence of a locally formed affordable housing partnership is an integral part of the SHIP program, the statute gives no specific powers and duties to this partnership, although it does give general information as to its membership. The legislative intent is to combine local resources to the extent that the effort will reduce the cost of producing or providing decent and affordable housing. It is important to note that the statute does not intend for the partnership to be formally constituted as a corporate body. The legislative intent is to encourage partnerships in order to secure the benefits of cooperation between the public and private sectors, and to reduce the cost of housing by effectively combining all available resources and cost-saving measures.

Each community utilizes its partnership differently. The most successful partnerships are often those in which the membership is broad and inclusive and each member brings a service or product to the table which maximizes the value while reducing the cost of affordable housing within the community. In many successful communities, the appointed advisory committee functions as a partnership and acts in an oversight capacity only, assisting with setting the direction of the program through suggesting policy to the local governing body and making specific recommendations for improving the overall program and amending the LHAP.

AHAC Report template

This AHAC Report template is a sample for your convenience. You are not required to adopt this report format. However, the Florida Housing Finance Corporation staff requests that items (a) through (k), as outlined in the SHIP Statute, be included in the report. Each item should be explicitly included even when the advisory committee has no recommendation to adopt a certain strategy.

Affordable Housing Advisory Committee
Report to Board of City / County Commissioners
SHIP Affordable Housing Incentive Strategies

SUBMITTED TO: _____
BOARD OF CITY/COUNTY COMMISSION

SUBMITTED TO: _____
FLORIDA HOUSING FINANCE CORPORATION

DATE SUBMITTED: _____

PREPARED BY: _____

BACKGROUND

As a recipient of State Housing Initiative Partnership funds, the City/County established an Affordable Housing Advisory Committee on DATE as required by the Florida Statutes, Sec. 420.9076. Upon appointment of the AHAC members and every three years after, the AHAC is responsible for reviewing and evaluating local plans, policies, procedures, land development regulations, the Comprehensive Plan, and other aspects of the City/County housing activities that impact the production of affordable housing. Further, the AHAC is specifically directed by the SHIP Statute to consider and evaluate the implementation of the incentives set out at Florida Statutes, Sec. 420.9076 (4) (a) - (k). Based on the AHAC evaluation, it may recommend to local government that it make modifications of, exceptions to, or creation of new plans, policies, procedures, and other governing vehicles which would encourage production of affordable housing.

As approved by the City/County Commissioners, the recommendations are used to amend the Local Housing Assistance Plan and the local Comprehensive Plan Housing Element.

COMMITTEE COMPOSITION

The City/County Commission appointed or re-appointed members to the Committee on DATE. Florida Statutes, Sec. 420.9076 (2) lists the categories from which committee members must be selected. There must be at least eight committee members with representation from at least six of the following categories:

Citizen actively engaged in the residential home building industry in connection with affordable housing.

(a) Citizen who is actively engaged in the residential home building industry in connection with affordable housing.

(b) Citizen who is actively engaged in the banking or mortgage banking industry in connection with affordable housing.

- (c) Citizen who is a representative of those areas of labor actively engaged in home building in connection with affordable housing.
- (d) Citizen who is actively engaged as an advocate for low-income persons in connection with affordable housing.
- (e) Citizen who is actively engaged as a for-profit provider of affordable housing.
- (f) Citizen who is actively engaged as a not-for-profit provider of affordable housing.
- (g) Citizen who is actively engaged as a real estate professional in connection with affordable housing.
- (h) Citizen who is actively serving on the local planning agency pursuant to Florida Statutes, Sec. 163.3174.
- (i) Citizen who is residing within the jurisdiction of the local governing body making the appointments.
- (j) Citizen who represents employers within the jurisdiction.
- (k) Citizen who represents essential services personnel, as defined in the local housing assistance plan.

The appointed AHAC Committee members are included here, along with their category affiliation.

Name	Category Represented	Date Appointed
1		
2		
3		
4		
5		
6		
7		
8		

AFFORDABLE HOUSING RECOMMENDATIONS

The AHAC has reviewed local government plans, policies, and procedures; ordinances; regulations; statutes; and the comprehensive plan, among other documents applicable to affordable housing, for evaluation of their impacts on affordable housing. Further, the AHAC has specifically considered and evaluated the strategies set out at Florida Statutes, Sec. 420.9076 (4) (a)-(k). Based on this review and evaluation, the AHAC has formulated recommendations to the City/County Commission that it incorporate into its housing strategy certain changes designed to encourage production of affordable housing.

The AHAC, from its review, consideration, evaluation, and recommendations, drafts and submits this report to the City/County Commission and to Florida Housing Finance Corporation, which details the scope of its work and the resulting recommendations.

From review and evaluation of the local government documents listed here, the AHAC makes these recommendations to the City/County Commission that it incorporate into its housing strategy the following:

RECOMMENDATION 1

Meeting Synopsis:

Existing Strategy:

AHAC Recommendation:

Schedule for Implementation:

RECOMMENDATION 2

Meeting Synopsis:

Existing Strategy:

AHAC Recommendation:

Schedule for Implementation:

From review, consideration, and evaluation of the strategies provided in the SHIP Statute at Florida Statutes, Sec. 420.9076 (4), the AHAC makes these recommendations:

- (a) The processing of approvals of development orders or permit, as defined in Florida Statutes, Sec. 163.3164 (7), (8), for affordable housing projects is expedited to a greater degree than other projects.
- (b) The modification of impact-fee requirements, including reduction or waiver of fees and alternative methods of fee payment for affordable housing.
- (c) The allowance of flexibility in densities for affordable housing.
- (d) The reservation of infrastructure capacity for housing for very low-income persons, low-income persons, and moderate-income persons.
- (e) The allowance of affordable accessory residential units in residential zoning districts.
- (f) The reduction of parking and setback requirements for affordable housing.
- (g) The allowance of flexible lot configurations, including zero-lot-line configurations for affordable housing.
- (h) The modification of street requirements for affordable housing.
- (i) The establishment of a process by which a local government considers, before adoption, policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing.
- (j) The preparation of a printed inventory of locally owned public lands suitable for affordable housing.
- (k) The support of development near transportation hubs and major employment centers and mixed-use developments.

EXPEDITED PERMITTING

Meeting Synopsis:

Existing Strategy:

AHAC Recommendation:

Schedule for Implementation:

MODIFICATION OF IMPACT FEES

Meeting Synopsis:

Existing Strategy:

AHAC Recommendation:

Schedule for Implementation:

FLEXIBLE DENSITIES

Meeting Synopsis:

Existing Strategy:

AHAC Recommendation:

Schedule for Implementation:

RESERVATION OF INFRASTRUCTURE CAPACITY

Meeting Synopsis:

Existing Strategy:

AHAC Recommendation:

Schedule for Implementation:

PARKING AND SETBACK REQUIREMENTS

Meeting Synopsis:

Existing Strategy:

AHAC Recommendation:

Schedule for Implementation:

AFFORDABLE ACCESSORY RESIDENTIAL UNITS

Meeting Synopsis:

Existing Strategy:

AHAC Recommendation:

Schedule for Implementation:

FLEXIBLE LOT CONFIGURATIONS

Meeting Synopsis:

Existing Strategy:

AHAC Recommendation:

Schedule for Implementation:

MODIFICATION OF STREET REQUIREMENTS

Meeting Synopsis:

Existing Strategy:

AHAC Recommendation:

Schedule for Implementation:

PROCESS OF ONGOING REVIEW

Meeting Synopsis:

Existing Strategy:

AHAC Recommendation:

Schedule for Implementation:

PUBLIC LAND INVENTORY

Meeting Synopsis:

Existing Strategy:

AHAC Recommendation:

Schedule for Implementation:

SUPPORT OF DEVELOPMENT NEAR TRANSPORTATION HUBS

Meeting Synopsis:

Existing Strategy:

AHAC Recommendation:

Schedule for Implementation:

Glossary

Accessory dwelling unit - Additional living quarters on single-family lots that are independent of the primary dwelling unit. The separate living spaces are equipped with kitchen and bathroom facilities, and can be either attached or detached from the main residence. Also referred to as accessory apartments, second units, or formerly, “granny flats”.

Affordable housing - Safe and decent housing that costs an owner or renter of modest financial means (extremely low, very low, low, and moderate income, as defined in this glossary) approximately 30% of monthly household income. The concept is that when people of modest financial means spend more than approximately 30% of their income on housing, they do not have sufficient funds for life’s other necessities, such as food, health care, and transportation costs.

Area Median Income (AMI) - An estimate of the median income in an area. HUD publishes annual income limits based on household size that are used to determine the maximum household income allowable for a subsidized project or unit.

Attainable housing - Housing that is affordable for families at a certain income level, determined by a local jurisdiction.

Community Land Trust (CLT) - The vehicle for separating land from building (in most cases, a house) for the purpose of transferring title to the house without selling the land. It also denotes the private nonprofit corporation that acquires and holds title to the land and manages the ground leases on that property for the benefit of that community.

Euclidian zoning - A system of zoning whereby a city, town, or community is divided into areas in which specific land uses are permitted. These land uses vary by jurisdiction, but often include residential, commercial, and industrial uses.

Extremely low-income persons - One or more persons or a family whose total annual household income does not exceed 30% of the median annual adjusted gross income for households within the state. The Florida Housing Finance Corporation may adjust this amount annually by rule to provide that in lower income counties, extremely low income may exceed 30% of area median income and that in higher income counties, extremely low income may be less than 30% of area median income.

Housing Element - The “Comprehensive Plan Housing Element” contains the data and analysis, along with the goals, objectives, and policies required under Florida Statutes for activities such as historic preservation and the elimination of substandard housing. The Housing Element could be considered the driving force behind all other housing plans and programs, as its status authorizes all activities in this area. The Housing Element must be consistent with the other elements of the comprehensive plan, particularly the Land Use Element.

Impact fee - Payments required by local governments of a new development for providing new or expanded public capital facilities that are required to serve that development. The fees, which typically require cash payments in advance of the completion of development, are based on a methodology and calculation derived from the cost of the facility and the nature and size of the development, and are used to finance improvements offsite of, but to the benefit of, the development.

Local Housing Assistance Plan (LHAP) - A concise description of the local housing assistance strategies and local housing incentive strategies adopted by local government resolution with an explanation of the way in which the program meets the requirements of Florida Statutes, Secs. 420.907-420.9079, and the Florida Housing Finance Corporation administrative rule.

Local Housing Assistance Strategies - The housing construction, rehabilitation, repair, or finance program implemented by a participating county or eligible municipality with the local housing distribution or other funds deposited into the local housing assistance trust fund.

Local Housing Incentive Strategies - Local government regulatory reform or incentive programs to encourage or facilitate affordable housing production, which include at a minimum, assurance that permits for affordable housing projects are expedited to a greater degree than other projects, as provided in Florida Statutes, Sec. 163.3177(6) (f)3 an ongoing process for review of local policies, ordinances, regulations, and plan provisions that increase the cost of housing prior to their adoption; and a schedule for implementing the incentive strategies. Local housing incentive strategies may also include other regulatory reforms, such as those enumerated in Florida Statutes, Sec. 420.9076, or those recommended by the Affordable Housing Advisory Committee in its triennial evaluation of the implementation of affordable housing incentives and adopted by the local governing body.

Low-income persons - One or more persons or a family, whose total annual adjusted gross household income does not exceed 80% of the median annual adjusted gross income for households within the state, or 80% of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

Moderate-income persons - One or more persons or a family, whose total annual adjusted gross household income of is less than 120% of the median annual adjusted gross income for households within the state, or 120% of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

Inclusionary zoning - Inclusionary zoning policies encourage or require developers to produce a small percentage of affordable housing units within new or redeveloped market rate projects.

Permit - A permit includes any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land. Florida Statutes, Sec.163.3164.

Planned unit development (PUD) - A type of development, and its regulatory process, that permits a developer to meet overall community density and land use goals without being bound by existing zoning requirements. PUD is a special type of floating overlay district which generally does not appear on the municipal zoning map until a designation is requested.

Special exception - A specific allowance in a local jurisdiction's zoning code to allow an otherwise prohibited land use. Often referred to as a "conditional use permit" or "special use permit."

Transit-oriented development - A project or projects, in areas identified in a local government comprehensive plan, to be served by existing or planned transit service. These designated areas shall be compact, moderate to high density developments, of mixed-use character, interconnected with other land uses, bicycle and pedestrian friendly, and designed to support frequent transit service operating through, collectively or separately, rail, fixed guide-way, streetcar, or bus systems on dedicated facilities or available roadway connections. Florida Statutes, Sec. 163.3164 (46).

Variance - A procedure established by state law and included in local government land development regulations whereby an applicant requests relief from the minimum property development standards. This procedure exists to modify zoning district requirements related to building height, lot area, structural coverage, or building setbacks. Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute is or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.

Very low-income persons - One or more persons or a family, not including students, the total annual adjusted gross household income of which does not exceed 50% of the median annual adjusted gross income for households within the state, or 50% of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

State Housing Initiatives Partnership

420.907 Short title.

420.9071 Definitions.

420.9072 State Housing Initiatives Partnership Program.

420.9073 Local housing distributions.

420.9075 Local housing assistance plans; partnerships.

420.9076 Adoption of affordable housing incentive strategies; committees.

420.9079 Local Government Housing Trust Fund.

420.9089 National Housing Trust Fund.

420.907 Short title.—Sections 420.907-420.9079 may be cited as the “State Housing Initiatives Partnership Act.”

History.—s. 32, ch. 92-317.

420.9071 Definitions.—As used in ss. 420.907-420.9079, the term:

- 1) **“Adjusted for family size”** means adjusted in a manner that results in an income eligibility level that is lower for households having fewer than four people, or higher for households having more than four people, than the base income eligibility determined as provided in subsection (19), subsection (20), or subsection (28), based upon a formula established by the United States Department of Housing and Urban Development.
- 2) **“Affordable”** means that monthly rents or monthly mortgage payments including taxes and insurance do not exceed 30 percent of that amount which represents the percentage of the median annual gross income for the households as indicated in subsection (19), subsection (20), or subsection (28). However, it is not the intent to limit an individual household’s ability to devote more than 30 percent of its income for housing, and housing for which a household devotes more than 30 percent of its income shall be deemed affordable if the first institutional mortgage lender is satisfied that the household can afford mortgage payments in excess of the 30 percent benchmark.
- 3) **“Affordable housing advisory committee”** means the committee appointed by the governing body of a county or eligible municipality for the purpose of recommending specific initiatives and incentives to encourage or facilitate affordable housing as provided in s. 420.9076.
- 4) **“Annual gross income”** means annual income as defined under the Section 8 housing assistance payments programs in 24 C.F.R. part 5; annual income as reported under the census long form for the recent available decennial census; or adjusted gross income as defined for purposes of reporting under Internal Revenue Service Form 1040 for individual federal annual income tax purposes or as defined by standard practices used in the lending industry as detailed in the local housing assistance plan and approved by the corporation. Counties and eligible municipalities shall calculate income by annualizing verified sources of income for the

household as the amount of income to be received in a household during the 12 months following the effective date of the determination.

- 5) **“Award”** means a loan, grant, or subsidy funded wholly or partially by the local housing assistance trust fund.
- 6) **“Community-based organization”** means a nonprofit organization that has among its purposes the provision of affordable housing to persons who have special needs or have very low income, low income, or moderate income within a designated area, which may include a municipality, a county, or more than one municipality or county, and maintains, through a minimum of one-third representation on the organization’s governing board, accountability to housing program beneficiaries and residents of the designated area. A community housing development organization established pursuant to 24 C.F.R. s. 92.2 and community development corporations created pursuant to chapter 290 are examples of community-based organizations.
- 7) **“Corporation”** means the Florida Housing Finance Corporation.
- 8) **“Eligible housing”** means any real and personal property located within the county or the eligible municipality which is designed and intended for the primary purpose of providing decent, safe, and sanitary residential units that are designed to meet the standards of the Florida Building Code or previous building codes adopted under chapter 553, or manufactured housing constructed after June 1994 and installed in accordance with the installation standards for mobile or manufactured homes contained in rules of the Department of Highway Safety and Motor Vehicles, for home ownership or rental for eligible persons as designated by each county or eligible municipality participating in the State Housing Initiatives Partnership Program.
- 9) **“Eligible municipality”** means a municipality that is eligible for federal community development block grant entitlement moneys as an entitlement community identified in 24 C.F.R. s. 570, subpart D, Entitlement Grants, or a no entitlement municipality that is receiving local housing distribution funds under an interlocal agreement that provides for possession and administrative control of funds to be transferred to the no entitlement municipality. An eligible municipality that defers its participation in community development block grants does not affect its eligibility for participation in the State Housing Initiatives Partnership Program.
- 10) **“Eligible person” or “eligible household”** means one or more natural persons or a family determined by the county or eligible municipality to be of very low income, low income, or moderate income according to the income limits adjusted to family size published annually by the United States Department of Housing and Urban Development based upon the annual gross income of the household.
- 11) **“Eligible sponsor”** means a person or a private or public for-profit or not-for-profit entity that applies for an award under the local housing assistance plan for the purpose of providing eligible housing for eligible persons.
- 12) **“Grant”** means an award from the local housing assistance trust fund to an eligible sponsor or eligible person to partially assist in the construction, rehabilitation, or financing of eligible housing or to provide the cost of

tenant or ownership qualifications without requirement for repayment as long as the condition of award is maintained.

- 13) **“Loan”** means an award from the local housing assistance trust fund to an eligible sponsor or eligible person to partially finance the acquisition, construction, or rehabilitation of eligible housing with requirement for repayment or provision for forgiveness of repayment if the condition of the award is maintained.
- 14) **“Local housing assistance plan”** means a concise description of the local housing assistance strategies and local housing incentive strategies adopted by local government resolution with an explanation of the way in which the program meets the requirements of ss. 420.907-420.9079 and corporation rule.
- 15) **“Local housing assistance strategies”** means the housing construction, rehabilitation, repair, or finance program implemented by a participating county or eligible municipality with the local housing distribution or other funds deposited into the local housing assistance trust fund.
- 16) **“Local housing incentive strategies”** means local regulatory reform or incentive programs to encourage or facilitate affordable housing production, which include at a minimum, assurance that permits for affordable housing projects are expedited to a greater degree than other projects, as provided in s. 163.3177(6)(f)3.; an ongoing process for review of local policies, ordinances, regulations, and plan provisions that increase the cost of housing prior to their adoption; and a schedule for implementing the incentive strategies. Local housing incentive strategies may also include other regulatory reforms, such as those enumerated in s. 420.9076 or those recommended by the affordable housing advisory committee in its triennial evaluation of the implementation of affordable housing incentives, and adopted by the local governing body.
- 17) **“Local housing distributions”** means the proceeds of the taxes collected under chapter 201 deposited into the Local Government Housing Trust Fund and distributed to counties and eligible municipalities participating in the State Housing Initiatives Partnership Program pursuant to s. 420.9073.
- 18) **“Local housing partnership”** means the implementation of the local housing assistance plan in a manner that involves the applicable county or eligible municipality, lending institutions, housing builders and developers, real estate professionals, advocates for low-income persons, community based housing and service organizations, and providers of professional services relating to affordable housing. The term includes initiatives to provide support services for housing program beneficiaries such as training to prepare persons for the responsibility of homeownership, counseling of tenants, and the establishing of support services such as day care, health care, and transportation.
- 19) **“Low-income person” or “low-income household”** means one or more natural persons or a family that has a total annual gross household income that does not exceed 80 percent of the median annual income adjusted for family size for households within the metropolitan statistical area, the county, or the nonmetropolitan median for the state, whichever amount is greatest. With respect to rental units, the low-income household’s

annual income at the time of initial occupancy may not exceed 80 percent of the area's median income adjusted for family size. While occupying the rental unit, a low-income household's annual income may increase to an amount not to exceed 140 percent of 80 percent of the area's median income adjusted for family size.

- 20) **"Moderate-income person" or "moderate-income household"** means one or more natural persons or a family that has a total annual gross household income that does not exceed 120 percent of the median annual income adjusted for family size for households within the metropolitan statistical area, the county, or the nonmetropolitan median for the state, whichever is greatest. With respect to rental units, the moderate-income household's annual income at the time of initial occupancy may not exceed 120 percent of the area's median income adjusted for family size. While occupying the rental unit, a moderate-income household's annual income may increase to an amount not to exceed 140 percent of 120 percent of the area's median income adjusted for family size.
- 21) **"Personal property"** means major appliances, including a freestanding refrigerator or stove, to be identified on the encumbering documents.
- 22) **"Plan amendment"** means the addition or deletion of a local housing assistance strategy or local housing incentive strategy. Plan amendments must at all times maintain consistency with program requirements and must be submitted to the corporation for review pursuant to s. 420.9072(3). Technical or clarifying revisions may not be considered plan amendments but must be transmitted to the corporation for purposes of notification.
- 23) **"Population"** means the latest official state estimate of population certified pursuant to s. 186.901 prior to the beginning of the state fiscal year.
- 24) **"Program income"** means the proceeds derived from interest earned on or investment of the local housing distribution and other funds deposited into the local housing assistance trust fund, proceeds from loan repayments, recycled funds, and all other income derived from use of funds deposited in the local housing assistance trust fund. It does not include recaptured funds as defined in subsection (25).
- 25) **"Recaptured funds"** means funds that are recouped by a county or eligible municipality in accordance with the recapture provisions of its local housing assistance plan pursuant to s. 420.9075(5)(j) from eligible persons or eligible sponsors, which funds were not used for assistance to an eligible household for an eligible activity, when there is a default on the terms of a grant award or loan award.
- 26) **"Rent subsidies"** means ongoing monthly rental assistance.
- 27) **"Sales price" or "value"** means, in the case of acquisition of an existing or newly constructed unit, the amount on the executed sales contract. For eligible persons who are building a unit on land that they own, the sales price is determined by an appraisal performed by a state-certified appraiser. The appraisal must include the

value of the land and the improvements using the after-construction value of the property and must be dated within 12 months of the date construction is to commence. The sales price of any unit must include the value of the land in order to qualify as eligible housing as defined in subsection (8). In the case of rehabilitation or emergency repair of an existing unit that does not create additional living space, sales price or value means the value of the real property, as determined by an appraisal performed by a state-certified appraiser and dated within 12 months of the date construction is to commence or the assessed value of the real property as determined by the county property appraiser. In the case of rehabilitation of an existing unit that includes the addition of new living space, sales price or value means the value of the real property, as determined by an appraisal performed by a state-certified appraiser and dated within 12 months of the date construction is to commence or the assessed value of the real property as determined by the county property appraiser, plus the cost of the improvements in either case.

- 28) “Very-low-income person” or “very-low-income household” means one or more natural persons or a family that has a total annual gross household income that does not exceed 50 percent of the median annual income adjusted for family size for households within the metropolitan statistical area, the county, or the nonmetropolitan median for the state, whichever is greatest. With respect to rental units, the very-low-income household’s annual income at the time of initial occupancy may not exceed 50 percent of the area’s median income adjusted for family size. While occupying the rental unit, a very-low-income household’s annual income may increase to an amount not to exceed 140 percent of 50 percent of the area’s median income adjusted for family size.
- 29) “Assisted housing” or “assisted housing development” means a rental housing development, including rental housing in a mixed-use development that received or currently receives funding from any federal or state housing program.
- 30) “Preservation” means actions taken to keep rents in existing assisted housing affordable for extremely-low-income, very-low-income, low-income, and moderate-income households while ensuring that the property stays in good physical and financial condition for an extended period.

History.—s. 32, ch. 92-317; s. 12, ch. 93-181; s. 3, ch. 96-332; s. 1046, ch. 97-103; s. 34, ch. 97-167; s. 14, ch. 98-56; s. 14, ch. 2000-353; s. 21, ch. 2006-69; s. 26, ch. 2009-96; s. 12, ch. 2011-15; s. 66, ch. 2011-139; s. 8, ch. 2016-210.

420.9072 State Housing Initiatives Partnership Program.—The State Housing Initiatives Partnership Program is created for the purpose of providing funds to counties and eligible municipalities as an incentive for the creation of local housing partnerships, to expand production of and preserve affordable housing, to further the housing element of the local government comprehensive plan specific to affordable housing, and to increase housing-related employment.

(1)(a) In addition to the legislative findings set forth in s. 420.6015, the Legislature finds that affordable housing is most effectively provided by combining available public and private resources to conserve and improve existing housing and provide new housing for very-low-income households, low-income households, and moderate-income households. The Legislature intends to encourage partnerships in order to secure the benefits of cooperation by the public and private sectors and to reduce the cost of housing for the target group by effectively combining all available resources and cost-saving measures. The Legislature further intends that local governments achieve this combination of resources by encouraging active partnerships between government, lenders, builders and developers, real estate professionals, advocates for low-income persons, and community groups to produce affordable housing and provide related services. Extending the partnership concept to encompass cooperative efforts among small counties as defined in s. 120.52(19), and among counties and municipalities is specifically encouraged. Local governments are also intended to establish an affordable housing advisory committee to recommend monetary and nonmonetary incentives for affordable housing as provided in s. 420.9076.

(b) The Legislature further intends that the State Housing Initiatives Partnership Program provide the maximum flexibility to local governments to determine the use of funds for housing programs while ensuring accountability for the efficient use of public resources and guaranteeing that benefits are provided to those in need.

(2)(a) To be eligible to receive funds under the program, a county or eligible municipality must:

1. Submit to the corporation its local housing assistance plan describing the local housing assistance strategies established pursuant to s. 420.9075;

2. Within 12 months after adopting the local housing assistance plan, amend the plan to incorporate the local housing incentive strategies defined in s. 420.9071(16) and described in s. 420.9076; and

3. Within 24 months after adopting the amended local housing assistance plan to incorporate the local housing incentive strategies, amend its land development regulations or establish local policies and procedures, as necessary, to implement the local housing incentive strategies adopted by the local governing body. A county or an eligible municipality that has adopted a housing incentive strategy pursuant to s. 420.9076 before the effective date of this act shall review the status of implementation of the plan according to its adopted schedule for implementation and report its findings in the annual report required by s. 420.9075(10). If, as a result of the review, a county or an eligible municipality determines that the implementation is complete and in accordance with its schedule, no further action is necessary. If a county or an eligible municipality determines that implementation according to its schedule is not complete, it must amend its land development regulations or establish local policies and procedures, as necessary, to implement the housing incentive plan within 12 months after the effective date of this act, or if extenuating circumstances

prevent implementation within 12 months, pursuant to s. 420.9075(13), enter into an extension agreement with the corporation.

(b) A county or an eligible municipality seeking approval to receive its share of the local housing distribution must adopt an ordinance containing the following provisions:

1. Creation of a local housing assistance trust fund as described in s. 420.9075(6).
2. Adoption by resolution of a local housing assistance plan as defined in s. 420.9071(14) to be implemented through a local housing partnership as defined in s. 420.9071(18).
3. Designation of the responsibility for the administration of the local housing assistance plan. Such ordinance may also provide for the contracting of all or part of the administrative or other functions of the program to a third person or entity.
4. Creation of the affordable housing advisory committee as provided in s. 420.9076.

The ordinance must not take effect until at least 30 days after the date of formal adoption. Ordinances in effect prior to the effective date of amendments to this section shall be amended as needed to conform to new provisions.

(3)(a) The governing board of the county or of an eligible municipality must submit to the corporation one copy of its local housing assistance plan. The transmittal of the plan must include a copy of the ordinance, the adopting resolution, the local housing assistance plan, and such other information as the corporation requires by rule; however, information to be included in the plan is intended to demonstrate consistency with the requirements of ss. 420.907-420.9079 and corporation rule without posing an undue burden on the local government. Plans shall be reviewed by a committee composed of corporation staff as established by corporation rule.

(b) Within 45 days after receiving a plan, the review committee shall review the plan and either approve it or identify inconsistencies with the requirements of the program. The corporation shall assist a local government in revising its plan if it initially proves to be inconsistent with program requirements. A plan that is revised by the local government to achieve consistency with program requirements shall be reviewed within 45 days after submission. The deadlines for submitting original and revised plans shall be established by corporation rule; however, the corporation shall not require submission of a new local housing assistance plan to implement amendments to this act until the currently effective plan expires.

(c) The Legislature intends that approval of plans be expedited to ensure that the production of needed housing and the related creation of jobs occur as quickly as possible. After being approved for funding, a local government may amend by resolution its local housing assistance plan if the plan as amended complies with program requirements; however, a local government must submit its amended plan for review according to

the process established in this subsection in order to ensure continued consistency with the requirements of the State Housing Initiatives Partnership Program.

(4) Moneys in the Local Government Housing Trust Fund shall be distributed by the corporation to each approved county and eligible municipality within the county as provided in s. 420.9073. Distributions shall be allocated to the participating county and to each eligible municipality within the county according to an interlocal agreement between the county governing authority and the governing body of the eligible municipality or, if there is no interlocal agreement, according to population. The portion for each eligible municipality is computed by multiplying the total moneys earmarked for a county by a fraction, the numerator of which is the population of the eligible municipality and the denominator of which is the total population of the county. The remaining revenues shall be distributed to the governing body of the county.

(5)(a) Local governments are encouraged to make the most efficient use of their resources by cooperating to provide affordable housing assistance. Local governments may enter into an interlocal agreement for the purpose of establishing a joint local housing assistance plan subject to the requirements of ss. 420.907-420.9079. The local housing distributions for such counties and eligible municipalities shall be directly disbursed on a monthly basis to each county or eligible municipality to be administered in conformity with the interlocal agreement providing for a joint local housing assistance plan.

(b) If a county or eligible municipality enters into an interlocal agreement with a municipality that becomes eligible as a result of entering into that interlocal agreement, the county or eligible municipality that has agreed to transfer the control of funds to a municipality that was not originally eligible must ensure through its local housing assistance plan and through the interlocal agreement that all program funds are used in a manner consistent with ss. 420.907-420.9079. This must be accomplished by:

1. Providing that the use of the portion of funds transferred to the municipality meets all requirements of ss. 420.907-420.9079, or
2. Providing that the use of the portion of funds transferred to the municipality, when taken in combination with the use of the local housing distribution from which funds were transferred, meets all requirements of ss. 420.907-420.9079.

(6) The moneys that otherwise would be distributed pursuant to s. 420.9073 to a local government that does not meet the program's requirements for receipts of such distributions shall remain in the Local Government Housing Trust Fund to be administered by the corporation.

(7)(a) A county or an eligible municipality must expend its portion of the local housing distribution only to implement a local housing assistance plan or as provided in this subsection.

(b) A county or an eligible municipality may not expend its portion of the local housing distribution to provide ongoing rent subsidies, except for:

1. Security and utility deposit assistance.
2. Eviction prevention not to exceed 6 months' rent.

3. A rent subsidy program for very-low-income households with at least one adult who is a person with special needs as defined in s. 420.0004 or homeless as defined in s. 420.621. The period of rental assistance may not exceed 12 months for any eligible household.

(8) Funds distributed under this program may not be pledged to pay the debt service on any bonds.

(9) The corporation shall adopt rules necessary to implement ss. 420.907-420.9079.

(10) Notwithstanding ss. 420.9071(26) and 420.9075(5) and subsection (7), for the 2016-2017 fiscal year:

(a) The term "rent subsidies" means ongoing monthly rental assistance.

(b) Up to 25 percent of the funds made available in each county and each eligible municipality from the local housing distribution may be used for rental assistance and rent subsidies as provided in paragraph (c).

(c) A county or an eligible municipality may expend its portion of the local housing distribution to provide the following types of rental assistance and rent subsidies:

1. Security and utility deposit assistance.
2. Eviction prevention subsidies not to exceed 6 months' rent.

3. Rent subsidies for very-low-income households with at least one adult who is a person with special needs as defined in s. 420.0004 or a person who is homeless as defined in s. 420.621 when the person initially qualified for a rent subsidy. The period of rental subsidy may not exceed 12 months for any eligible household or person. (d) This subsection expires July 1, 2017.

History.—s. 32, ch. 92-317; s. 13, ch. 93-181; s. 35, ch. 97-167; s. 81, ch. 2000-153; s. 22, ch. 2006-69; s. 19, ch. 2008-104; s. 27, ch. 2009-96; s. 14, ch. 2011-3; s. 13, ch. 2011-15; s. 67, ch. 2015-222; s. 103, ch. 2016-62; s. 9, ch. 2016-210.

Note. —Section 103, ch. 2016-62, amended subsection (10) "in order to implement Specific Appropriation 2224 of the 2016-2017 General Appropriations Act."

420.9073 Local housing distributions.—

(1) Distributions calculated in this section shall be disbursed on a quarterly or more frequent basis by the corporation pursuant to s. 420.9072, subject to availability of funds. Each county's share of the funds to be distributed from the portion of the funds in the Local Government Housing Trust Fund received pursuant to s. 201.15(4)(c) shall be calculated by the corporation for each fiscal year as follows:

(a) Each county other than a county that has implemented chapter 83-220, Laws of Florida, as amended by chapters 84-270, 86-152, and 89-252, Laws of Florida, shall receive the guaranteed amount for each fiscal year.

(b) Each county other than a county that has implemented chapter 83-220, Laws of Florida, as amended by chapters 84-270, 86-152, and 89-252, Laws of Florida, may receive an additional share calculated as follows:

1. Multiply each county's percentage of the total state population excluding the population of any county that has implemented chapter 83-220, Laws of Florida, as amended by chapters 84-270, 86-152, and 89-252, Laws of Florida, by the total funds to be distributed.

2. If the result in subparagraph 1. is less than the guaranteed amount as determined in subsection (3), that county's additional share shall be zero.

3. For each county in which the result in subparagraph 1. is greater than the guaranteed amount as determined in subsection (3), the amount calculated in subparagraph 1. shall be reduced by the guaranteed amount. The result for each such county shall be expressed as a percentage of the amounts so determined for all counties. Each such county shall receive an additional share equal to such percentage multiplied by the total funds received by the Local Government Housing Trust Fund pursuant to s. 201.15(4)(c) reduced by the guaranteed amount paid to all counties.

(2) Distributions calculated in this section shall be disbursed on a quarterly or more frequent basis by the corporation pursuant to s. 420.9072, subject to availability of funds. Each county's share of the funds to be distributed from the portion of the funds in the Local Government Housing Trust Fund received pursuant to s. 201.15(4)(d) shall be calculated by the corporation for each fiscal year as follows:

(a) Each county shall receive the guaranteed amount for each fiscal year.

(b) Each county may receive an additional share calculated as follows:

1. Multiply each county's percentage of the total state population, by the total funds to be distributed.

2. If the result in subparagraph 1. is less than the guaranteed amount as determined in subsection (3), that county's additional share shall be zero.

3. For each county in which the result in subparagraph 1. is greater than the guaranteed amount, the amount calculated in subparagraph 1. shall be reduced by the guaranteed amount. The result for each such county shall be expressed as a percentage of the amounts so determined for all counties. Each such county shall receive an additional share equal to this percentage multiplied by the total funds received by the Local Government Housing Trust Fund pursuant to s. 201.15(4)(d) as reduced by the guaranteed amount paid to all counties.

(3) Calculation of guaranteed amounts:

(a) The guaranteed amount under subsection (1) shall be calculated for each state fiscal year by multiplying \$350,000 by a fraction, the numerator of which is the amount of funds distributed to the Local Government Housing Trust Fund pursuant to s. 201.15(4)(c) and the denominator of which is the total amount of funds distributed to the Local Government Housing Trust Fund pursuant to s. 201.15.

(b) The guaranteed amount under subsection (2) shall be calculated for each state fiscal year by multiplying \$350,000 by a fraction, the numerator of which is the amount of funds distributed to the Local

Government Housing Trust Fund pursuant to s. 201.15(4)(d) and the denominator of which is the total amount of funds distributed to the Local Government Housing Trust Fund pursuant to s. 201.15.

(4) Funds distributed pursuant to this section may not be pledged to pay debt service on any bonds.

(5) Notwithstanding subsections (1)-(4), the corporation may withhold up to \$5 million of the total amount distributed each fiscal year from the Local Government Housing Trust Fund to provide additional funding to counties and eligible municipalities where a state of emergency has been declared by the Governor pursuant to chapter 252. Any portion of the withheld funds not distributed by the end of the fiscal year shall be distributed as provided in subsections (1) and (2).

(6) Notwithstanding subsections (1)-(4), the corporation may withhold up to \$5 million from the total amount distributed each fiscal year from the Local Government Housing Trust Fund to provide funding to counties and eligible municipalities to purchase properties subject to a State Housing Initiative Partnership Program lien and on which foreclosure proceedings have been initiated by any mortgagee. Each county and eligible municipality that receives funds under this subsection shall repay such funds to the corporation not later than the expenditure deadline for the fiscal year in which the funds were awarded. Amounts not repaid shall be withheld from the subsequent year's distribution. Any portion of such funds not distributed under this subsection by the end of the fiscal year shall be distributed as provided in subsections (1) and (2).

(7) A county receiving local housing distributions under this section or an eligible municipality that receives local housing distributions under an interlocal agreement shall expend those funds in accordance with the provisions of ss. 420.907-420.9079, rules of the corporation, and the county's local housing assistance plan.

History.—s. 32, ch. 92-317; s. 36, ch. 97-167; s. 15, ch. 98-56; s. 49, ch. 99-247; ss. 82, 83, ch. 2000-153; s. 28, ch. 2009-96; s. 14, ch. 2011-15; s. 78, ch. 2015-229.

420.9075 Local housing assistance plans; partnerships.—

(1)(a) Each county or eligible municipality participating in the State Housing Initiatives Partnership Program shall develop and implement a local housing assistance plan created to make affordable residential units available to persons of very low income, low income, or moderate income and to persons who have special housing needs, including, but not limited to, homeless people, the elderly, migrant farmworkers, and persons with disabilities. Counties or eligible municipalities may include strategies to assist persons and households having annual incomes of not more than 140 percent of area median income. The plans are intended to increase the availability of affordable residential units by combining local resources and cost-saving measures into a local housing partnership and using private and public funds to reduce the cost of housing.

(b) Local housing assistance plans may allocate funds to:

1. Implement local housing assistance strategies for the provision of affordable housing.

2. Supplement funds available to the corporation to provide enhanced funding of state housing programs within the county or the eligible municipality.

3. Provide the local matching share of federal affordable housing grants or programs.

4. Fund emergency repairs, including, but not limited to, repairs performed by existing service providers under weatherization assistance programs under ss. 409.509-409.5093.

5. Further the housing element of the local government comprehensive plan adopted pursuant to s. 163.3184, specific to affordable housing.

(2)(a) Each county and each eligible municipality participating in the State Housing Initiatives Partnership Program shall encourage the involvement of appropriate public sector and private sector entities as partners in order to combine resources to reduce housing costs for the targeted population. This partnership process should involve:

1. Lending institutions.

2. Housing builders and developers.

3. Nonprofit and other community-based housing and service organizations.

4. Providers of professional services relating to affordable housing.

5. Advocates for low-income persons, including, but not limited to, homeless people, the elderly, and migrant farmworkers.

6. Real estate professionals.

7. Other persons or entities who can assist in providing housing or related support services.

8. Lead agencies of local homeless assistance continuums of care.

(b) The specific participants in partnership activities may vary according to the community's resources and the nature of the local housing assistance plan.

(3)(a) Each local housing assistance plan shall include a definition of essential service personnel for the county or eligible municipality, including, but not limited to, teachers and educators, other school district, community college, and university employees, police and fire personnel, health care personnel, skilled building trades personnel, and other job categories.

(b) Each county and each eligible municipality is encouraged to develop a strategy within its local housing assistance plan that emphasizes the recruitment and retention of essential service personnel. The local government is encouraged to involve public and private sector employers. Compliance with the eligibility criteria established under this strategy shall be verified by the county or eligible municipality.

(c) Each county and each eligible municipality is encouraged to develop a strategy within its local housing assistance plan that addresses the needs of persons who are deprived of affordable housing due to the closure of a mobile home park or the conversion of affordable rental units to condominiums.

(d) Each county and each eligible municipality shall describe initiatives in the local housing assistance plan to encourage or require innovative design, green building principles, storm-resistant construction, or other elements that reduce long-term costs relating to maintenance, utilities, or insurance.

(e) Each county and each eligible municipality is encouraged to develop a strategy within its local housing assistance plan which provides program funds for the preservation of assisted housing.

(f) Each county and each eligible municipality is encouraged to develop a strategy within its local housing assistance plan which provides program funds for reducing homelessness.

(g) Local governments may create regional partnerships across jurisdictional boundaries through the pooling of appropriated funds to address homeless housing needs identified in local housing assistance plans.

(4) Each local housing assistance plan is governed by the following criteria and administrative procedures:

(a) Each county, eligible municipality, or entity formed through interlocal agreement to participate in the State Housing Initiatives Partnership Program must develop a qualification system and selection criteria for applications for awards by eligible sponsors, adopt criteria for the selection of eligible persons, and adopt a maximum award schedule or system of amounts consistent with the intent and budget of its local housing assistance plan, with ss. 420.907-420.9079, and with corporation rule.

(b) The county or eligible municipality or its administrative representative shall advertise the notice of funding availability in a newspaper of general circulation and periodicals serving ethnic and diverse neighborhoods, at least 30 days before the beginning of the application period. If no funding is available due to a waiting list, no notice of funding availability is required.

(c) In accordance with the provisions of ss. 760.20-760.37, it is unlawful to discriminate on the basis of race, creed, religion, color, age, sex, marital status, familial status, national origin, or handicap in the award application process for eligible housing.

(d) As a condition of receipt of an award, the eligible sponsor or eligible person must contractually commit to comply with the affordable housing criteria provided under ss. 420.907-420.9079 applicable to the affordable housing objective of the award. The plan criteria adopted by the county or eligible municipality must prescribe the contractual obligations required to ensure compliance with award conditions.

(e) The staff or entity that has administrative authority for implementing a local housing assistance plan assisting rental developments shall annually monitor and determine tenant eligibility or, to the extent another governmental entity or corporation program provides periodic monitoring and determination, a municipality, county, or local housing financing authority may rely on such monitoring and determination of tenant eligibility. However, any loan or grant in the original amount of \$10,000 or less is not subject to these annual monitoring and determination of tenant eligibility requirements.

(5) The following criteria apply to awards made to eligible sponsors or eligible persons for the purpose of providing eligible housing:

(a) At least 65 percent of the funds made available in each county and eligible municipality from the local housing distribution must be reserved for home ownership for eligible persons.

(b) Up to 25 percent of the funds made available in each county and eligible municipality from the local housing distribution may be reserved for rental housing for eligible persons or for the purposes enumerated in s. 420.9072(7)(b).

(c) At least 75 percent of the funds made available in each county and eligible municipality from the local housing distribution must be reserved for construction, rehabilitation, or emergency repair of affordable, eligible housing.

(d) Each local government must use a minimum of 20 percent of its local housing distribution to serve persons with special needs as defined in s. 420.0004. A local government must certify that it will meet this requirement through existing approved strategies in the local housing assistance plan or submit a new local housing assistance plan strategy for this purpose to the corporation for approval to ensure that the plan meets this requirement. The first priority of these special needs funds must be to serve persons with developmental disabilities as defined in s. 393.063, with an emphasis on home modifications, including technological enhancements and devices, which will allow homeowners to remain independent in their own homes and maintain their homeownership.

(e) Not more than 20 percent of the funds made available in each county and eligible municipality from the local housing distribution may be used for manufactured housing.

(f) The sales price or value of new or existing eligible housing may not exceed 90 percent of the average area purchase price in the statistical area in which the eligible housing is located. Such average area purchase price may be that calculated for any 12-month period beginning not earlier than the fourth calendar year prior to the year in which the award occurs or as otherwise established by the United States Department of the Treasury.

(g)1. All units constructed, rehabilitated, or otherwise assisted with the funds provided from the local housing assistance trust fund must be occupied by very-low-income persons, low-income persons, and moderate-income persons except as otherwise provided in this section.

2. At least 30 percent of the funds deposited into the local housing assistance trust fund must be reserved for awards to very-low-income persons or eligible sponsors who will serve very-low-income persons and at least an additional 30 percent of the funds deposited into the local housing assistance trust fund must be reserved for awards to low-income persons or eligible sponsors who will serve low-income persons. This subparagraph does not apply to a county or an eligible municipality that includes, or has included within the

previous 5 years, an area of critical state concern designated or ratified by the Legislature for which the Legislature has declared its intent to provide affordable housing. The exemption created by this act expires on July 1, 2013, and shall apply retroactively.

(h) Loans shall be provided for periods not exceeding 30 years, except for deferred payment loans or loans that extend beyond 30 years which continue to serve eligible persons.

(i) Loans or grants for eligible rental housing constructed, rehabilitated, or otherwise assisted from the local housing assistance trust fund must be subject to recapture requirements as provided by the county or eligible municipality in its local housing assistance plan unless reserved for eligible persons for 15 years or the term of the assistance, whichever period is longer. Eligible sponsors that offer rental housing for sale before 15 years or that have remaining mortgages funded under this program must give a first right of refusal to eligible nonprofit organizations for purchase at the current market value for continued occupancy by eligible persons.

(j) Loans or grants for eligible owner-occupied housing constructed, rehabilitated, or otherwise assisted from proceeds provided from the local housing assistance trust fund shall be subject to recapture requirements as provided by the county or eligible municipality in its local housing assistance plan.

(k) The total amount of monthly mortgage payments or the amount of monthly rent charged by the eligible sponsor or her or his designee must be made affordable.

(l) The maximum sales price or value per unit and the maximum award per unit for eligible housing benefiting from awards made pursuant to this section must be established in the local housing assistance plan.

(m) The benefit of assistance provided through the State Housing Initiatives Partnership Program must accrue to eligible persons occupying eligible housing. This provision shall not be construed to prohibit use of the local housing distribution funds for a mixed income rental development.

(n) Funds from the local housing distribution not used to meet the criteria established in paragraph (a) or paragraph (c) or not used for the administration of a local housing assistance plan must be used for housing production and finance activities, including, but not limited to, financing preconstruction activities or the purchase of existing units, providing rental housing, and providing home ownership training to prospective home buyers and owners of homes assisted through the local housing assistance plan.

1. Notwithstanding the provisions of paragraphs (a) and (c), program income as defined in s. 420.9071(24) may also be used to fund activities described in this paragraph.

2. When preconstruction due-diligence activities conducted as part of a preservation strategy show that preservation of the units is not feasible and will not result in the production of an eligible unit, such costs shall be deemed a program expense rather than an administrative expense if such program expenses do not exceed 3 percent of the annual local housing distribution.

3. If both an award under the local housing assistance plan and federal low-income housing tax credits are used to assist a project and there is a conflict between the criteria prescribed in this subsection and the requirements of s. 42 of the Internal Revenue Code of 1986, as amended, the county or eligible municipality may resolve the conflict by giving precedence to the requirements of s. 42 of the Internal Revenue Code of 1986, as amended, in lieu of following the criteria prescribed in this subsection with the exception of paragraphs (a) and (g) of this subsection.

4. Each county and each eligible municipality may award funds as a grant for construction, rehabilitation, or repair as part of disaster recovery or emergency repairs or to remedy accessibility or health and safety deficiencies. Any other grants must be approved as part of the local housing assistance plan.

(6) Each county or eligible municipality receiving local housing distribution moneys shall establish and maintain a local housing assistance trust fund. All moneys of a county or an eligible municipality received from its share of the local housing distribution, program income, recaptured funds, and other funds received or budgeted to implement the local housing assistance plan shall be deposited into the trust fund; however, local housing distribution moneys used to match federal HOME program moneys may be repaid to the HOME program fund if required by federal law or regulations. Expenditures other than for the administration and implementation of the local housing assistance plan may not be made from the fund.

(7) The moneys deposited in the local housing assistance trust fund shall be used to administer and implement the local housing assistance plan. The cost of administering the plan may not exceed 5 percent of the local housing distribution moneys and program income deposited into the trust fund. A county or an eligible municipality may not exceed the 5-percent limitation on administrative costs, unless its governing body finds, by resolution, that 5 percent of the local housing distribution plus 5 percent of program income is insufficient to adequately pay the necessary costs of administering the local housing assistance plan. The cost of administering the program may not exceed 10 percent of the local housing distribution plus 5 percent of program income deposited into the trust fund, except that small counties, as defined in s. 120.52(19), and eligible municipalities receiving a local housing distribution of up to \$350,000 may use up to 10 percent of program income for administrative costs.

(8) Pursuant to s. 420.531, the corporation shall provide training and technical assistance to local governments regarding the creation of partnerships, the design of local housing assistance strategies, the implementation of local housing incentive strategies, and the provision of support services.

(9) The corporation shall monitor the activities of local governments to determine compliance with program requirements and shall collect data on the operation and achievements of housing partnerships.

(10) Each county or eligible municipality shall submit to the corporation by September 15 of each year a report of its affordable housing programs and accomplishments through June 30 immediately preceding

submittal of the report. The report shall be certified as accurate and complete by the local government's chief elected official or his or her designee. Transmittal of the annual report by a county's or eligible municipality's chief elected official, or his or her designee, certifies that the local housing incentive strategies, or, if applicable, the local housing incentive plan, have been implemented or are in the process of being implemented pursuant to the adopted schedule for implementation. The report must include, but is not limited to:

(a) The number of households served by income category, age, family size, and race, and data regarding any special needs populations such as farmworkers, homeless persons, persons with disabilities, and the elderly. Counties shall report this information separately for households served in the unincorporated area and each municipality within the county.

(b) The number of units and the average cost of producing units under each local housing assistance strategy.

(c) The average area purchase price of single-family units and the amount of rent charged for a rental unit based on unit size.

(d) By income category, the number of mortgages made, the average mortgage amount, and the rate of default.

(e) A description of the status of implementation of each local housing incentive strategy, or if applicable, the local housing incentive plan as set forth in the local government's adopted schedule for implementation.

(f) A concise description of the support services that are available to the residents of affordable housing provided by local programs.

(g) The sales price or value of housing produced and an accounting of what percentage was financed by the local housing distribution, other public moneys, and private resources.

(h) Such other data or affordable housing accomplishments considered significant by the reporting county or eligible municipality or by the corporation.

(i) A description of efforts to reduce homelessness.

(11) The report shall be made available by the county or eligible municipality for public inspection and comment prior to certifying the report and transmitting it to the corporation. The county or eligible municipality shall provide notice of the availability of the proposed report and solicit public comment. The notice must state the public place where a copy of the proposed report can be obtained by interested persons. Members of the public may submit written comments on the report to the county or eligible municipality and the corporation. Written public comments shall identify the author by name, address, and interest affected. The county or eligible municipality shall attach a copy of all such written comments and its responses to the annual report submitted to the corporation.

(12) The corporation shall review the report of each county or eligible municipality and any written comments from the public and include any comments concerning the effectiveness of local programs in the report required by s. 420.511.

(13)(a) If, as a result of the review of the annual report or public comment and written response from the county or eligible municipality, or at any other time, the corporation determines that a county or eligible municipality may have established a pattern of violation of the criteria for a local housing assistance plan established under ss. 420.907-420.9079 or that an eligible sponsor or eligible person has violated the applicable award conditions, the corporation shall report such pattern of violation of criteria or violation of award conditions to its compliance monitoring agent and the Executive Office of the Governor. The corporation's compliance monitoring agent must determine within 60 days whether the county or eligible municipality has violated program criteria and shall issue a written report thereon. If a violation has occurred, the distribution of program funds to the county or eligible municipality must be suspended until the violation is corrected.

(b) If, as a result of its review of the annual report, the corporation determines that a county or eligible municipality has failed to implement a local housing incentive strategy, or, if applicable, a local housing incentive plan, it shall send a notice of termination of the local government's share of the local housing distribution by certified mail to the affected county or eligible municipality.

1. The notice must specify a date of termination of the funding if the affected county or eligible municipality does not implement the plan or strategy and provide for a local response. A county or eligible municipality shall respond to the corporation within 30 days after receipt of the notice of termination.

2. The corporation shall consider the local response that extenuating circumstances precluded implementation and grant an extension to the timeframe for implementation. Such an extension shall be made in the form of an extension agreement that provides a timeframe for implementation. The chief elected official of a county or eligible municipality or his or her designee shall have the authority to enter into the agreement on behalf of the local government.

3. If the county or the eligible municipality has not implemented the incentive strategy or entered into an extension agreement by the termination date specified in the notice, the local housing distribution share terminates, and any uncommitted local housing distribution funds held by the affected county or eligible municipality in its local housing assistance trust fund shall be transferred to the Local Government Housing Trust Fund to the credit of the corporation to administer.

4. a. If the affected local government fails to meet the timeframes specified in the agreement, the corporation shall terminate funds. The corporation shall send a notice of termination of the local government's share of the local housing distribution by certified mail to the affected local government. The

notice shall specify the termination date, and any uncommitted funds held by the affected local government shall be transferred to the Local Government Housing Trust Fund to the credit of the corporation to administer.

b. If the corporation terminates funds to a county, but an eligible municipality receiving a local housing distribution pursuant to an interlocal agreement maintains compliance with program requirements, the corporation shall thereafter distribute directly to the participating eligible municipality its share calculated in the manner provided in ss. 420.9072 and 420.9073.

c. Any county or eligible municipality whose local distribution share has been terminated may subsequently elect to receive directly its local distribution share by adopting the ordinance, resolution, and local housing assistance plan in the manner and according to the procedures provided in ss. 420.907-420.9079.

(14) If the corporation determines that a county or eligible municipality has expended program funds for an ineligible activity, the corporation shall require such funds to be repaid to the local housing assistance trust fund. Such repayment may not be made with funds from the State Housing Initiatives Partnership Program.

History.—s. 32, ch. 92-317; s. 14, ch. 93-181; s. 5, ch. 95-153; s. 9, ch. 95-396; s. 81, ch. 97-103; s. 37, ch. 97-167; s. 15, ch. 2000-353; s. 14, ch. 2001-98; s. 7, ch. 2002-160; s. 24, ch. 2004-243; s. 23, ch. 2006-69; s. 20, ch. 2008-104; s. 29, ch. 2009-96; s. 15, ch. 2011-15; s. 10, ch. 2016-210.

420.9076 Adoption of affordable housing incentive strategies; committees.—

(1) Each county or eligible municipality participating in the State Housing Initiatives Partnership Program, including a municipality receiving program funds through the county, or an eligible municipality must, within 12 months after the original adoption of the local housing assistance plan, amend the plan to include local housing incentive strategies as defined in s. 420.9071(16).

(2) The governing board of a county or municipality shall appoint the members of the affordable housing advisory committee. Pursuant to the terms of any interlocal agreement, a county and municipality may create and jointly appoint an advisory committee. The local action adopted pursuant to s. 420.9072 which creates the advisory committee and appoints the advisory committee members must name at least 8 but not more than 11 committee members and specify their terms. The committee must consist of one representative from at least six of the categories below:

(a) A citizen who is actively engaged in the residential home building industry in connection with affordable housing.

(b) A citizen who is actively engaged in the banking or mortgage banking industry in connection with affordable housing.

(c) A citizen who is a representative of those areas of labor actively engaged in home building in connection with affordable housing.

(d) A citizen who is actively engaged as an advocate for low-income persons in connection with affordable housing.

(e) A citizen who is actively engaged as a for-profit provider of affordable housing.

(f) A citizen who is actively engaged as a not-for-profit provider of affordable housing.

(g) A citizen who is actively engaged as a real estate professional in connection with affordable housing.

(h) A citizen who actively serves on the local planning agency pursuant to s. 163.3174. If the local planning agency is comprised of the governing board of the county or municipality, the governing board may appoint a designee who is knowledgeable in the local planning process.

(i) A citizen who resides within the jurisdiction of the local governing body making the appointments.

(j) A citizen who represents employers within the jurisdiction.

(k) A citizen who represents essential services personnel, as defined in the local housing assistance plan.

(3) All meetings of the advisory committee are public meetings, and all committee records are public records. Staff, administrative, and facility support to the advisory committee shall be provided by the appointing county or eligible municipality.

(4) Triennially, the advisory committee shall review the established policies and procedures, ordinances, land development regulations, and adopted local government comprehensive plan of the appointing local government and shall recommend specific actions or initiatives to encourage or facilitate affordable housing while protecting the ability of the property to appreciate in value. The recommendations may include the modification or repeal of existing policies, procedures, ordinances, regulations, or plan provisions; the creation of exceptions applicable to affordable housing; or the adoption of new policies, procedures, regulations, ordinances, or plan provisions, including recommendations to amend the local government comprehensive plan and corresponding regulations, ordinances, and other policies. At a minimum, each advisory committee shall submit a report to the local governing body that includes recommendations on, and triennially thereafter evaluates the implementation of, affordable housing incentives in the following areas:

(a) The processing of approvals of development orders or permits for affordable housing projects is expedited to a greater degree than other projects, as provided in s. 163.3177(6)(f)3.

(b) The modification of impact-fee requirements, including reduction or waiver of fees and alternative methods of fee payment for affordable housing.

(c) The allowance of flexibility in densities for affordable housing.

(d) The reservation of infrastructure capacity for housing for very-low-income persons, low-income persons, and moderate-income persons.

- (e) The allowance of affordable accessory residential units in residential zoning districts.
- (f) The reduction of parking and setback requirements for affordable housing.
- (g) The allowance of flexible lot configurations, including zero-lot-line configurations for affordable housing.
- (h) The modification of street requirements for affordable housing.
- (i) The establishment of a process by which a local government considers, before adoption, policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing.
- (j) The preparation of a printed inventory of locally owned public lands suitable for affordable housing.
- (k) The support of development near transportation hubs and major employment centers and mixed-use developments.

The advisory committee recommendations may also include other affordable housing incentives identified by the advisory committee. Local governments that receive the minimum allocation under the State Housing Initiatives Partnership Program shall perform the initial review but may elect to not perform the triennial review.

(5) The approval by the advisory committee of its local housing incentive strategies recommendations and its review of local government implementation of previously recommended strategies must be made by affirmative vote of a majority of the membership of the advisory committee taken at a public hearing. Notice of the time, date, and place of the public hearing of the advisory committee to adopt its evaluation and final local housing incentive strategies recommendations must be published in a newspaper of general paid circulation in the county. The notice must contain a short and concise summary of the evaluation and local housing incentives strategies recommendations to be considered by the advisory committee. The notice must state the public place where a copy of the evaluation and tentative advisory committee recommendations can be obtained by interested persons. The final report, evaluation, and recommendations shall be submitted to the corporation.

(6) Within 90 days after the date of receipt of the evaluation and local housing incentive strategies recommendations from the advisory committee, the governing body of the appointing local government shall adopt an amendment to its local housing assistance plan to incorporate the local housing incentive strategies it will implement within its jurisdiction. The amendment must include, at a minimum, the local housing incentive strategies required under s. 420.9071(16). The local government must consider the strategies specified in paragraphs (4)(a)-(k) as recommended by the advisory committee.

(7) The governing board of the county or the eligible municipality shall notify the corporation by certified mail of its adoption of an amendment of its local housing assistance plan to incorporate local housing incentive strategies. The notice must include a copy of the approved amended plan.

(a) If the corporation fails to receive timely the approved amended local housing assistance plan to incorporate local housing incentive strategies, a notice of termination of its share of the local housing distribution shall be sent by certified mail by the corporation to the affected county or eligible municipality. The notice of termination must specify a date of termination of the funding if the affected county or eligible municipality has not adopted an amended local housing assistance plan to incorporate local housing incentive strategies. If the county or the eligible municipality has not adopted an amended local housing assistance plan to incorporate local housing incentive strategies by the termination date specified in the notice of termination, the local distribution share terminates; and any uncommitted local distribution funds held by the affected county or eligible municipality in its local housing assistance trust fund shall be transferred to the Local Government Housing Trust Fund to the credit of the corporation to administer the local government housing program.

(b) If a county fails to timely adopt an amended local housing assistance plan to incorporate local housing incentive strategies but an eligible municipality receiving a local housing distribution pursuant to an interlocal agreement within the county does timely adopt an amended local housing assistance plan to incorporate local housing incentive strategies, the corporation, after issuance of a notice of termination, shall thereafter distribute directly to the participating eligible municipality its share calculated in the manner provided in s. 420.9073.

(c) Any county or eligible municipality whose local distribution share has been terminated may subsequently elect to receive directly its local distribution share by adopting an amended local housing assistance plan to incorporate local housing incentive strategies in the manner and according to the procedure provided in this section and by adopting an ordinance in the manner required in s. 420.9072.

(8) The advisory committee may perform other duties at the request of the local government, including:

(a) The provision of mentoring services to affordable housing partners including developers, banking institutions, employers, and others to identify available incentives, assist with applications for funding requests, and develop partnerships between various parties.

(b) The creation of best practices for the development of affordable housing in the community.

(9) The advisory committee shall be cooperatively staffed by the local government department or division having authority to administer local planning or housing programs to ensure an integrated approach to the work of the advisory committee.

History.—s. 32, ch. 92-317; s. 15, ch. 93-181; s. 38, ch. 97-167; s. 24, ch. 2006-69; s. 19, ch. 2007-198; s. 117, ch. 2008-4;

s. 30, ch. 2009-96; s. 16, ch. 2011-15; s. 67, ch. 2011-139; s. 11, ch. 2016-210.

420.9079 Local Government Housing Trust Fund.—

(1) There is created in the State Treasury the Local Government Housing Trust Fund, which shall be administered by the corporation on behalf of the department according to the provisions of ss. 420.907-420.9076 and this section. There shall be deposited into the fund a portion of the documentary stamp tax revenues as provided in s. 201.15, moneys received from any other source for the purposes of ss. 420.907-420.9076 and this section, and all proceeds derived from the investment of such moneys. Moneys in the fund that are not currently needed for the purposes of the programs administered pursuant to ss. 420.907-420.9076 and this section shall be deposited to the credit of the fund and may be invested as provided by law. The interest received on any such investment shall be credited to the fund.

(2) The corporation shall administer the fund exclusively for the purpose of implementing the programs described in ss. 420.907-420.9076 and this section. With the exception of monitoring the activities of counties and eligible municipalities to determine local compliance with program requirements, the corporation shall not receive appropriations from the fund for administrative or personnel costs. For the purpose of implementing the compliance monitoring provisions of s. 420.9075(9), the corporation may request a maximum of one-quarter of 1 percent of the annual appropriation per state fiscal year. When such funding is appropriated, the corporation shall deduct the amount appropriated prior to calculating the local housing distribution pursuant to ss. 420.9072 and 420.9073.

History.—s. 32, ch. 92-317; s. 40, ch. 97-167; s. 16, ch. 98-56; s. 25, ch. 2006-69; s. 11, ch. 2009-2; s. 32, ch. 2009-96; s.18, ch. 2011-15; s. 87, ch. 2015-229.