



Commission on Affordable Housing Member Guide

February 2022



Introduction

Palm Beach County receives annual allocations of State Housing Initiatives Partnership (SHIP) Program grant funding from the Florida Housing Finance Corporation. The 1992 William Sadowski Affordable Housing Act established a funding source for the program from documentary stamp collections on real estate transactions. SHIP works to produce and to preserve affordable homeownership and rental housing for very low, low, and moderate income families (less than 140% of Area Median Income).

Florida Statute 420.9076 (Exhibit 1) requires that as a condition of receiving SHIP funding, the County appoint an affordable housing advisory committee. Accordingly, the County established the Commission on Affordable Housing (CAH) in 1993 through adoption of the Affordable Housing Ordinance (No. 93-8). On May 17, 2017, the Board adopted a new Affordable Housing Ordinance, No. 2017-017 (Exhibit 2) that included changes to the responsibilities of the CAH to better align with F.S. 420.

The Department of Housing and Economic Development (HED) coordinates the activities of the CAH and providing staff support. The primary staff contact for matters related to the CAH is Carlos Serrano, Director of Strategic Planning and Operations (561) 233-3608 or cserrano@pbcgov.org.

CAH Membership

The CAH must be composed of no less than eight (8) and no more than eleven (11) members who are appointed at-large to serve three (3) year terms representing various categories as they relate to affordable housing. All members must be residents of Palm Beach County at the time of appointment and while serving on the CAH. Members will be automatically removed for missing three (3) consecutive meetings or more than one-half (50%) of the meetings scheduled during the calendar year. The CAH is subject to the Palm Beach County Code of Ethics, (PBC Code Sec. 2-441 to 2-448) and oversight by the Palm Beach County Commission on Ethics. *A Practical Guide to the Code of Ethics* is attached as Exhibit 3.

After the most recent appointments by the Board of County Commissioners (BCC) on February 9, and July 10, 2021, the CAH membership is as follows:

Member	Membership Category
Leonard (Len) Tylka	Residential Home Building Industry
Aquannette T. Thomas	Banking or Mortgage Banking Industry
Timothy H. Coppage	Not-for-Profit Provider of Affordable Housing
Ezra M. Krieg	Advocate for Low-Income Persons
Lynda Charles	Real Estate Professional
Corey W. O’Gorman	Resident of the Jurisdiction
Amy L. Robbins	Employers Within the Jurisdiction

John-Anthony Boggess	Essential Services Personnel
William E. Johnson	For-Profit Provider of Affordable Housing
George (Adam) Campbell	Labor Engaged in Home Building
Commissioner Mack Bernard	Local Elected Official

CAH Meetings

The CAH meets monthly on the first Wednesday of the month. Meetings will be conducted according to Robert’s Rules of Order, and the CAH members will elect a Chair and Vice-Chair. All CAH meetings are public meetings subject to Florida’s open government laws, the “Public Records Law” (F.S. 119) and “Sunshine Law” (F.S. 286). The Florida Attorney General’s *Government-In-The-Sunshine Manual* can be found at <http://www.myfloridalegal.com/sun.nsf/sunmanual>. Generally, these laws require that:

- All records of the CAH are public records, both printed documents and electronic files including emails, text messages, telephone records, and social media content;
- Meetings of the CAH must be open to attendance by the public;
- Reasonable notice of CAH meetings must be given;
- Minutes of CAH meetings must be taken and recorded;
- Two (2) or more members may not discuss, verbally or in writing, any CAH business or matters that will foreseeably come before the CAH outside of a CAH meeting.

CAH Role

The primary role of the CAH is to conduct an annual review of local affordable housing policies and incentive strategies, and to provide recommendations to the County regarding the same. F.S. 420.9076(4) requires that the advisory committee review the County’s established policies and procedures, ordinances, land development regulations, and adopted comprehensive plan, and recommend specific actions or initiatives to encourage or facilitate affordable housing while protecting the ability of property to appreciate in value. The recommendations may include modification or repeal of existing policies, procedures, ordinances, regulations or plan provisions, including recommendations to amend the comprehensive plan and corresponding regulations, ordinances, and other policies. The annual review must, at a minimum, evaluate affordable housing incentives in the following eleven (11) areas:

- 1) 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.
- 2) All allowable fee waivers provided for the development or construction of affordable housing.
- 3) The allowance of flexibility in densities for affordable housing.
- 4) The reservation of infrastructure capacity for housing for very-low-income persons, low-income persons, and moderate-income persons.

- 5) Affordable accessory residential units.
- 6) The reduction of parking and setback requirements for affordable housing.
- 7) The allowance of flexible lot configurations, including zero-lot-line configurations for affordable housing.
- 8) The modification of street requirements for affordable housing.
- 9) 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.
- 10) The preparation of a printed inventory of locally owned public lands suitable for affordable housing.
- 11) The support of development near transportation hubs and major employment centers and mixed-use developments.

The most recent Review of Affordable Housing Incentives Report was completed in 2021 and is provided at Exhibit 4. The next Report is due to the Florida Housing Finance Corporation by the end of the 2022 calendar year. The CAH will meet monthly to discuss incentive strategies and develop recommendations, and to approve a 2022 Report.

The CAH may also be asked to review and comment on the County's Local Housing Assistance Plan (LHAP) strategies, and to review and comment on the proposed annual allocation of SHIP funds to LHAP strategies. This would likely occur during the second quarter of the calendar year, in advance of the July 1st start of the State fiscal year. The current LHAP covering Fiscal Years 2019 - 2022 is provided as Exhibit 5.

The Florida Housing Finance Corporation's guidebook on affordable housing incentive strategies is provided at Exhibit 6.

Exhibits

Exhibit 1 – Florida Statutes 420.9076

Exhibit 2 – PBC Affordable Housing Ordinance, No. 2017-017

Exhibit 3 – *A Practical Guide to the Code of Ethics*

Exhibit 4 – Affordable Housing Incentives Review and Recommendations Report 2021

Exhibit 5 – PBC Local Housing Assistance Plan FYs 2019 - 2022

Exhibit 6 – FHFC Guidebook: Affordable Housing Incentive Strategies

Palm Beach County Department of Housing and Economic Sustainability
Florida Statute 420.9076

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. Effective October 1, 2020, the committee must consist of one locally elected official from each county or municipality participating in the State Housing Initiatives Partnership Program and 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.

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Florida Statute 420.9076

(4) Annually, 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 an annual report to the local governing body and to the entity providing statewide training and technical assistance for the Affordable Housing Catalyst Program which includes recommendations on 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) All allowable fee waivers provided for the development or construction of 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) Affordable accessory residential units.
- (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 an initial review but may elect to not perform the annual 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

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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](#).

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(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.

(10) The locally elected official serving on an advisory committee, or a locally elected designee, must attend biannual regional workshops convened and administered under the Affordable Housing Catalyst Program as provided in s. [420.531\(2\)](#). If the locally elected official or a locally elected designee fails to attend three consecutive regional workshops, the corporation may withhold funds pending the person's attendance at the next regularly scheduled biannual meeting.

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; s. 19, ch. 2020-27.

ORDINANCE NO. 20 17 - 017

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, REPEALING CHAPTER 14, ARTICLE V, CODIFYING ORDINANCE NO. 93-8, AS AMENDED, "THE PALM BEACH COUNTY AFFORDABLE HOUSING ORDINANCE;" AND ADOPTING A NEW AFFORDABLE HOUSING ORDINANCE; PROVIDING FOR TITLE; PROVIDING FOR AUTHORITY; PROVIDING FOR APPLICABILITY; PROVIDING FOR POLICY AND PURPOSE OF THE LOCAL HOUSING ASSISTANCE PROGRAM; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE CREATION OF THE LOCAL HOUSING ASSISTANCE TRUST FUND NAMED THE ROBERT PINCHUCK MEMORIAL AFFORDABLE HOUSING TRUST FUND; PROVIDING FOR THE CREATION OF THE COMMISSION ON AFFORDABLE HOUSING; PROVIDING FOR THE ESTABLISHMENT OF THE LOCAL HOUSING ASSISTANCE PLAN; PROVIDING FOR THE ESTABLISHMENT OF THE LOCAL HOUSING PARTNERSHIP; DESIGNATING RESPONSIBILITY FOR THE IMPLEMENTATION AND ADMINISTRATION OF THE LOCAL HOUSING ASSISTANCE PLAN; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTIES; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

1 **WHEREAS**, Palm Beach County has a commitment to preserve and create safe, sanitary
2 and affordable housing for all its citizens; and

3 **WHEREAS**, there exists in Palm Beach County a shortage of safe and sanitary residential
4 housing available at affordable prices to very low income families; and

5 **WHEREAS**, private enterprise and investment in Palm Beach County have not been able
6 to produce, without assistance, the needed construction and rehabilitation of safe and sanitary
7 residential housing at low prices or rents which very low and low income families can afford; and

8 **WHEREAS**, this problem has reached greater proportions due to federal budget cuts of
9 past years in area of federal housing assistance; and

10 **WHEREAS**, it is the goal of Palm Beach County to facilitate the provision of an adequate
11 supply of safe, sanitary and affordable housing to meet the needs of the County's residents, with
12 special attention to the needs of very low and low income households; and

13 **WHEREAS**, the Palm Beach County Comprehensive Plan, Housing Element, requires the
14 establishment of the Commission on Affordable Housing with prescribed duties and Affordable
15 Housing Trust Fund; and

1 **WHEREAS**, Florida Statute §420.9072, requires a county, in order to receive its share of
2 the local housing distribution under the State Housing Initiatives Partnership Program (SHIP), to
3 adopt an ordinance containing the following provisions:

- 4 1. Creation of an affordable housing assistance trust fund;
- 5 2. Establishment of a local housing assistance program to be implemented by a local
6 housing partnership;
- 7 3. Designation of the responsibility for the implementation and administration of the local
8 housing assistance program;
- 9 4. Creation of the affordable housing advisory committee, and

10 **WHEREAS**, due to the substantial procedural and substantive changes made to this
11 ordinance, since it was last amended in July 2008, it is more efficient and in the best interest of the
12 Board of County Commissioners to repeal and replace the Affordable Housing Ordinance in its
13 entirety.

14 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
15 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:**

16 **Section 1. Short Title; Applicability.**

17 This article shall be known and cited as the Palm Beach County Affordable Housing
18 Ordinance. This Article shall be applicable within the unincorporated areas of Palm Beach County,
19 and in all municipalities that have not adopted an ordinance in conflict herewith.

20 **Section 2. Authority.**

21 This article is adopted pursuant to the authority granted to charter counties under Article
22 VIII, Section 1(g) of the Florida Constitution, Chapter 125, Florida Statutes and Article 1 of the
23 Palm Beach County Home Rule Charter

24 **Section 3. Policy and Purpose.**

25 It is the policy of the Board of County Commissioners and the purpose of this article to:
26 (a) Provide the necessary means to alleviate housing cost burden and help meet the county's
27 needs with respect to affordable housing.
28 (b) Recognize that decent, safe, affordable, appropriate and sanitary housing is directly linked
29 to a healthy economy and healthy families and meaningful environmental program as well
30 as to other government functions such as education, criminal justice, and social services.

- 1 (c) Invest in the preservation and revitalization of our neighborhoods, the development of
2 healthy, safe and viable sustainable communities, and the security of having a quality
3 environment which allows individuals and families to live within the community.
- 4 (d) Further the framework begun in the county's comprehensive plan housing element, which
5 establishes county housing policy to address the current and future housing needs of the
6 residents of the county.
- 7 (e) Increase the availability of affordable housing units by combining local resources and cost-
8 saving measures into a local housing partnership and using private and public funds to
9 reduce the cost of housing.
- 10 (f) Promote leveraging of public and private monies to provide affordable housing to eligible
11 persons.
- 12 (g) Aid in achieving the intent of the local housing assistance program (LHAP) while providing
13 for:
- 14 (1) Protection of natural resources;
- 15 (2) Enhancement of the viability of public transit, pedestrian circulation, and
16 nonmotorized modes of transportation;
- 17 (3) Community development and economic growth; and,
- 18 (4) A strong sense of community through increased social and economic integration.

19 **Section 4. Definitions.**

20 As used in this article, unless the context otherwise indicates:

- 21 (a) *Adjusted gross income* means all wages, assets, regular cash or noncash contributions or
22 gifts from persons outside the household, and such other resources and benefits as may be
23 determined to be income by the United States Department of Housing and Urban
24 Development, adjusted for family size, less deductions allowable under Section 62 of the
25 Internal Revenue Code.
- 26 (b) *Administrative expenses* means those expenses directly related to implementation of the
27 local housing assistance plan and local housing assistance program and shall not include
28 the reimbursement of costs which were previously borne by another funding source which
29 could continue to be available at the time the local housing assistance plan is submitted.
- 30 (c) *Affordable* means that monthly rents or monthly mortgage payments including taxes and
31 insurance do not exceed 30 percent of that amount which represents the percentage of the
32 median annual gross income for the households as indicated in subsection (19), subsection

1 (20), or subsection (28) of Section 420.9071, Florida Statutes. However, it is not the intent
2 to limit an individual household's ability to devote more than 30 percent of its income for
3 housing, and housing for which a household devotes more than 30 percent of its income
4 shall be deemed affordable if the first institutional mortgage lender is satisfied that the
5 household can afford mortgage payments in excess of the 30 percent benchmark.

6 (d) *Board* means Board of County Commissioners of Palm Beach County, Florida.

7 (e) *CAH* means Commission on Affordable Housing, an advisory board appointed by the
8 Board of County Commissioners.

9 (f) *Community-based organization* means a nonprofit organization that has among its
10 purposes the provision of affordable housing to persons who have special needs or have
11 very low income, low income, or moderate income within a designated area, which may
12 include a municipality, a county, or more than one municipality or county, and maintains,
13 through a minimum of one-third representation on the organization's governing board,
14 accountability to housing program beneficiaries and residents of the designated area. A
15 community housing development organization established pursuant to 24 C.F.R., Section
16 92.2 and a community development corporation created pursuant to Chapter 290, Florida
17 Statutes are examples of community-based organizations.

18 (g) *DES* means the Palm Beach County Department of Economic Sustainability.

19 (h) *Eligible municipality* means a municipality that is eligible for federal community
20 development block grants as an entitlement community identified in 24 C.F.R., Section
21 570, Subpart D, Entitlement Grants, or a nonentitlement municipality that is receiving local
22 housing distribution funds under an interlocal agreement that provides for possession and
23 administrative control of funds to be transferred to the nonentitlement municipality. An
24 eligible municipality that defers its participation in community development block grants
25 does not affect its eligibility for participation in the State Housing Initiatives Partnership
26 Program.

27 (i) *Eligible person* or "eligible household" means one or more natural persons or a family
28 determined by the county or eligible municipality to be of very low income, low income,
29 or moderate income according to the income limits adjusted to family size published
30 annually by the United States Department of Housing and Urban Development based upon
31 the annual gross income of the household.

- 1 (j) *Eligible sponsor* means a person or a private or public for-profit or not-for-profit entity that
2 applies for an award under the local housing assistance plan for the purpose of providing
3 eligible housing for eligible persons.
- 4 (k) *Fund* means the Robert Pinchuck Memorial Affordable Housing Trust Fund.
- 5 (l) *HOME Program* means the United States Department of Housing and Urban Development
6 Program created under title II of the National Affordable Housing Act (the Home
7 Investment Partnership).
- 8 (m) *Local Housing Assistance Plan (LHAP)* means a concise description of the local housing
9 assistance strategies and local housing incentive strategies adopted by local government
10 resolution with an explanation of the way in which the program meets the requirements of
11 Sections 420.907-420.9079, Florida Statutes and corporation rule.
- 12 (n) *Local housing assistance strategies* means the housing construction, rehabilitation, repair,
13 or finance program implemented by a participating county or eligible municipality with the
14 local housing distribution or other funds deposited into the local housing assistance trust
15 fund.
- 16 (o) *Local housing distribution* means the proceeds of the taxes collected under Chapter 201,
17 Florida Statutes, deposited into the local government housing trust and distributed to
18 counties and eligible municipalities participating in the State Housing Initiatives
19 Partnership Program pursuant to Section 420.9073, Florida Statutes, as may be amended.
- 20 (p) *Local housing incentive strategies* means local regulatory reform or incentive programs to
21 encourage or facilitate affordable housing production, which include at a minimum,
22 assurance that permits for affordable housing projects are expedited to a greater degree
23 than other projects, as provided in Section 163.3177(6)(f)3, Florida Statutes; an ongoing
24 process for review of local policies, ordinances, regulations, and plan provisions that
25 increase the cost of housing prior to their adoption; and a schedule for implementing the
26 incentive strategies. Local housing incentive strategies may also include other regulatory
27 reforms, such as those enumerated in Section 420.9076, Florida Statutes or those
28 recommended by the affordable housing advisory committee in its triennial evaluation of
29 the implementation of affordable housing incentives, and adopted by the local governing
30 body.
- 31 (q) *Local housing partnership* means the implementation of the local housing assistance plan
32 in a manner that involves the applicable county or eligible municipality, lending

1 institutions, housing builders and developers, real estate professionals, advocates for low-
2 income persons, community-based housing and service organizations, and providers of
3 professional services relating to affordable housing. The term includes initiatives to
4 provide support services for housing program beneficiaries such as training to prepare
5 persons for the responsibility of homeownership, counseling of tenants, and the
6 establishing of support services such as day care, health care, and transportation.

7 (r) *Low-income persons* or “low-income household” means one or more natural persons or a
8 family that has a total annual gross household income that does not exceed 80 percent of
9 the median annual income adjusted for family size for households within the metropolitan
10 statistical area, the county, or the nonmetropolitan median for the state, whichever amount
11 is greatest. With respect to rental units, the low-income household’s annual income at the
12 time of initial occupancy may not exceed 80 percent of the area’s median income adjusted
13 for family size. While occupying the rental unit, a low-income household’s annual income
14 may increase to an amount not to exceed 140 percent of 80 percent of the area’s median
15 income adjusted for family size.

16 (s) *Moderate-income persons* or “moderate-income household”, pursuant to Section
17 420.9071(20), Florida Statutes, as may be amended, means one or more natural persons or
18 a family that has a total annual gross household income that does not exceed 120 percent
19 of the median annual income adjusted for family size for households within the
20 metropolitan statistical area, the county, or the nonmetropolitan median for the state,
21 whichever is greatest. With respect to rental units, the moderate-income household’s
22 annual income at the time of initial occupancy may not exceed 120 percent of the area’s
23 median income adjusted for family size. While occupying the rental unit, a moderate-
24 income household’s annual income may increase to an amount not to exceed 140 percent
25 of 120 percent of the area’s median income adjusted for family size.

26 (t) *Persons with special needs* means an adult person requiring independent living services in
27 order to maintain housing or develop independent living skills and who has a disabling
28 condition as defined in Section 420.0004(7), Florida Statutes; a young adult formerly in
29 foster care who is eligible for services under Section 409.1451(5) Florida Statutes; a
30 survivor of domestic violence as defined in Section 741.28, Florida Statutes; or a person
31 receiving benefits under the Social Security Disability Insurance (SSDI) program or the
32 Supplemental Security Income (SSI) program or from veterans’ disability benefits.

1 (u) *SHIP* means State Housing Initiatives Partnership Program administered by the State of
2 Florida.

3 (v) *Very-low-income persons* or “very-low-income household” means one or more natural
4 persons or a family that has a total annual gross household income that does not exceed 50
5 percent of the median annual income adjusted for family size for households within the
6 metropolitan statistical area, the county, or the nonmetropolitan median for the state,
7 whichever is greatest. With respect to rental units, the very-low-income household’s annual
8 income at the time of initial occupancy may not exceed 50 percent of the area’s median
9 income adjusted for family size. While occupying the rental unit, a very-low-income
10 household’s annual income may increase to an amount not to exceed 140 percent of 50
11 percent of the area’s median income adjusted for family size

12 **Section 5. Creation of the Robert Pinchuck Memorial Affordable Housing Trust Fund.**

13 (a) Establishment: There is hereby established a separate trust fund to be named the "Robert
14 Pinchuck Memorial Affordable Housing Trust Fund." There shall be two (2) categories of
15 funds maintained within the Fund—SHIP Program funds and other funds appropriated and
16 designated by the board.

17 (b) General Provisions:

18 (1) Amounts on deposit in the Fund shall be invested in the State Board of Administration's
19 local government surplus fund trust fund established pursuant to Chapter 218, Part IV,
20 Florida Statutes. All investment earnings shall be retained in the Fund and used for the
21 purposes thereof.

22 (2) Until utilized for the purposes thereof, SHIP Program monies in the Fund shall be held
23 in trust by the County solely for use pursuant to the Local Housing Assistance Plan
24 (LHAP), approved by the Board. All local housing assistance program income, including
25 investment earnings, shall be retained in the fund and used for the purposes thereof.

26 (3) The County agrees that the Fund shall be separately stated as a special revenue fund in
27 the county's audited financial statements. Copies of such audited financial statements
28 shall be forwarded to the Florida Housing Finance Corporation as soon as such
29 statements are available.

30 (c) SHIP Program Funds:

31 (1) All monies received from the state pursuant to the State Housing Initiative Partnership
32 (SHIP) Act and any other funds received or budgeted to provide funding for the local

1 housing assistance plan shall be deposited into the affordable housing trust fund.
2 Administration of the SHIP Program funds shall comply with rule 67-37.005, Florida
3 Administrative Code, as may be amended, and shall be subject to the requirements of the
4 SHIP Program contained in Section 420.9075(4), Florida Statutes, as may be amended.

5 (2) Expenditures other than for the administration and implementation of the Local Housing
6 Assistance Plan (LHAP) shall not be made from SHIP Program funds and all expenditure
7 of funds must be made to promote affordable housing in Palm Beach County.

8 (3) Monies from the Fund shall be used to increase the supply of safe, sanitary and affordable
9 housing pursuant to Section 420.9075, Florida Statutes, as may be amended. The
10 affordable housing trust fund may be used to provide assistance to eligible persons
11 funded through strategies detailed in the Local Housing Assistance Plan (LHAP).

12 **Section 6. Creation of the Commission on Affordable Housing.**

13 (a) *Establishment*: The Commission on Affordable Housing is hereby created and established.

14 (b) *Affordable Housing Advisory Committee*: The Commission on Affordable Housing (CAH)
15 shall serve as the affordable housing advisory committee required by Section 420.9076, Florida
16 Statutes, shall serve as required by the county's comprehensive plan, housing element, and as
17 required by Section 420.9076, Florida Statutes, as may be amended. The members of the
18 advisory committee shall be appointed by resolution of the Board of County Commissioners.

19 (c) *Composition*: The CAH shall be comprised of citizens, all of whom shall be appointed by the
20 Board of County Commissioners in accordance with Section 420.9076, Florida Statutes, as
21 may be amended. All appointments are at large.

22 (d) *Conditions of Membership* shall be in accordance to Resolution 2013-0193 or as amended of
23 which the current resolution shall govern:

24 (1) All members must be residents of the County at the time of appointment and while serving
25 on the CAH.

26 (2) County employees, except commissioner aides, may not be appointed to the CAH.

27 (3) The term of membership shall be for three (3) years. A vacancy occurring during the term
28 shall be filled for the unexpired term. No member can serve more than three consecutive
29 terms.

30 (4) A member of the CAH shall be automatically removed for lack of attendance. Lack of
31 attendance is defined as failure to attend at least three (3) consecutive or a failure to attend
32 more than one-half (50%) of the meetings scheduled during a calendar year. Participation

- 1 for less than three-quarters of a meeting shall be the same as failure to attend a meeting.
2 Removals shall be entered into the minutes of the next regularly scheduled meeting of the
3 CAH. Members removed under this provision shall not continue to serve and such removal
4 shall create a vacancy. Furthermore, members removed may not be reconsidered for
5 membership on the CAH for at least one (1) year from the effective date of the removal.
- 6 (5) Members shall not be prohibited from qualifying as a candidate for elected office.
- 7 (6) Travel reimbursement is limited to expenses incurred only for travel outside the county
8 necessary to fulfill CAH member responsibilities when sufficient funds have been
9 budgeted and are available and upon the approval of the board. No other expenses are
10 reimbursable except documented long distance telephone calls to DES.
- 11 (7) Members shall be governed by the applicable provisions of the Palm Beach County Code
12 of Ethics as codified in Section 2-254 through 2-260 of the Palm Beach County Code.
- 13 (e) *County Support:* Staff, administrative and facility support for the CAH shall be provided by
14 the Board of County Commissioners as determined by the county administrator.
- 15 (f) *Role and Responsibilities:* The CAH shall function as outlined in Section 420.9076, Florida
16 Statutes, or as amended of which the current statute shall govern, or at the request of the Board
17 of County Commissioners.
- 18 (1) Triennially, the CAH shall review the established and proposed policies and procedures,
19 ordinances, land development regulations, and adopted local government comprehensive
20 plan of the county and shall recommend specific actions or initiatives to encourage or
21 facilitate affordable housing while protecting the ability of the property to appreciate in
22 value.
- 23 (2) Recommendations may include the modification or repeal of existing policies, procedures,
24 ordinances, regulations, or plan provisions or approval of developments related to
25 affordable housing; or at a minimum, the CAH shall make recommendations on, and
26 triennially evaluate the implementation of affordable housing incentives in the following
27 areas:
- 28 a. The expedited processing of permits or development orders for affordable
29 housing projects.
- 30 b. The modification of impact-fee requirements, including reduction or waiver of
31 fees and alternative methods of fee payment.
- 32 c. The allowance of flexibility in densities for affordable housing.

- 1 d. The reservation of infrastructure capacity for housing for very-low-income
- 2 persons, low-income persons and moderate-income persons.
- 3 e. The allowance of affordable accessory residential units in residential zoning
- 4 districts.
- 5 f. The reduction of parking and setback requirements for affordable housing.
- 6 g. The allowance of flexible lot configurations, including zero-lot-line
- 7 configurations for affordable housing.
- 8 h. The modifications of sidewalk and street requirements for affordable housing.
- 9 i. The establishment of additional processes by which the county considers,
- 10 before adoption, policies, procedures, ordinances, regulations, or plan
- 11 provisions that increase the cost of housing.
- 12 j. The preparation of a printed inventory of locally owned public lands suitable
- 13 for affordable housing.
- 14 k. The allowance of affordable accessory residential units in residential zoning
- 15 districts.
- 16 l. The support of development near transportation hubs and major employment
- 17 centers and mixed-used developments.

18 (3) The CAH recommendations may also include other affordable housing incentives
19 identified by the CAH and as identified by the comprehensive plan.

20 (4) The CAH shall make affordable housing incentive recommendations approved by a
21 majority of its membership at a public hearing. Notice of the time, date, and place of the
22 public hearing of the CAH to adopt affordable housing incentive recommendations shall
23 be published in a newspaper of general paid circulation in the county. Such notice shall
24 contain a short and concise summary of the affordable housing incentive recommendations
25 to be considered by the CAH. The notice shall also state the public place where a copy of
26 the tentative CAH recommendation can be obtained by interested persons. The CAH shall
27 submit the adopted affordable housing incentive recommendations to the board for their
28 consideration in the affordable housing incentive plan no later than December 31st
29 triennially.

30 (5) The CAH shall submit an annual report to the board as is required of all advisory board
31 and shall submit a triennial report as required by Section 420.9076, Florida Statutes.

1 (6) The CAH shall perform such duties as required by Section 420.9076, Florida Statutes, as
2 may be amended.

3 (g) *Authority*: The CAH may perform duties in accordance with Section 420.9076, Florida
4 Statutes, or at the request of the Board of County Commissioners.

5 (h) *Meetings*: The CAH shall meet bi-annually or on an as-needed basis. A quorum must be present
6 for the conduct of all CAH regular meetings. A majority of the members appointed shall
7 constitute a quorum. All regular meetings shall be governed by Robert's Rules of Order.
8 Reasonable public notice of all meetings shall be provided, and all such meetings shall be open
9 to the public at all times in accordance with Resolution No. R2013-0193, as amended.

10 (i) *Chair and Vice-Chair*: A chair and vice-chair shall be elected by a majority vote of the CAH
11 and shall serve for one term. The duties of the chair shall include:

12 (1) Presiding at CAH meetings.

13 (2) Establishing committees, appointing committee chairs and charging committees with
14 specific tasks.

15 The vice-chair shall perform the duties of the chair in the chair's absence, and such other
16 duties as the chair may assign. If a vacancy occurs in the office of the chair, the vice-chair
17 shall become the chair for the unexpired term. If a vacancy occurs in the office of vice-
18 chair, the CAH will elect another member to fill the unexpired term of the vice-chair.

19 **Section 7. Local Housing Assistance Plan.**

20 (a) *Establishment*: The Local Housing Assistance Plan (LHAP) is hereby created and established.

21 (b) *Local Housing Assistance Plan*: The County shall use the funds received from the state
22 pursuant to the State Housing Initiative Partnership act to implement the local housing
23 assistance program.

24 (c) *Distribution of monies*: The funds shall be distributed in accordance with requirements outlined
25 in Section 420.9075, Florida Statutes, and the County's approved Local Housing Assistance
26 Plan (LHAP)

27 (d) *Compliance*:

28 (1) The County shall comply with all rules and regulations of the Florida Housing Finance
29 Corporation in connection with required reporting by the County of compliance with its
30 Local Housing Assistance Plan.

31 (2) The Local Housing Assistance Plan shall include all other lawful objectives not previously
32 listed if said objectives have been adopted into the Local Housing Assistance Plan in the

1 manner provided for by Sections 420.907—420.9079, Florida Statutes, and rule 91-37,
2 Florida Administrative Code.

3 (e) *Designation of Responsibility for Administration and Implementation:* The Department of
4 Economic Sustainability (DES) shall be responsible for implementation and administration of
5 the Local Housing Assistance Plan in compliance with Section 420.9072, Florida Statutes, and
6 other duties as assigned by the county administrator.

7 **Section 8. REPEAL OF LAWS IN CONFLICT.**

8 All local laws and ordinances in conflict with any provisions of this Ordinance are hereby
9 repealed to the extent of such conflict.

10 **Section 9. SEVERABILITY.**

11 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any
12 reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void, such
13 holding shall not affect the remainder of this Ordinance.

14 **Section 10. INCLUSION IN THE CODE OF LAWS AND ORDINANCES.**

15 The provisions of this Ordinance shall become and be made a part of the Palm Beach
16 County Code. The sections of this Ordinance may be renumbered or relettered to accomplish such,
17 and the word “ordinance” may be changed to “section,” “article,” or other appropriate word.

18 **Section 11. ENFORCEMENT.**

19 This Ordinance is enforceable by all means provided by law. Additionally, the County may
20 choose to enforce this Ordinance by seeking injunctive relief in the Circuit Court of Palm Beach
21 County.

22 **Section 12. PENALTY.**

23 Any violation of any portion of this Ordinance shall be punishable as provided by law.

24 **Section 13. CAPTIONS.**

25 The captions, section headings, and section designations used in this Ordinance are for
26 convenience only and shall have no effect on the interpretation of the provisions of this Ordinance.

27 **Section 14. EFFECTIVE DATE.**

28 The provisions of this Ordinance shall become effective upon filing with the Department
29 of State.

30

1 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach
2 County, Florida, on this the 16th day of May, 2017.

3 SHARON R. BOCK, CLERK

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

4
5
6
7
8 By: *Sharon R. Bock*
9 Deputy Clerk
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21
22



By: *Paulette Burdick*
Paulette Burdick, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: *James Burt*
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the 17th day of
May, 2017.

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, SHARON R. BOCK, Clerk, do hereby certify
this to be a true and correct copy of the original
filed in my office on MAY 16 2017
dated at West Palm Beach, Florida on 5-19-17
By: *Sharon R. Bock*
Deputy Clerk



A PRACTICAL GUIDE TO THE **CODE OF ETHICS**



Honesty - Integrity - Character

For Employees and Public Officials

Published by
The Palm Beach County
Commission on Ethics

A Practical Guide to the Code of Ethics



Honesty - Integrity - Character

For

**Employees
and
Public Officials**

Published by

**The Palm Beach County
Commission on Ethics**

2016 Edition

Introduction

This Guide provides a summary of the provisions of the Code of Ethics. It also contains a complete copy of the Code of Ethics and other documents that may be helpful with understanding your responsibilities under the Code. Please visit our website for detailed information about the Commission on Ethics.

CONTACT US

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Top 10 Ethics Rules.	Back Cover
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Ethics Decision Tree



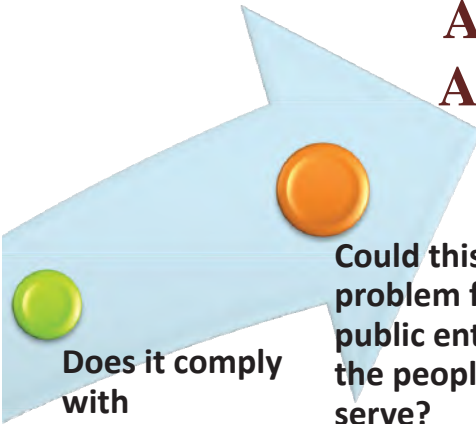
**Does it comply
with the Code
of Ethics?**

(COE staff can assist you
with this determination)

Is it legal?

(Does it violate state
law, or a city/ county
Ordinance?)

Ask First Act Later



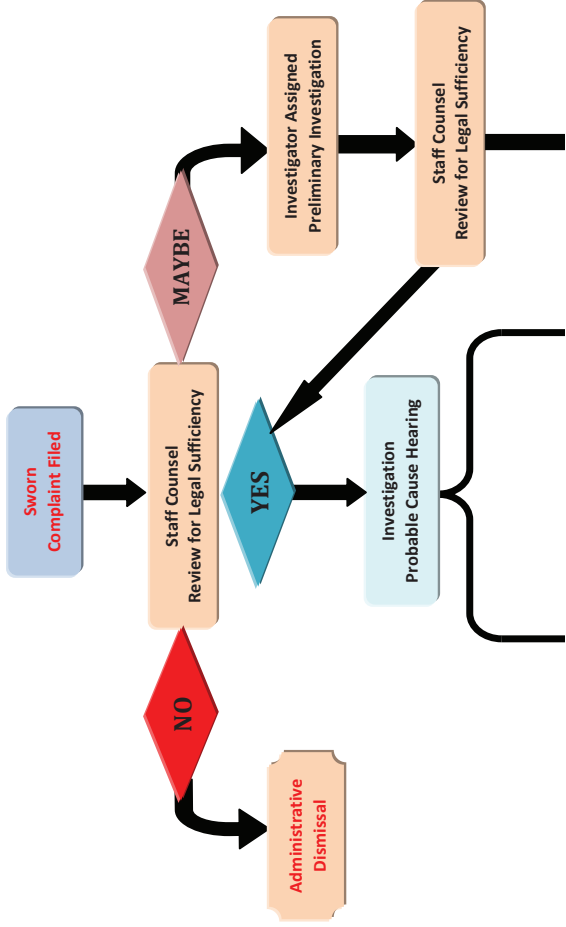
**Does it comply
with
city/county
policy?**

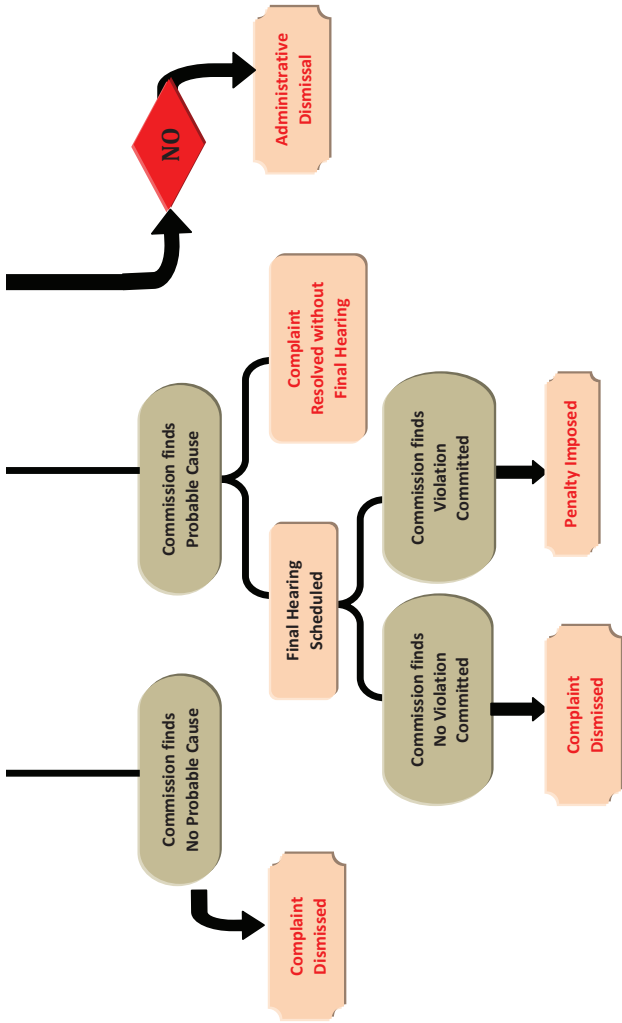
(The Code may not
prohibit it, but
city/county policy may)

**Could this create a
problem for your
public entity or
the people you
serve?**

(Good Government
Standard)

COMPLAINT PROCESS





Evidentiary Standards

Legal Sufficiency (*which must be determined to proceed with the investigation of any complaint*), exists where there is an allegation of a violation of an ordinance within the jurisdiction of the Ethics Commission, purportedly committed by an individual within the authority of the Ethics Commission, based substantially on the personal knowledge of the Complainant, relating to an alleged violation occurring after the effective date of the code, and filed with the Ethics Commission within two years of the alleged violation.

Probable Cause (*which must be established to proceed to a final hearing on a complaint*) exists where there are reasonably trustworthy facts and circumstances for the Commission on Ethics (COE) to believe that the Respondent may have violated the Palm Beach County Code of Ethics.

Clear and Convincing Evidence (*which must be established for the COE or magistrate to find in a final hearing that a violation has been proven to the requisite level under law*), requires that the evidence submitted must be found to be credible; the facts to which the witnesses testify must be distinctly remembered; the testimony must be precise and explicit and the witnesses must be lacking in confusion as to the facts in issue. The evidence must be of such weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established. In Re: Davey, 645 So. 2d 398, 404 (Fla. 1994), quoting Slomowitz v. Walker, 429 So. 2d 797, 800 (Fla. 4th DCA 1983).

Commission Framework

The Palm Beach County Commission on Ethics (COE) is comprised of five volunteer members that are appointed by various community “stake holders.” Each Commissioner serves a term of four years. The COE is authorized to interpret and enforce the PBC Code of Ethics, The Lobbyist Registration Ordinance, and the Post-Employment Ordinance.

The five community groups that make appointments to the COE are:

1. The Palm Beach County Association of Chiefs of Police.
2. The Palm Beach County Bar Association, in conjunction with the Palm Beach County Hispanic Bar Association, and the F. Malcolm Cunningham Bar Association.
3. The President of Florida Atlantic University.
4. The Palm Beach County Chapter of the Florida Institute of Certified Public Accounts.
5. The Palm Beach County League of Cities.

Highlights

(THESE HIGHLIGHTS ARE PRESENTED IN A SHORTENED AND PARAPHRASED MANNER AND SHOULD NOT BE RELIED UPON WITHOUT READING THE FULL VERSION OF THE CODE OF ETHICS.)

I. PROHIBITED CONDUCT

This law regulates the way you do your job or use your authority as an official or employee. In addition to preventing the use of one's position to obtain a special financial benefit, the code of ethics fosters transparency.

The jurisdiction of the Commission on Ethics (COE) extends to all county and municipal officials, and employees.

The COE does not have jurisdiction over state officials or employees, judges, the Sheriff, Clerk & Comptroller, Property Appraiser, or any other constitutional officers or their employees.

A. Misuse of public employment

You cannot use your job or position to give a *special* **FINANCIAL BENEFIT** to certain people and/or organizations specifically listed in this section.

What does "SPECIAL FINANCIAL BENEFIT" mean within the code of ethics?

A "**financial benefit**" means anything of value that can be obtained through the exercise of your job or official position, or the promise of such a

benefit. **It does not include employee wages, or stipends paid to officials, or other lawful payments to which you are entitled because of your employment or official position.**

A **“special” financial benefit** has two key things to be considered.

1. It refers to anything of value that is obtained through your official position and that is ***not shared*** with **“similarly situated”** members of the general public.

For a financial benefit to ***not*** be considered “special,” it also requires that the number of people or organizations receiving the benefit is significantly large.

(While there is no absolute test for whether a group of beneficiaries is sufficiently large under this definition, the smaller the group, the more likely the financial benefit is going to be found to be “special,” and thus prohibited. A “rule of thumb” sometimes helpful in this circumstance is the “1% rule.” However, as the percentage grows from 1%, so does the chance that the financial benefit involved will be found to be “special”, and thus must be further evaluated.)

What is the 1% rule?

Where a financial beneficiary of an action represents less than 1% of the overall group of potential beneficiaries (he or she is merely 1 out of 100 that benefit), then there is little chance the financial benefit would be considered “special.”

2. If you know, or should know that your actions as an official or employee will financially benefit anyone listed within this code section differently than others in the same

situation, it would constitute a misuse of your public employment.

Example: A permitting clerk who accepts payment for a building permit from her brother does nothing wrong so long as the fee is no different from the fee charged to a stranger for the same service. If she gave her brother a discount simply because he is her brother, she would likely be committing a misuse of public employment.

B. Corrupt misuse of official position

You may not use your job, property or resource within your trust, to **CORRUPTLY** secure any special benefit (not just financial), privilege or exemption for *any* person.

What does CORRUPTLY mean?

An official act taken with “**wrongful intent**” and for the purpose of receiving *any* benefit, which is “**inconsistent with the proper performance of your public duties.**”

Example: A code enforcement officer parks his personal vehicle on private property beside his home. When the property owner asks him to remove the vehicle, the code enforcement officer threatens the property owner with a code violation. By threatening the property owner, the code enforcement officer is likely committing a corrupt misuse of official position.

C. Contractual Relationships

This section controls contracts you might have in your private capacity that could conflict with your public duties.

Some general rules are:

1. You may not enter into any contract or do business with your public employer;
2. If you own a business, your business may not enter into any contract or do business with your public employer; and
3. Your outside employer may not enter into any contract or do business with your public employer.

(“Ownership” of an outside business means that any combination of you, your spouse/domestic partner, household member, or close relative own at least five percent (5%) of the company, even where you are listed as an “employee” of the business.)

These rules do not include:

1. Your employment contract with your public employer;
2. Any other contract you enter into as part of your official duties with your public employer;
3. Any purchase of goods or services from your municipality/county available to the general public.

D. Exceptions to the contractual relationships prohibition

There are five (5) additional exceptions listed in the Code of Ethics beginning on page 35 of this guide.

E. Travel Expenses

Generally, you cannot accept payment or reimbursement of any travel expenses directly from any *contractor, vendor, service provider, bidder or proposer* doing business with your public employer.

F. Contingent Fee Prohibition

No person can offer, give or accept a contingency fee in exchange for something related to their public employment. This is not applicable in some situations as listed in the Code of Ethics.

What is a CONTINGENCY FEE?

A fee, bonus, commission or nonmonetary benefit as compensation dependant on an action taken or decision made.

G. Honesty in Applications for Positions

No one seeking a contract with a county or municipal government can lie on the application.

H. Disclosure or Use of Certain Information

A public employee cannot disclose or use information gained through their job that is **not available to members of the public.**

GIFT LAW

II. GIFT LAW DEFINITIONS:

- A. **Gift** – Anything of value. State statute and the Florida Administrative Code are used to establish the value of certain gifts.
- B. **Vendor**—A person or entity that sells goods

or services, personal property, or has a pending bid to sell or lease to your public employer.

- C. **Lobbying**—To influence a decision of government or an attempt to obtain the good will of someone in that government.
- D. **Lobbyist**—Someone who is paid to lobby on behalf of someone else.
- E. **Know or should know**—Being aware of a fact or information is to “know”. To have the resources or information available to know the information is “should know”.

Example: I received a gift card in the mail from someone I believe may be a vendor of my public employer. If I don't take the time to find out for sure if the person is a vendor, I may be violating the gift law portion of the code.

Identifying Lobbyists, Principals of lobbyists, and Vendors is your responsibility if you are going to accept gifts or outside employment. However, if you unintentionally violate the gift law prohibitions by not checking first, you may “cure” the violation by returning the gift, or the value/ portion of the gift that is prohibited (over \$100), within 90 days of accepting such a gift.

1. **A Central Lobbyist Registration System (CLRS)** is used by the county, and most municipalities. The CLRS is fully searchable and can be found at:
www.pbcgov.org/plrapplication/asp/PLRSearchPublicView_New.aspx
2. West Palm Beach, Palm Beach Gardens and Riviera Beach do not use the CLRS and may have a list of the lobbyists that lobby their boards. Please contact them for additional

information.


3. Palm Beach County has a vendor database for county vendors only at:
www.pbcgov.com/registeredvendors/.
4. Contact the individual municipalities for their list of vendors.

III. GIFT LAW PROHIBITIONS

- A. You cannot ask for or accept a gift of **any value** in return for, or because of, the way you do your job, including “tips” in most cases.

(There is an exception for certain service related jobs where “tipping” is considered a normal part of their pay within the industry, such as waiter, waitress, bartender, etc.)

- B. You cannot **solicit** gifts of any value from a vendor, lobbyist, principal or employer of a lobbyist doing business with your public employer, if the gift is for the benefit of you, a relative or household member, or a fellow official or employee of your public entity.
- C. You cannot accept or ask for gifts worth more than \$100/year in the aggregate from anyone listed above in B.
- D. The groups listed above in B, may not give gifts worth more than \$100 to a county or municipal employee.
- E. **Gift Law Reporting**
 1. **State reporting individuals** will file their quarterly report with the state and file a copy contemporaneously with the PBC Commission on Ethics.

- 
2. *All other employees* who receive any gift worth more than \$100 must file an annual gift disclosure report with the COE no later than Nov. 1 for the period of Oct. 1 through Sept. 30 of each year.
 3. There are **exceptions** to the county gift law requirements for non-state reporting individuals and some gifts do not need to be reported. The full list of exceptions can be found in the Code on pages 44-50 of this Guide.
 4. Some gifts *must be reported* but may be accepted with special provisions. The full list can be found in the Code on pages 48 & 49 of this Guide in Subsections "i" and "j".
 5. If you do not receive a gift that you are required to report, you DO NOT have to file a gift form for that period.

F. Solicitations of Contributions on Behalf of a Non-Profit Charitable Organization

You may solicit funds from anyone on behalf of charities, including vendors and lobbyists, so long as they do not have a pending application or award of any nature before your public employer.

Any solicitation from these sources must be disclosed on a "Solicitation Log" (even where they do not contribute), and filed within 30 days of the solicitation, or the date the event is held. The log is available on the COE website.

IV. NEPOTISM

Officials or employees who are authorized to ap-

point, employ, promote, or advance anyone in the agency may not do so if that person is a relative, spouse, or domestic partner, nor may they advocate for these things.

V. NONINTERFERENCE WITH COMMISSION ON ETHICS AND INSPECTOR GENERAL

Public employees shall not retaliate against, interfere with, obstruct, or attempt to do any of the above toward or against anyone or any investigation that involves the COE or IG.

VI. PALM BEACH COUNTY COMMISSION ON ETHICS

A. The Commission on Ethics

The COE is an independent body that

1. Interprets and enforces the Code of Ethics;
2. Provides advisory opinions; and
3. Provides training for employees and officials.

B. The COE will hear cases involving violations of the Code of Ethics

1. A violation of the Code of Ethics can result in
 - a. A public reprimand.
 - b. A fine of up to \$500.
 - c. Restitution.
 - d. Other disciplinary action by the public employer.
 - e. Contracts, permits, or any other government approvals may be rescinded or declared void.
2. The COE may refer willful violations to

VII. ADVISORY OPINIONS

Anyone under the jurisdiction of the Code of Ethics may ask for an advisory opinion so long as the circumstances described in the request apply to them personally.

No person may request an advisory opinion concerning circumstances that do not apply to them personally, with the exception of a licensed attorney representing the interests of a client, or the interests of a specific governmental board, or its members.

VIII. OTHER RULES, CODES AND STATUTES

Public officials/employees are required to adhere to state law, the Code of Ethics, and applicable municipal codes. In addition, they may be subject to various county, municipal and departmental policies and procedures. It is the responsibility of every official/employee to adhere to the appropriate rules and codes adopted by the public entity.

Quick Reference to Advisory Board Conflicts, Disclosures and Waivers

Board Type		Contract Oversight?		Code Requirement
Purely Advisory	+	YES	=	Waiver
Purely Advisory	+	NO	=	Disclosure
Not Purely Advisory	+	NO	=	Disclosure
Not Purely Advisory	+	YES	=	Prohibited

What Type of Board do you serve? Purely Advisory or Not Purely Advisory

Most governments create other boards to assist in various decision making processes. They are generally referred to as advisory boards, though some of them are not purely advisory. What's the difference?

- A **purely advisory board** is authorized only to make recommendations to some other board, like the governing body, or perhaps a government administrator or hearing officer.
- A board that is **not purely advisory** is authorized to make final decisions. A final decision does not go to any other any other arm of the government. These decisions can be challenged only in circuit court. Some boards have both functions. We use the

term “purely” to emphasize that a board with any measure of final decision making authority is not purely advisory. Your staff liaison can answer any question you have regarding the nature of your board.

Does your board have Contract Oversight?

If you, your employer, or your own business has a contract with the government that created your board, you must determine whether your board will have anything to do with this contract. If your board will play any role in the oversight, regulation, management, or policy-setting recommendations regarding this contract, then your board exercises contract oversight for the purposes of this chart. The same considerations apply if you already serve on a board and you, your employer, or you own business seeks to contract with the government. There are four (4) exceptions. Pages 36-37 list the types of contracts that are not subject to the requirements of this chart. These exceptions for elected or appointed “officials” DO NOT include the part-time employment exception which applies only to employees.

What does the Code require? There are three possible outcomes in the chart.

(The exceptions and waiver requirements can be found in Sec. 2-443(e) of the Code of Ethics

- A **waiver** will require the governing body, upon full disclosure of the contract at a public meeting, to waive the conflict. If you were appointed by the entire governing body, a majority plus one is required. If you were appointed by only one board member,

that board member alone can waive the conflict.

- **Disclosure** requires only that the existence of the contract is made public. This should occur either at the time of your appointment, or when the subject contract is approved.
- If the chart indicates “**prohibited**” for your situation, you must decline the appointment or terminate the contract. If the possibility of the contract occurs after you have been appointed, you must resign from the board or withdraw the offer to contract with the government.

*Created by Leonard W. Berger,
Chief Assistant County Attorney
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Code of Ethics

(Revised September 22, 2015)

Sec. 2-441. Title; statement of purpose.

This article shall be known as the Palm Beach County Code of Ethics. This code of ethics is enacted pursuant to Florida Constitution, Article VIII, section 1(g), Florida Statutes, ch. 125, and the Charter of Palm Beach County. The Municipalities located within Palm Beach County are subject to the provisions of this code of ethics pursuant to referendum. The purpose of this code is to provide additional and more stringent ethics standards as authorized by Florida Statutes, §112.326. This code shall not be construed to authorize or permit any conduct or activity that is in violation of Florida Statutes, ch. 112, pt. III. This code of ethics shall be deemed additional and supplemental to any and all state and federal laws governing ethical conduct of officials and employees, as well as all local laws, rules, regulations and policies.

Officials and employees in the public service shall be conscious that public service is a public trust, shall be impartial and devoted to the best interests of the people of Palm Beach County, and shall act and conduct themselves so as not to give occasion for distrust of their impartiality.

Nothing herein shall abridge employees' constitutional right to collective bargaining.

(Ord. No. 2011-011, §1(Exh. 1), 5-17-11)

Sec. 2-442. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings as-

cribed to them in this section, except where the context clearly indicates a different meaning:

Advisory board shall mean any advisory or quasi-judicial board created by the board of county commissioners, by the local municipal governing bodies, or by the mayors who serve as chief executive officers or by mayors who are not members of local municipal governing bodies.

Customer or client means any person or entity to which an official or employee's outside employer or business has supplied goods or services during the previous twenty-four (24) months, having, in the aggregate, a value greater than ten thousand dollars (\$10,000).

Domestic partner is an adult, unrelated by blood, with whom an unmarried or separated official or employee has an exclusive committed relationship and maintains a mutual residence.

Financial benefit includes any money, service, license, permit, contract, authorization, loan, travel, entertainment, hospitality, gratuity, or any promise of any of these, or anything else of value. This term does not include campaign contributions authorized by law.

Household member includes anyone whose primary residence is in the official or employee's home, including non-relatives who are not rent payers or employees of the head of the household.

Inspector general shall mean the office established in article XII of this chapter.

Lobbying shall mean seeking to influence a decision through oral or written communication or an attempt to obtain the goodwill of any county commissioner, any member of a local municipal governing body, any mayor or chief executive officer

that is not a member of a local municipal governing body, any advisory board member, or any employee with respect to the passage, defeat or modification of any item which may foreseeably be presented for consideration to the advisory board, the board of county commissioners, or the local municipal governing body lobbied as applicable.

Lobbyist shall mean any person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying on behalf of a principal, and shall include an employee whose principal responsibility to the employer is overseeing the employer's various relationships with government or representing the employer in its contacts with government.

"Lobbyist" shall not include:

- (1) Any employee, contract employee, or independent contractor of a governmental agency or entity lobbying on behalf of that agency or entity, any elected local official when the official is lobbying on behalf of the governmental agency or entity which the official serves, or any member of the official's staff when such staff member is lobbying on an occasional basis on behalf of the governmental agency or entity by which the staff member is employed.
- (2) Any person who is retained or employed for the purpose of representing an employer, principal or client only during a publicly noticed quasi-judicial hearing or comprehensive plan hearing, provided the person identifies the employer, principal or client at the hearing.
- (3) Any expert witness who is retained or employed by an employer, principal or client to provide only scientific, technical or other specialized information provided in agenda mate-

rials or testimony only in public hearings, so long as the expert identifies the employer, principal or client at the hearing.

- (4) Any person who lobbies only in his or her individual capacity for the purpose of self-representation and without compensation.
- (5) Any employee, contract employee, or independent contractor of the Palm Beach County League of Cities, Inc., lobbying on behalf of that entity.

Official or employee means any official or employee of the county or the municipalities located within the county, whether paid or unpaid. The term "employee" includes but is not limited to all managers, department heads and personnel of the county or the municipalities located within the county. The term also includes contract personnel and contract administrators performing a government function, and chief executive officer who is not part of the local governing body. The term "official" shall mean members of the board of county commissioners, a mayor, members of local municipal governing bodies, and members appointed by the board of county commissioners, members of local municipal governing bodies or mayors or chief executive officers that are not members of local municipal governing body, as applicable, to serve on any advisory, quasi judicial, or any other board of the county, state, or any other regional, local, municipal, or corporate entity.

Outside employer or business includes:

- (1) Any entity, other than the county, the state, or any other federal, regional, local, or municipal government entity, of which the official or employee is a member, official, director, proprietor, partner, or employee, and from which

he or she receives compensation for services rendered or goods sold or produced. For purposes of this definition, "compensation" does not include reimbursement for necessary expenses, including travel expenses; or

- (2) Any entity located in the county or which does business with or is regulated by the county or municipality as applicable, in which the official or employee has an ownership interest. For purposes of this definition, an "ownership interest" shall mean at least five (5%) percent of the total assets or common stock owned by the official or employee or any combination of the official or employee's household members, spouse, child, step-child, brother, sister, parent or step-parent, or a person claimed as a dependent on the official or employee's latest individual federal tax return.
- (3) The term outside employer or business shall not apply to an employee who is employed by a certified bargaining agent solely to represent employees.

Palm Beach County Commission on Ethics means the commission established in section 2-254 et seq. to administer and enforce the ethics regulations set forth herein, and may also be referred to as the "commission on ethics" in this article.

Persons and entities shall be defined to include all natural persons, firms, associations, joint ventures, partnerships, estates, trusts, business entities, syndicates, fiduciaries, corporations, and all other organizations.

Relative unless otherwise specified in this article, means an individual who is related to an official or employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, hus-

band, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, person who is engaged to be married to the official or employee or who otherwise holds himself or herself out as or is generally known as the person whom the official or employee intends to marry or with whom the official or employee intends to form a household, or any other natural person having the same legal residence as the official or employee.

Transaction shall refer to the purchase or sale by the county or municipality of goods or services for a consideration.

Vendor means any person or entity who has a pending bid proposal, an offer or request to sell goods or services, sell or lease real or personal property, or who currently sells goods or services, or sells or leases real or personal property, to the county or municipality involved in the subject contract or transaction as applicable. For the purposes of this definition a vendor entity includes an owner, director, manager or employee.

(Ord. No. 2011-011, §1(Exh. 1), 5-17-11)

Sec. 2-443. Prohibited conduct.

- (a) **Misuse of public office or employment.** An official or employee shall not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows or should know with the exercise of reasonable care will result in a special finan-

cial benefit, not shared with similarly situated members of the general public, for any of the following persons or entities:

- (1) Himself or herself;
- (2) His or her spouse or domestic partner, household member or persons claimed as dependents on the official or employee's latest individual federal income tax return, or the employer or business of any of these people;
- (3) A sibling or step-sibling, child or step-child, parent or step-parent, niece or nephew, uncle or aunt, or grandparent or grandchild of either himself or herself, or of his or her spouse or domestic partner, or the employer or business of any of these people;
- (4) An outside employer or business of his or hers, or of his or her spouse or domestic partner, or someone who is known to such official or employee to work for such outside employer or business;
- (5) A customer or client of the official or employee's outside employer or business;
- (6) A substantial debtor or creditor of his or hers, or of his or her spouse or domestic partner—"substantial" for these purposes shall mean at least ten thousand dollars (\$10,000) and shall not include forms of indebtedness, such as a mortgage and note, or a loan between the official or employee and a financial institution;
- (7) A civic group, union, social, charitable, or religious organization, or other not for profit organization of which he or she (or his or her spouse or domestic partner) is an officer or director.

- (b) ***Corrupt misuse of official position.*** An official or employee shall not use his or her official position or office, or any property or resource which may be within his or her trust, to corruptly secure or attempt to secure a special privilege, benefit, or exemption for himself, herself, or others. For the purposes of this subsection, "corruptly" means done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of an official or employee which is inconsistent with the proper performance of his or her public duties.
- (c) ***Disclosure of voting conflicts.*** County and municipal officials as applicable shall abstain from voting and not participate in any matter that will result in a special financial benefit as set forth in subsections (a)(1) through (7) above. The official shall publicly disclose the nature of the conflict and when abstaining from the vote, shall complete and file a State of Florida Commission on Ethics Conflict Form 8B pursuant to the requirements of Florida Statutes, §112.3143. Simultaneously with filing Form 8B, the official shall submit a copy of the completed form to the county commission on ethics. Officials who abstain and disclose a voting conflict as set forth herein, shall not be in violation of subsection (a), provided the official does not otherwise use his or her office to take or fail to take any action, or influence others to take or fail to take any action, in any other manner which he or she knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members of

the general public, as set forth in subsections (a)(1) through (7).

- (d) ***Contractual relationships.*** No official or employee shall enter into any contract or other transaction for goods or services with their respective county or municipality. This prohibition extends to all contracts or transactions between the county or municipality as applicable or any person, agency or entity acting for the county or municipality as applicable, and the official or employee, directly or indirectly, or the official or employee's outside employer or business. Any such contract, agreement, or business arrangement entered into in violation of this subsection may be rescinded or declared void by the board of county commissioners pursuant to section 2-448(c) or by the local municipal governing body pursuant to local ordinance as applicable. This prohibition shall not apply to employees who enter into contracts with Palm Beach County or a municipality as part of their official duties with the county or that municipality. This prohibition also shall not apply to officials or employees who purchase goods from the county or municipality on the same terms available to all members of the public. This prohibition shall also not apply to advisory board members provided the subject contract or transaction is disclosed at a duly noticed public meeting of the governing body and the advisory board member's board provides no regulation, oversight, management, or policy-setting recommendations regarding the subject contract or transaction.
- (e) ***Exceptions and waiver.*** The requirements of subsection (d) above may be waived as it per-

tains to advisory board members where the advisory board member's board is purely advisory and provides regulation, oversight, management, or policy-setting recommendations regarding the subject contract or transaction. No waiver shall be allowed where the advisory board member's board is not purely advisory and provides regulation, oversight, management, or policy-setting recommendations regarding the subject contract or transaction. Waiver may be affected by the board of county commissioners or by the local municipal governing body as applicable upon full disclosure of the contract or transaction prior to the waiver and an affirmative vote of a majority plus one (1) of the total membership of the board of county commissioners or the local municipal governing body as applicable. In instances in which appointment to the advisory board is made by an individual, waiver may be effected, after full disclosure of the contract or transaction at a public hearing, by the appointing person. In addition, no official or employee shall be held in violation of subsection (d) if:

- (1) The business is awarded under a system of sealed, competitive bidding to the lowest bidder and:
 - a. The official or employee or member of his or her household has in no way participated in the determination of the bid specifications or the determination of the lowest bidder;
 - b. The official or employee or member of his or her household has in no way used or attempted to use the official or employee's influence to persuade

- the agency, governmental entity or any personnel thereof to enter such a contract other than by the mere submission of the bid; and
- c. The official or employee, prior to or at the time of the submission of the bid, has filed a statement with the supervisor of elections and the commission on ethics, disclosing the nature of the interest in the outside employer or business submitting the bid.
- (2) An emergency purchase or contract which would otherwise violate a provision of subsection (d) must be made in order to protect the health, safety, or welfare of the citizens of the county or municipality as applicable.
 - (3) The outside employer or business involved is the only source of supply within the county or municipality as applicable and there is full disclosure by the official or employee of his or her interest in the outside employer or business to the county or municipality as applicable and the ethics commission prior to the purchase, rental, sale, leasing, or other business being transacted.
 - (4) The total amount of the contracts or transactions in the aggregate between the outside employer or business and the county or municipality as applicable does not exceed five hundred dollars (\$500) per calendar year.
 - (5) Notwithstanding any provision to the contrary, subsection (d) shall not be construed to prevent an employee from seeking part-time employment with an outside employ-

er who has entered into a contract for goods or services with the county or municipality as applicable provided that:

- a. The employee or relative of the employee does not work in the county or municipal department as applicable which will enforce, oversee or administer the subject contract; and
- b. The outside employment would not interfere with or otherwise impair his or her independence of judgment or otherwise interfere with the full and faithful performance of his or her public duties to the county or municipality as applicable; and
- c. The employee or relative of the employee has not participated in determining the subject contract requirements or awarding the contract; and
- d. The employee's job responsibilities and job description will not require him or her to be involved in the outside employer's contract in any way including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination or forbearance; and
- e. The employee demonstrates compliance with applicable merit rules regarding outside employment and obtains written permission from his or her supervisor; and
- f. The employee has obtained a conflict of interest waiver from the chief administrative officer and the employee's department head of the county or municipality based on a finding that

no conflict exists. The employee shall submit the request for waiver in writing and under oath. The request for the waiver shall be signed by the employee under oath or affirmation on an approved form provided by the commission on ethics. The document shall contain written acknowledgment of compliance with the provisions of subsection (5)a. through (5)e. of this subsection, together with such pertinent facts and relevant documents that support such waiver. A waiver under this subsection must be approved by both the employee's supervisor and chief administrative officer of the county or municipality. The county or municipality shall record such waiver in the employee's personnel file and shall submit a copy of the waiver and all related documents to the commission on ethics. The commission on ethics in its discretion may elect to review, comment on, or investigate any waiver. The commission on ethics review or investigation shall not delay an employee's ability to take the part time employment.

- g. *Official law enforcement overtime or extra duty details.* The provisions of subsection (d) shall be waived for outside employment when that employment consists of a certified police agency uniformed external security or extra duty detail, contracted or administered by the police agency as applicable. For the purpose of this

subsection, all records of external, extra duty or overtime security details, including supervisor approval, identity of contracting parties, and including time, date and manner of detail shall be maintained by the individual contracting or administrating police agency, records of which shall be accessible to the public subject to state public records disclosure exemptions.

- (f) ***Accepting travel expenses.*** No official or employee shall accept, directly or indirectly, any travel expenses including, but not limited to, transportation, lodging, meals, registration fees and incidentals from any county or municipal contractor, vendor, service provider, bidder or proposer as applicable. The board of county commissioners or local municipal governing body as applicable may waive the requirements of this subsection by a majority vote of the board or local municipal governing body. The provisions of this subsection shall not apply to travel expenses paid by other governmental entities or by organizations of which the county or municipality as applicable is a member if the travel is related to that membership.
- (g) ***Contingent fee prohibition.*** No person shall, in whole or in part, pay, give or agree to pay or give a contingency fee to another person. No person shall, in whole or in part, receive or agree to receive a contingency fee. As used herein, "contingency fee" means a fee, bonus, commission, or nonmonetary benefit as compensation which is dependent on or in any way contingent on the passage, defeat, or modification of: an ordinance, resolution, action or de-

cision of the board of county commissioners or local municipal governing body as applicable, any employee authorized to act on behalf of the board of county commissioners or local municipal governing body as applicable, the county administrator or municipal administrator as applicable, or any action or decision of an advisory board or committee. This prohibition does not apply to real estate brokers when acting in the course of their profession as regulated by Florida Statutes, §§475.001-475.5018, as may be amended. Nothing in this section may be construed to prohibit any salesperson from engaging in legitimate government business on behalf of a company from receiving compensation or commission as part of a bona fide contractual arrangement with that company provided such compensation or commission is ordinary and customary in the industry. Nothing in this section may be construed to prohibit an attorney from representing a client in a judicial proceeding or formal administrative hearing pursuant to a contingent fee arrangement.

- (h) ***Honesty in applications for positions.*** No person seeking to become an official or employee, or seeking to enter into a contract to provide goods or services to the county or municipality as applicable, may make any false statement, submit any false document, or knowingly withhold information about wrongdoing in connection with employment by or services to the county or municipality as applicable.
- (i) ***Disclosure or use of certain information.*** A current or former official or employee shall not disclose or use information not available to members of the general public and gained by

reason of his or her official position, except for information relating exclusively to governmental practices, for his or her personal gain or benefit or for the personal gain or benefit of any other person.

(Ord. No. 2011-011, §1(Exh. 1), 5-17-11)

Sec. 2-444. Gift law.

- (a) (1) No county commissioner, member of a local governing body, mayor or chief executive when not a member of the governing body, or employee, or any other person or business entity on his or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value of greater than one hundred dollars (\$100) in the aggregate for the calendar year from any person or business entity that the recipient knows, or should know with the exercise of reasonable care, is a vendor, lobbyist or any principal or employer of a lobbyist who lobbies, sells or leases to the county or municipality as applicable.
- (2) No vendor, lobbyist, or principal or employer of a lobbyist that lobbies the county or a municipality shall knowingly give, directly or indirectly, any gift with a value greater than one hundred dollars (\$100) in the aggregate for the calendar year to a person who the vendor, lobbyist, or principal knows is an official or employee of that county or municipality. For the purposes of this subsection (a)(2), the term vendor also includes any person or entity that, because of the nature of their business, may respond to an invitation to bid, request for proposal or other procurement

opportunity that has been published by the county or a municipality.

- (b) (1) No advisory board member, or any other person on his or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value of greater than one hundred dollars (\$100) in the aggregate for the calendar year from any vendor, lobbyist, or any principal or employer of a lobbyist, who lobbies the recipient's advisory board, or any county or municipal department as applicable that is subject in any way to the advisory board's authority, influence or advice.
- (2) No vendor, lobbyist, or principal or employer of a lobbyist who lobbies an advisory board or any county or municipal department that is subject in any way to the advisory board's authority, influence or advice, shall knowingly give, directly or indirectly, any gift with a value greater than one hundred dollars (\$100) in the aggregate for the calendar year to a person who the vendor, lobbyist, or principal knows is a member of that advisory board. For the purposes of this subsection (b)(2), the term vendor also includes any person or entity that, because of the nature of their business, may respond to an invitation to bid, request for proposal or other procurement opportunity that has been published by the county or a municipality.
- (c) No county commissioner, member of a local governing body, mayor or chief executive officer when not a member of the governing body, or employee, or any other person or business entity on his or her behalf, shall

knowingly solicit a gift of any value from any person or business entity that the recipient knows is a vendor, lobbyist or any principal or employer of a lobbyist where the gift is for the personal benefit of the official or employee, another official or employee, or any relative or household member of the official or employee. No advisory board member or any other person or business entity on his or her behalf, shall knowingly solicit a gift of any value from any person or business entity that the recipient knows is a vendor, lobbyist or any principal or employer of a lobbyist who lobbies the recipient's advisory board, or any county or municipal department as applicable that is subject in any way to the advisory board's authority, influence or advice, where the gift is for the personal benefit of the advisory board member, another advisory board member, or an official, or any relative or household member of the official or employee.

- (d) For purposes of this section, a principal or employer of a lobbyist shall include any officer, partner or director of the principal or employer entity, or any employee of a principal or employer who is not an officer, partner or director, provided that the employee knows or should know with the exercise of reasonable care that the principal or employer employs a lobbyist.
- (e) No person or entity shall offer, give, or agree to give an official or employee a gift, and no official or employee shall accept or agree to accept a gift from a person or entity, because of:
 - (1) An official public action taken or to be taken, or which could be taken;

- (2) A legal duty performed or to be performed or which could be performed; or
 - (3) A legal duty violated or to be violated, or which could be violated by any official or employee.
- (f) Gift reports. Any official or employee who receives a gift in excess of one hundred dollars (\$100) shall report that gift in accordance with this section.
- (1) *Gift reports for officials and employees indentified by state law as reporting individuals.* Those persons required to report gifts pursuant to state law shall report those gifts in the manner provided by Florida Statutes, §112.3148, as may be amended. When a state reporting individual files a gift report with the state, a copy of each report shall also be filed contemporaneously with the county commission on ethics.
 - (2) *All other officials and employees who are not reporting individuals under state law.*
 - a. *Personal gifts.* All officials and employees who are not reporting individuals under state law are not required to report gifts in excess of one hundred dollars (\$100) so long as those gifts are given to the official or employee by a personal friend or coworker and the circumstances demonstrate that the motivation for the gift was the personal or social relationship rather than an attempt to obtain the goodwill or otherwise influence the official or employee in the performance of his or her official duties. Factors to be considered in de-


termining whether a gift was motivated by a personal or social relationship may include but shall not be limited to: whether the relationship began before or after the official or employee obtained his or her office or position; the prior history of gift giving between the individuals; whether the gift was given in connection with a holiday or other special occasion; whether the donor personally paid for the gift or sought a tax deduction or business reimbursement; and whether the donor gave similar gifts to other officials or employees at or near the same time. If the personal friend or co-worker is a vendor, lobbyist or principal or employer of a lobbyist that lobbies the county or municipality as applicable, then the official or employee shall not accept a gift in excess of one hundred dollars (\$100) in accordance with subsections (a)(1) and (b)(1).

- b. *All other gifts.* All officials or employees who are not reporting individuals under state law and who receive any gift in excess of one hundred dollars (\$100), which is not otherwise excluded or prohibited pursuant to this subsection, shall complete and submit an annual gift disclosure report with the county commission on ethics no later than November 1 of each year beginning November 1, 2011, for the period ending September 30 of each year. All officials or

employees who are not reporting individuals under state law and who do not receive a gift in excess of one hundred dollars (\$100) during a given reporting period shall not file an annual gift disclosure report. The annual gift disclosure report shall be created by the county commission on ethics and shall be in a form substantially similar in content as that required by state law.

- (g) For the purposes of this section, "gift" shall refer to the transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise, or in any other form, without adequate and lawful consideration. Food and beverages consumed at a single setting or a meal shall be considered a single gift, and the value of the food and beverage provided at that sitting or meal shall be considered the value of the gift. In determining the value of the gift, the recipient of the gift may consult, among other sources, Florida Statutes, §112.3148, and the Florida Administrative Code as may be amended.

- (1) Exceptions. The provisions of subsection (g) shall not apply to:
- a. Political contributions specifically authorized by state or federal law;
 - b. Gifts from relatives, domestic partners, and dependents named on the official's or employee's latest federal income tax return, or one's household member;
 - c. Awards for professional or civic achievement;

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- d. Materials such as books, reports, periodicals or pamphlets which are solely informational or of an advertising nature;
 - e. Gifts solicited or accepted by county or municipal officials or employees as applicable on behalf of the county or municipality in performance of their official duties for use solely by the county or municipality for a public purpose;
 - f. Publicly advertised offers for goods or services from a vendor under the same terms and conditions as are offered or made available to the general public;
 - g. Inheritance or other devise;
 - h. Registration fees and other related costs associated with educational or governmental conferences, meetings or seminars and travel expenses either properly waived or inapplicable pursuant to section 2-443(f), provided that attendance is for governmental purposes, and attendance is related to their duties and responsibilities as an official or employee of the county or municipality;
 - i. A ticket, pass or admission in connection with public events, appearances or ceremonies related to official county or municipal business, if furnished by a nonprofit sponsor organization of such public event, or if furnished pursuant to a contract between the event's non-profit sponsor and the county or municipality as applicable,

provided the sponsor organization does not employ a lobbyist, and further provided the ticket, pass or admission is given by a representative of the sponsor organization who is not otherwise a vendor, lobbyist, principal or employer of a lobbyist. Notwithstanding the exception as provided in this subsection, the ticket, pass or admission must be disclosed in accordance with the gift law reporting requirements of subsections (f)(1) and (f)(2);

- j. Expenditures made in connection with an event sponsored by a non-profit organization funded in whole or in part with public funds whose primary function is to encourage and attract tourism or other business opportunities for the benefit of Palm Beach County or the municipalities as applicable, provided the sponsor organization does not employ a lobbyist, and further provided that the invitation to the event is made by a representative of the sponsor organization and the representative is not otherwise a vendor, lobbyist, principal or employer of a lobbyist. Notwithstanding the exception as provided in this subsection, the expenditure must be disclosed in accordance with the gift law reporting requirements of subsections (f)(1) and (f)(2).
- (h) Solicitation of contributions on behalf of a non-profit charitable organization.

- (1) Notwithstanding the prohibition on gifts as outlined in subsections (a) and (b), the solicitation of funds by a county or municipal official or employee for a non-profit charitable organization, as defined under the Internal Revenue Code, is permissible so long as there is no quid pro quo or other special consideration, including any direct or indirect special financial benefit to the official or employee or to the person or entity being solicited. The solicitation by an official or employee as contemplated herein, is expressly prohibited if made to any person or entity with a pending application for approval or award of any nature before the county or municipality as applicable.
- (2) To promote the full and complete transparency of any such solicitation, officials and employees shall disclose, on a form provided by the commission on ethics, the name of the charitable organization, the event for which the funds were solicited, the name of any person or entity that was contacted regarding a solicitation or pledge by the official or employee, and the amount of the funds solicited or pledged if known. The form shall be completed legibly and shall be filed with the commission on ethics. The form shall be filed within thirty (30) days from the occurrence of the event for which the solicitation was made, or if no event, within thirty (30) days from the occurrence of the solicitation.
- (3) Officials and employees may not use county or municipal staff or other county

or municipal resources in the solicitation of charitable contributions described in this subsection.

(Ord. No. 2011-011, §1(Exh. 1), 5-17-11)

Sec. 2-445. Anti-nepotism law.

An official may not appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement in or to a position in the county or municipality as applicable in which the official is serving or over which the official exercises jurisdiction or control, any individual who is a relative or domestic partner of the official. An individual may not be appointed, employed, promoted, or advanced in or to a position in the county or a municipality if such appointment, employment, promotion, or advancement has been advocated by an official, serving in or exercising jurisdiction or control over the county or municipality as appropriate, who is a relative or domestic partner of the individual or if such appointment, employment, promotion, or advancement is made by a collegial body of which a relative or domestic partner of the individual is a member. However, this section shall not apply to appointments to boards other than those with land planning or zoning responsibilities in those municipalities with less than thirty-five thousand (35,000) population. This section does not apply to persons serving in a volunteer capacity who provide emergency medical, fire-fighting, or police services. Such persons may receive, without losing their volunteer status, reimbursements for the costs of any training they get relating to the provision of volunteer emergency medical, firefighting, or police services and payment for any incidental expenses relating to those services that they provide. Mere approval of budg-

ets shall not be sufficient to constitute "jurisdiction or control" for the purposes of this section.

- (1) For the purposes of this section, "official" means any official or employee in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals or to recommend individuals for appointment, employment, promotion, or advancement in connection with employment in the county or municipality as applicable.
- (2) For the purposes of this section, "relative" means spouse, parent, child, sibling, uncle, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.

(Ord. No. 2011-011, §1(Exh. 1), 5-17-11)

Sec. 2-446. Ethics training.

- (a) Officials and employees, as public servants, are considered stewards of the public trust and should aspire to the highest level of integrity and character. Officials and employees shall be informed of their ethical responsibilities at the start of their public service, and shall receive updates and training materials on ethics issues throughout the span of their public service. The county administrator or municipal administrator as applicable shall establish by policy a mandatory training schedule for all officials and employees which shall include mandatory periodic follow-up sessions. This policy may also address ethics training for entities that receive county or municipal funds as applicable.

- (b) The commission on ethics shall develop and deliver, or contract with other entities to develop and deliver, training programs. The commission on ethics shall coordinate and cooperate with all affected county or municipal entities, departments, agencies, boards, councils and commissions to ensure that effective and meaningful training experiences are delivered in a timely and efficient manner.

(Ord. No. 2011-011, §1(Exh. 1), 5-17-11)

Sec. 2-447. Noninterference.

It shall be a violation of this article for any person:

- (a) to retaliate against, punish, threaten, harass, or penalize any person for communicating, cooperating with, or assisting the commission on ethics or the inspector general; or
- (b) to interfere, obstruct or attempt to interfere or obstruct without valid legal basis any investigation conducted by the commission on ethics or the inspector general.

(Ord. No. 2011-011, §1(Exh. 1), 5-17-11)

Sec. 2-448. Administration, enforcement and penalties.

- (a) The commission on ethics shall be empowered to review, interpret, render advisory opinions, and enforce this code of ethics pursuant to the procedures established in the county commission on ethics ordinance. Jurisdiction of the commission on ethics with respect to advisory opinions rendered shall extend to all county and municipal officials and employees, and all other persons and entities required to comply with the provisions of this code and the county lobbyist registration ordinance, including but

not limited to lobbyists, their employers and principals, and contractors and vendors.

- (b) A finding by the commission on ethics of a violation of any part of this article shall subject the person or entity to public reprimand, a fine of up to five hundred dollars (\$500), or both. The commission on ethics may also order the person or entity to pay restitution when the person or entity or a third party has received a pecuniary benefit as a result of the person's violation.
- (c) Upon a finding of the commission on ethics that a violation of this article or the lobbyist registration ordinance resulted in a contract, grant, subsidy, license, permit, franchise, use, certificate, development order or other benefit conferred by the county or municipality as applicable, then such contract, grant, subsidy, license, permit, franchise, use, certificate, development order or other benefit may be rescinded or declared void by the board of county commissioners or the local municipal governing body as applicable.
- (d) The commission on ethics may in its discretion refer willful violations of sections 2-443, 2-444(a), 2-444(b), 2-444(c), 2-444(e), or 2-447 to the state attorney. Pursuant to Florida Statutes, §125.69, a person who violates the sections of the article set forth in this section 2-448(d) shall be subject to prosecution in the name of the state in the same manner as first degree misdemeanors are prosecuted, and upon conviction, such person shall be punished by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed one (1) year, or both.

(Ord. No. 2011-011, §1(Exh. 1), 5-17-11)

TOP TEN ETHICS RULES

1. ALWAYS... ASK FIRST, ACT LATER

GIFTS

2. You may not accept more than \$100 per year in gifts from a lobbyist, principal or employer of a lobbyist or person or entity that does business with your employer.
3. Gifts from persons or entities which total more than \$100 per year, other than those prohibited above, must be reported on a form. There are 11 gift exceptions. Immediately refuse or return gifts which are prohibited.

USE OF OFFICIAL POSITION

4. You may not use your official position to give a special financial benefit to yourself, broadly defined family members, an outside employer or business and other defined entities, or "corruptly" use your authority for any person's benefit.
5. You may not contract with, or do business with, your employer. There are 5 exceptions.
6. Travel expenses, given by persons or entities who are vendors or bidding to be vendors of your governmental employer are prohibited unless waived by your governing body, or unless they are from another governmental entity.

OUTSIDE EMPLOYMENT

7. Generally, subject to your employer's rules, you may work for an outside employer that does not do business with your county or municipal employer. It may even be permissible to work part-time for an outside employer that does do business with your employer, if certain conditions are met.

VOTING CONFLICTS

8. Officials and advisory board members may not participate in and vote on matters which give a special financial benefit to themselves, or those within in a chain of relationship(s).

MISCELLANEOUS

9. You may not use "inside information" to benefit yourself or others. You must be honest in statements made on your employment application. If you have hiring authority, or the ability to advocate to one who does, you may not hire, or promote the hiring of, a broadly defined family member.
10. The Code of Ethics imposes other restrictions on lobbyists, advisory board members and the activities of certain employees after they leave employment.



Annual Affordable Housing Incentives Review and Recommendations Report

Commission on Affordable Housing

December 2021



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**Affordable Housing Advisory Committee
Report to Palm Beach County Board of County Commissioners
SHIP Affordable Housing Incentive Strategies**

December 1, 2021

PREPARED BY:
Palm Beach County Commission on Affordable Housing

SUBMITTED TO:
Florida Housing Finance Corporation

I. BACKGROUND

As required by the Florida Statute section 420.9076 as recipient of State Housing Initiative Partnership funds, the County established an affordable housing advisory committee on May 17, 2017 through the Palm Beach County Affordable Housing Ordinance (No. 2017-17). The affordable housing advisory committee, known as the Commission on Affordable Housing (CAH) is responsible for reviewing policies, land development regulations, the Comprehensive Plan Policy, and other aspects of the County's policies and procedures that affect the cost of housing. In addition, the CAH is responsible for making recommendations to encourage affordable housing.

The CAH is required to submit an incentive report annually. The report includes recommendations by the committee as well as comments on the implementation of incentives for at least the following eleven distinct areas:

- (a) The expedited processing of approvals of development orders or permits for affordable housing
- (b) All allowable fee waivers provided for the development or construction of affordable housing.
- (c) The allowance of flexibility in densities for affordable housing.
- d) The reservation of infrastructure capacity affordable housing.
- (e) Affordable accessory residential units.
- (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.

II. COMMITTEE COMPOSITION

The County Commission re-appointed members to the CAH on June 15, 2021. Section 420.907 of the Florida Statutes lists the categories from which committee members must be selected. There must be no less than 8 and no more than 11 committee members, with representation from at least 6 of the following categories:

- Citizen actively engaged in the residential home building industry in connection with affordable housing.
- Citizen actively engaged in the banking or mortgage banking industry in connection with affordable housing.
- Citizen representative of those areas of labor actively engaged in home building in connection with affordable housing.
- Citizen actively engaged as an advocate for low-income persons in connection with affordable housing.
- Citizen actively engaged as a for-profit provider of affordable housing.
- Citizen actively engaged as a not-for-profit provider of affordable housing.
- Citizen actively engaged as a real estate professional in connection with affordable housing.
- Citizen actively serving on the local planning agency pursuant to s.163.3174.
- Citizen residing within the jurisdiction of the local governing body making the appointments.
- Citizen who represents employers within the jurisdiction.
- 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	Appointed	Reappointed
Mack Bernard	Local Elected Official	2/2/21	6/15/21
Len Tylka	Resident of the Jurisdiction	7/1/18	6/15/21
Aquannette Thomas	Mortgage Banking Industry	2/9/21	6/15/21
Adam Campbell	Labor Engaged in Home Building	7/1/18	6/15/21
Ezra Krieg	Advocate for Low Income Persons	7/1/18	6/15/21
Elliot Johnson	For-Profit Provider of Affordable Housing	2/9/21	6/15/21
Timothy Coppage	Not-for-Profit Provider of Affordable Housing	2/9/21	6/15/21
Lynda Charles	Real Estate Professional	6/15/21	N/A
Corey O’Gorman	Resident of the Jurisdiction	7/1/18	6/15/21
Amy Robbins	Employers Within the Jurisdiction	2/9/21	6/15/21
Jay Boggess	Essential Services Personnel	2/9/21	N/A

III. AFFORDABLE HOUSING INCENTIVES

The CAH undertook an affordable housing incentives review starting in early 2021. Staff shared information on incentive review requirements and process, State-recommended incentives, current affordable housing practices, and County programs, policies, and procedures. Each of the eleven affordable housing incentives recommended by the State were discussed at several meetings of the CAH. Discussions included representatives from the County’s Planning, Zoning, and Building Department, the County Engineer, and the Property and Real Estate Management Division. In addition, the CAH held a special public forum for housing industry stakeholders to share their ideas and experience as it relates to affordable housing incentives. This plan reflects the recommendations of the CAH which resulted from this process. Recommendations that are approved by the Board of County Commissioners will be included in an amendment to the Local Housing Assistance Plan (LHAP). Where applicable, the Comprehensive Plan and County land development regulations, policies, and procedures will be revised to implement the approved recommendations.

Although not related to an incentive area covered by statute, primary among CAH recommendations was the need for a communications program to build community wide support for a broad range of housing options. Many challenges to the development of affordable and workforce housing relate to negative public perception and misunderstanding of what this housing is and whom it serves. The terms affordable and workforce have acquired negative connotations that result in NIMBYism challenges for specific projects, and that more generally hamper public support for initiatives to address community housing needs. The CAH recommends that community stakeholders are organized to undertake a public education campaign to counter the negative stereotypes associated with affordable and workforce housing. The CAH Vice Chair is currently participating in a committee organized by the Housing Leadership Council of Palm Beach County that is working on such a communications program as part of efforts to develop a countywide housing plan.

F.S. 420.9076(4)(a) – The expedited processing of approvals of development orders or permits for affordable housing is expedited to a greater degree than other projects, as provided in s. 163.3177(6)(f)3.

Existing Incentive Strategy: The Unified Land Development Code (ULDC) provides opportunities for expedited review of certain development approval processes through the Workforce Housing Program (ULDC Article 5.G.1.B.2.f.2) and the Affordable Housing Program (ULDC Article 5.G.2.D.3), including expedited design and platting review, and various concurrent reviews. In addition, the Planning Division has prepared a draft Policy and Procedure Memorandum (PPM) to establish criteria for prioritization of projects to be expedited. The PPM expands the assistance provided to include coordinating a meeting with the developer and all agencies involved, identifying timelines and expectations, and appointing contact persons to address emergent issues. The Planning Division is coordinating with other applicable County departments and this PPM is anticipated to be adopted during 2021. The Building Division provides for expedited review of building permit applications for affordable and workforce housing. This typically results in a 50% reduction in review/approval time.

Summary of AHAC Discussion: The CAH discussed experiences with County development approval processes and heard from County staff administering the processes. Thoughts included increasing review agency capacity through additional funding for increased staffing to more quickly process the current high volume of development applications. Other thoughts included identification of a facilitator, either a County employee(s) or contracted entity, to liaise with all offices involved in development review in order to coordinate and expedite approvals. Also discussed were the need for eligibility criteria for expedited processing in order to limit qualification to those projects that have a substantial affordable/workforce component. It was noted that the County's Building Division has a good reputation among local builders. County staff from the Planning Zoning, and Building Department (PZB) as well as the County Engineer participated in the discussion. There was consensus that an individual(s) designated to coordinate the review/approval process across multiple departments/divisions should at a high level, such as an assistant county administrator or department director, in order that directives/requests would carry weight and spur action. At initial time of submittal, applications would need to be identified for expedited processing by some mechanism that was recognized by all reviewing entities. Additionally, there would need to be a mechanism established to validate that applications met criteria for expedited processing. PZB staff suggested that the role of the facilitator could also include a preliminary review of the application for completeness, and that this could significantly expedite processing by avoiding repetitive application submittals to correct obvious errors and major deficiencies. In recognition that reviewing County agencies are constrained by organizational capacity and currently face a large volume of development applications, the CAH suggested that the County might explore its ability to certify outside agencies (design professionals) to conduct reviews of affordable projects and make approvals in order to increase processing capacity and to expedite approvals. The CAH drafted a resolution for the County to consider adopting that would establish a process for expedited development

review and the assignment of an individual to coordinate that process. The resolution was based on the County's existing resolution and process for Business Development Board projects. The discussion included criteria, income targeting requirements, and reporting mechanism. Also considered was the fact that the County resolution would only expedite projects located within the unincorporated area over which the County holds development approval authority, but would not assist those projects located within municipalities which are home to 55% of the county's total population.

AHAC Recommendation: The County should continue current efforts towards expediting development approvals and building permits for affordable housing projects. The County should create a position or designate an individual to be responsible for and to shepherd development applications through approval process. This could entail the use of an entity external to the County which would perform the service under contract.

F.S. 420.9076(4)(b) – All allowable fee waivers provided for the development or construction of affordable housing.

Existing Incentive Strategy: The County waives the customary fee for letters of determination addressing workforce or affordable housing potential density bonuses and program requirements. Further, the Comprehensive Plan Policy 1.5-f describes the elimination of processing fees for residential zoning petitions providing affordable housing units in areas of low very low, and low income households. The County operates an Impact Fee Affordable Housing Assistance Program that is funded with up to \$3M annually in interest earnings from Roads, Parks, and Public Building impact fee collections. The funds are offered to developers and owner-builders to pay impact fees due on new residential construction serving households up to 140% of Area Median Income. Additionally, the County does not charge any impact fees on residential development in the western Glades Region of the county.

Summary of AHAC Discussion: The CAH discussed numerous fees and in-lieu payments that contribute to cost of residential development. For example, in the case of a small scale multifamily residential development, if recreation space cannot be provided on-site then an in-lieu fee must be paid. The sum total of numerous fees contributes substantially to development cost and can result in an affordable project being economically infeasible. Overall, these fees result in higher housing prices to the consumer. Next year, we will delve deeper into the impact of development fees on cost of affordable housing. Fee information is not located in one place, but on various web pages. The Planning Zoning and Building Department does have a document posted online with information on development fees, however, it is not entirely transparent and difficult to interpret for someone who is not a development professional. There is no single source of County information for developers of affordable housing. All the various web pages and documents should be consolidated to one central location on the county's main web page.

AHAC Recommendation: The County should review its fee structure in terms of advancing affordable and workforce housing and report back to the CAH. In addition, the County should

offer a transparent development fee structure with clear directions for determining fees in a simple document that is easily accessible to public.

F.S. 420.9076(4)(c) The allowance of flexibility in densities for affordable housing.

Existing Incentive Strategy: The County's Workforce Housing Program (WHP) and Affordable Housing Program (AHP) provide opportunities to developers to increase density up to 100 percent in accordance with the ULDC. Per Article 5.G.2.E.1. (AHP), AHP projects requiring a density bonus of greater than 30% are required to conduct a two-step sector analysis. The first step considers the concentration of very low and low income housing within the sector in determining the minimum density bonus permitted. Step two considers the location of the proposed development with regard to neighborhood amenities, including public transit, employment and shopping opportunities, and educational, medical, social service and recreational facilities, in determining whether additional density may be added.

The County's Workforce Housing Program was substantially revised in 2019, to facilitate additional density where appropriate. Under the revised WHP, Density Bonuses up to and including 50% do not require special review and approval processes. Projects seeking a density bonus of greater than 50%, up to 100%, require enhanced staff review, and approval by the Board of County Commissioners. The enhanced review is intended to balance the County's objectives of promoting the production of workforce housing while preserving the quality and character of existing communities. First, a project's proposed approach to WHP is assessed using a Point System, to determine the extent to which the project furthers the County's WHP objectives. WHP units delivered on-site, as for-sale, single-family, units in areas with Workforce-income households below the overall concentration in the County are most desirable and earn the most potential density bonus for the parent project. Second, the suitability of the site to accommodate the density bonus, and the compatibility with the surrounding area, is assessed. An overall density bonus is then recommended to the Board of County Commissioners considering the outcome of both the point system application and the suitability assessment.

The County's Transfer of Development Rights Program (TDR) is a voluntary program administered by the Zoning Division that allows a property owner to achieve a density bonus for new residential development within the Urban/Suburban Tier in unincorporated Palm Beach County. The owner purchases the increase in density from the Palm Beach County TDR Bank, or from a property owner with land in a designated area, without going through the land use amendment process. TDR provides for increased density of up to five (5) units per acre based on geographic location, and requires that thirty-five percent (35%) of all TDR units be WHP Units.

Summary of AHAC Discussion: See "Flexible Zoning" page 11.

AHAC Recommendation: See "Flexible Zoning" page 11.

F.S. 420.9076(4)(d) The reservation of infrastructure capacity for housing for very-low-income persons, low-income persons, and moderate-income persons

Existing Incentive Strategy: The County requires all developments to have the appropriate concurrency for public facilities and infrastructure, but does not require developments to ensure there is infrastructure capacity in place for any other developments, including affordable and workforce housing. However, the Comprehensive Plan allows for a 30% concession in Traffic Performance Standards for affordable and workforce housing. This increases the available concurrency for traffic and reserves that traffic for those affordable and workforce developments that need it.

Summary of AHAC Discussion: The CAH acknowledged the need to maintain traffic and other concurrency, and concluded that the current incentive offered by the County is helpful.

AHAC Recommendation: Maintain current incentive strategy.

F.S. 420.9076(4)(e) – Affordable accessory residential units.

Existing Incentive Strategy: County land development regulations allow Accessory Dwelling Units in certain residential zoning designations. The County is currently reviewing ADU requirements that the unit electrical feed come through the meter of the main house, that the kitchen be removed when the owner's relative vacates the ADU, and other covenants required of the owner.

Summary of AHAC Discussion: ADUs are an important tool to help meet local affordable housing needs. Greater flexibility in the allowance of ADUs will increase the development potential of the County's limited remaining supply of vacant land, and also increase the potential for additional development on existing properties. Greater proliferation of ADUs will increase the overall housing stock and exert mitigating pressure on prices, thereby contributing to affordability. The County's current land development regulations governing ADUs excessively restrict development and impose unnecessary requirements on the property owner. The market tends to price ADUs affordably compared to comparable units, and without the need for government price intervention. There could be a tax incentive to keep the ADU affordable. This will create requirements for monitoring that will require new processes and staffing.

AHAC Recommendation: The County should address restrictions on ADUs in order to allow for greater opportunity, including the elimination of requirements for an electrical feed from the main home and the owner covenant to remove the kitchen when a relative vacates the ADU. The County should proceed with its planned review of regulations governing ADUs. Further, the County should consider a property tax exemption for ADUs that are committed to serve as affordable housing.

F.S. 420.9076(4)(f) The reduction of parking and setback requirements for affordable housing.

Existing Incentive Strategy: The County's Workforce Housing Program (WHP) and Affordable Housing Program (AHP) provide identical "setback reduction" opportunities to developers in accordance with the Unified Land Development Code (ULDC) Article 5.G.1.B.2.f.3.h. (WHP) and Article 5.G.2.D.4.h. (AHP).

Flexible regulations are described in ULDC Articles 5.G.1.B.2.f.3) and 5.G.2.D.4., and are applicable to projects with Medium Residential, 5 units per acre (MR-5), High Residential 8 units per acre (HR-8), High Residential 12 units per acre (HR-12), or High Residential 18 units per acre (HR-18) Future Land Use designations, or if approved as a Planned Development District or Traditional Development District. Projects with these designations may deviate from the residential requirements of Table 3.D.1.A, Property Development Regulations, or Table 3.D.2.B, ZLL Property Development Regulations (PDRs), as follow:

- Single Family Dwelling (SFD) units may be permitted up to a maximum ten percent deviation for the following PDRs: lot size; width and frontage; building coverage; and, side, and rear setbacks.
- SFD units limited to one floor with no loft or other similar feature, may be permitted up to a maximum 20 percent deviation for the following PDRs: building coverage; and front and side street setbacks.
- Zero Lot Line lots may be permitted up to a maximum lot width reduction of five feet, and ten percent deviation from the minimum lot size, building coverage, and front setback for units with front loading garages.

Summary of AHAC Discussion: The incentives currently offered by the County are not aggressive enough to have meaningful impact on the production of affordable housing.

AHAC Recommendation: See "Flexible Zoning" page 11.

F.S. 420.9076(4)(g) The allowance of flexible lot configurations, including zero-lot-line configurations for affordable housing.

Existing Incentive Strategy: The ULDC Article 5.G.1.B.2.f.3.h. (WHP) and Article 5.G.2.D.4.h. (AHP) provide for flexible lot configurations, including zero-lot-line configurations, as described above.

Summary of AHAC Discussion: See "Flexible Zoning" page 11.

AHAC Recommendation: See "Flexible Zoning" page 11.

F.S. 420.9076(4)(h) The modification of street requirements for affordable housing.

Existing Incentive Strategy: The County's Comprehensive Plan Transportation Element Policy 1.2-d.4 permits Workforce and Affordable Housing developments to generate vehicular traffic on streets beyond the level otherwise allowable. Opportunities for Traffic Performance Standards mitigation are codified in ULDC Article 5.G.1. B.2.f.1. (WHP) and Article 5.G.2.D.2. (AHP).

Summary of AHAC Discussion: This incentive is intended to address reduction of development cost of affordable housing through the reduction of street width, numbers of parking spaces, and similar design modifications. However, the County has addressed the incentive in terms of traffic volume or Level of Service standards, but this is not intent. The CAH also discussed that street and related requirements (storm water runoff, etc.) cannot be reduced to the extent that it is detrimental to adequate functionality. Current incentive strategies are misaligned with intent of incentive strategy.

AHAC Recommendation: The County should base street and related requirements for affordable housing on sound engineering practices.

F.S. 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.

Existing Incentive Strategy: The State requires that all proposed changes to the Unified Land Development Code, Comprehensive Plan, Zoning Code, and Zoning Map are reviewed and approved through a public hearing process. In Palm Beach County, the bodies that perform the review and approval functions are the Land Development Regulation Advisory Board (LDRAB) and the Board of County Commissioners (BCC). The ULDC provides that the composition of the LDRAB include seats specifically for a residential builder (Gold Coast Builder's Association), an architect (American Institute of Architects), and a realtor (Broward, Palm Beaches and St. Lucie Realtors) in addition to other professions. These experts provide input and insight to staff on how proposed changes may impact the cost of housing, and help inform BCC decision making. In addition, when any significant changes are proposed to the Workforce Housing Program, the County's process is to hire a consultant to calculate the potential impacts on the cost of developing housing and the effect on project profitability.

Summary of AHAC Discussion: This is a requirement of FHFC. There is certainly process in place where proposed policies are reviewed before adoption, but it is not clear if there is a review specifically for impact on cost of housing. County staff advised that potential impact on housing cost is a consideration and part of LDRAB discussions, and sometimes a subject of public comment at LDRAB meetings, however, there is no prescribed structure to the discussion or formal cost analysis.

AHAC Recommendation: The County should officially recognize LDRAB's role in considering the impact of changes to Property Development Regulations on housing costs.

F.S. 420.9076(4)(j) The preparation of a printed inventory of locally owned public lands suitable for affordable housing.

Existing Incentive Strategy: The Comprehensive Plan (Housing Element Policy 1.1-i) requires an inventory of all surplus County owned land and foreclosed properties that may be suitable for affordable housing. The County's Property and Real Estate Management Division (PREM) is responsible for identification of such properties, and for coordinating with the Palm Beach County School Board, the South Florida Water Management District, and other public landowners to produce a list of viable sites for affordable housing developments and special needs housing, including rural and farmworker households. The Department of Housing and Economic Development is responsible for review of the inventory in order to advise on suitability of properties for affordable housing purposes. Countywide Policy and Procedure Memorandum (PPM) *CW-L-023 Requirements for the Acquisition, Disposition, Lease, and Exchange of Real Property* establishes procedures for disposition of County-owned real estate. Surplus property may be donated to a not-for-profit entity, but must be sold to for-profit entity. Recipients for disposition of County owned property must be selected through a competitive process, except for not-for-profits whom may be selected on a non-competitive basis. All dispositions must be approved by the Board of County Commissioners.

The majority of surplus County-owned lands are undevelopable or face significant development constraints due to property size, shape, access limitations, easements, adjacent uses, and/or remote location. A smaller subset of these surplus lands has the potential for affordable housing development. Mainly, these are small vacant lots within established neighborhoods that have the potential to be developed with a single-family home or a small multi-family structure (duplex, triplex, etc.). Additionally, existing homes occasionally come into County ownership through foreclosure, and may be suitable for affordable housing purposes.

Summary of AHAC Discussion: The limited supply and high cost of land pose a huge challenge to affordable development in Palm Beach County. The provision of surplus County lands for affordable housing has the potential for a significant positive impact on affordable housing supply. The list of surplus County land should be made accessible to developers so that private industry can determine if properties are viable for development. First preference should be given to not-for-profits that will maintain property affordable in perpetuity. It is not clear how to access the inventory or request land from the County. The CAH was provided with the County PPM that outlines the requirements and process for disposition of County owned real estate. The County needs to make the inventory widely and easily accessible by posting it online. The County might consider a proactive approach to disposition by actively marketing available properties to the development community, however, this may require a competitive selection process.

AHAC Recommendation: The County should make available a regularly-updated inventory of surplus lands accessible online and offer a clear process for disposition so that private industry / not-for-profits can utilize available lands for the development of affordable and workforce housing.

F.S. 420.9076(4)(k) The support of development near transportation hubs and major employment centers and mixed-use developments.

Existing Incentive Strategy: Transit Oriented Development (TOD) is a type of development that includes a mixture of housing, office, retail, and other amenities integrated into a walkable neighborhood and located within a half-mile of quality public transportation. It should be noted that there are limited opportunities for TOD in the unincorporated area over which Palm Beach County has jurisdiction, and that opportunities for TOD along passenger rail lines are present exclusively within local municipalities. More generally, when determining the available density bonus in the County's Affordable Housing Program, proximity of the proposed site to mass transit and employment opportunities are among the items considered, thereby providing an incentive for affordable development in closer proximity to the same. Likewise, proposed project proximity to transportation and employment is taken into consideration competitive funding processes administered by HED.

Summary of AHAC Discussion: Transportation costs are a major factor in affordability. Distance between place of residence and place of employment increases cost of living. Locally, transportation hubs are more often located in municipalities. County could purchase land at transportation hubs within municipalities in order to develop affordable housing. County should play a more active role facilitating development of transportation hubs.

AHAC Recommendation: The Board of County Commissioners should consult with local government jurisdictions and transportation providers to provide a comprehensive solution to providing affordable housing near transportation hubs.

Additional Incentive – Flexible Zoning

Summary of AHAC Discussion: The County's zoning code is a prescriptive code; it defines exactly what is allowable, and conversely, what is not allowed. Further, the code focuses on suburban style development. Although the code works well for suburban development, it is not conducive to housing affordability. Economic conditions and the development landscape have changed, and it is time for the County's Property Development Regulations (PDRs) to catch up. Other jurisdictions within Florida, such as Collier County, Port St. Lucie, and to a lesser extent Palm Beach Gardens, have adopted a self-regulating approach to PDRs. With this approach, each development proposes its own PDRs which are then subject to staff review and approval by elected officials. This approach contributes to housing affordability by allowing greater utilization of smaller sites and infill sites, as well as by offering the flexibility necessary to bring alternative

housing product types to market. Further, this approach facilitates the development approval process by avoiding the time and expense associated with obtaining the numerous variances necessary to utilize density bonuses offered by the County. The County could employ the option of a self-regulating development order for affordable and workforce housing through amendments to the ULDC.

AHAC Recommendation: The County should consider adoption of alternative PDRs community-wide, including an approval process designed to develop a flexible self-regulating development order.

IV. IMPLEMENTATION

Following adoption of this Report, the Department of Housing and Economic Development will further discussions with other departments and County leadership regarding implementation of the incentive recommendations. Within 90 days following adoption, an amendment to the Local Housing Assistance Plan will be brought to the Board of County Commissioners for consideration. The amendment will identify the incentive recommendations which the County will implement and will outline a general plan and timeframe for implementation.

PALM BEACH COUNTY

State Housing Initiatives Partnership (S.H.I.P.) Program

LOCAL HOUSING ASSISTANCE PLAN (LHAP)

**Fiscal Years
2019/2020, 2020/2021, 2021/2022**



**Department of Housing and Economic Development
100 Australian Avenue
West Palm Beach, FL 33406**

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I. Program Details:

A. LG(s)

Palm Beach County	
Does this LHAP contain an interlocal agreement?	No
If yes, name of other local government(s)	N/A

B. Purpose of the program:

- To meet the housing needs of the very low, low and moderate-income households;
- To expand production of and preserve affordable housing; and
- To further the housing element of the local government comprehensive plan specific to affordable housing

C. Fiscal years covered by the Plan: 2019-2020, 2020-2021, 2021-2022

D. Governance: The SHIP Program is established in accordance with Section 420.907-9079, Florida Statutes and Chapter 67-37, Florida Administrative Code. Cities and Counties must be in compliance with these applicable statutes, rules and any additional requirements as established through the Legislative process.

E. Local Housing Partnership: The SHIP Program encourages building active partnerships between government, lenders, builders and developers, not-for-profit and community-based housing providers and service organizations, providers of professional services related to affordable housing, advocates for low-income persons, real estate professionals, persons or entities that can provide housing or support services and lead agencies of the local continuums of care.

F. Leveraging: The Plan is intended to increase the availability of affordable residential units by combining local resources and cost saving measures into a local housing partnership and using public and private funds to reduce the cost of housing. SHIP funds may be leveraged with or used to supplement other Florida Housing Finance Corporation programs and to provide local match to obtain federal housing grants or programs.

G. Public Input: Public input was solicited through publicly noticed meetings. Additionally, a series of face to face and or roundtable meetings with social service providers and local lenders and neighborhood associations. Public input was solicited through the local newspaper in the advertising of the Local Housing Assistance Plan and the Notice of Funding Availability.

H. Advertising and Outreach: SHIP funding availability shall be advertised 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.

I. Waiting List/Priorities: A waiting list will be established when there are eligible applicants for strategies

that no longer have funding available. Those households on the waiting list will be notified of their status. Applicants will be maintained in an order that is consistent with the time applications were submitted as well as any established funding priorities as described in this plan. No waiting list shall be maintained beyond one year.

The following priorities for funding described/listed here apply to all strategies unless otherwise stated:

The County will accept applications during the advertised “Application Period” stated in the Notice of Funding Availability (NOFA). Once funding requests for housing strategies have been exhausted, all other interested parties will be placed on a waiting list. When funds are available for a particular strategy, the applicants from the waiting list will be contacted to complete/update the application for SHIP assistance.

Once there is a list of eligible applicants, they will be ranked giving first priority to households qualifying as Veterans (i.e active, non-active or surviving spouses of military personnel) and Special Needs. These applicants will further be ranked with priority given to very-low, then low, then moderate income groups.

- J. **Discrimination:** In accordance with the provisions of ss.760.20-760.37, it is unlawful to discriminate on the basis of race, color, religion, sex, national origin, age, handicap, or familial status in the award application process for eligible housing.
- K. **Support Services and Counseling:** Support services are available from various sources. Available support services may include but are not limited to: Homeownership Counseling (Pre and Post), Credit Counseling, Tenant Counseling and Foreclosure Counseling through qualified HUD approved agencies.
- L. **Purchase Price Limits:** The sales price or value of new or existing eligible housing may not exceed 90% 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. The sales price of new and existing units, which can be lower but may not exceed 90% of the median area purchase price established by the U.S. Treasury Department or as described above.

The methodology used is:

U.S. Treasury Department	X
Local HFA Numbers	

- M. **Income Limits, Rent Limits and Affordability:** The Income and Rent Limits used in the SHIP Program are updated annually by the Department of Housing and Urban Development and posted at www.floridahousing.org.

“Affordable” means that monthly rents or 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 Sections 420.9071, F.S. However, it is not the intent to limit an individual household’s ability to devote more than 30% of its income for housing, and housing for which a household devotes more than 30% 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%

benchmark and in the case of rental housing does not exceed those rental limits adjusted for bedroom size.

N. Welfare Transition Program: Should an eligible sponsor (a person or a private or public for profit or not-for-profit entity) be used, a qualification system and selection criteria for applications for awards to eligible sponsors shall be developed, which includes a description that demonstrates how eligible sponsors that employ personnel from the Welfare Transition Program, as defined by the federal/state government, will be given preference in the selection process.

O. Monitoring and First Right of Refusal: In the case of rental housing, the staff or entity that has administrative authority for implementing the local housing assistance plan assisting rental developments shall annually monitor and determine tenant eligibility or, to the extent another governmental entity 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 shall not be subject to these annual monitoring and determination of tenant eligibility requirements. Tenant eligibility will be monitored annually for no less than 15 years or the term of assistance whichever is longer unless as specified above.

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.

P. Administrative Budget: A line-item budget is attached as Exhibit A. Palm Beach County will utilize the money deposited in the local housing assistance trust fund shall be used to administer and implement the local housing assistance plan.

Section 420.9075 Florida Statute and Chapter 67-37, Florida Administrative Code, states: “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.”

Section 420.9075 Florida Statute and Chapter 67-37, Florida Administrative Code, further states: “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.” The applicable local jurisdiction has adopted the above findings in the resolution attached as Exhibit E.

Q. Program Administration: Administration of the local housing assistance plan will be wholly performed and maintained by:

Entity	Duties	Percentage
Local Government	Palm Beach County	100%
Third Party Entity/Sub-recipient	N/A	

- R. Project Delivery Costs:** In addition to the administrative costs above, the County will charge reasonable project delivery costs to include but are not limited to, Architectural, engineering, inspections, work write-ups, specifications, contractor procurement, payments and oversight, relocation costs, costs to process and settle the financing for a project and the like for services provided by non-housing staff. The cost will be provided as a grant, noted below, not to exceed the strategies' maximum award amounts, and shall not be included in the lien and/or deed against property:
- Up to \$7,000 for Replacement Housing Program
 - Up to \$5,000 for Purchase Assistance, First Mortgage Loan Program, Owner Occupied Housing Rehabilitation
 - Up to \$3000 for Emergency Repairs, Disaster Mitigation, Foreclosure Prevention, Developer Assistance Rental Program, Single Family New Construction, Developer Homeownership Program
- S. Essential Service Personnel Definition:** For purpose of SHIP funding, the county considers the following groups as Essential Services to our county: First Responders, Educators in K-12, Nurses (healthcare), Active Military, National Guard stationed in the County and skilled building trades.
- T. Describe efforts to incorporate Green Building and Energy Saving products and processes:** The County will, when economically feasible, employ the following Green Building requirements on rehabilitation and emergency repairs:
1. Low or No-VOC paint for all interior walls (Low- VOC means 50 grams per liter or less for flat paint; 150 grams per liter or less for non- flat paint);
 2. Low flow water fixtures in bathroom – Water sense labeled products or the following specifications:
 - a) Toilets 1.6 gallons
 - b) Faucets 1.5 gallons
 - c) Showerheads 2.2 gallons/minutes or less;
 3. Energy Star qualified refrigerator;
 4. Energy star qualified dishwasher, if provided;
 5. Energy Star qualified washing machine; if provided in units;
 6. Energy star qualified exhaust fans in all bathrooms; and
 7. Air conditioning: Minimum SEER of 14. Packaged units are allowed in studios and one bedroom units with a minimum of 11.7EER.

These requirements may be adjusted for rental development if the requirements of other construction funding sources require a more prescriptive list.

- U. Describe efforts to meet the 20% Special Needs set-aside:** The 20% special needs will be accomplished by giving priority in all strategies.
- V. Describe efforts to reduce homelessness:** Palm Beach County is a direct entitlement community for HUD's Emergency Solutions Grant (ESG) Program and Community Development Block Grant (CDBG) Program, which provides funding to the Homeless Resource Center. Additionally, homelessness prevention is addressed through SHIP strategies, and services collaborated with the Department of Community Services and other organizations focused on homelessness.

Section II. LHAP Strategies:

A. Purchase Assistance	Code 1/2
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- a. **Summary:** Funding will be available to SHIP and HOME Match income eligible first-time homebuyers for purchase assistance with or without rehabilitation or new construction. SHIP funds will be awarded to assist with gap financing, lot acquisition; down payment; rehabilitation of the unit to be purchased; and closing costs. Prospective homebuyers must qualify as a First Time Homebuyer under the HUD definition: *An individual who has no ownership in a principal residence during the 3-year period ending on the date of purchase of the property. This provision is limited to a spouse (if either meets the above test, they are considered first-time homebuyers). A single parent who has only owned with a former spouse while married. An individual who is a displaced homemaker and has only owned with a spouse. An individual who has only owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations. An individual who has only owned a property that was not in compliance with state, local or model building codes and which cannot be brought into compliance for less than the cost of constructing a permanent structure.*
- b. **Fiscal Years Covered:** 2019-2020, 2020-2021 and 2021-2022
- c. **Income Categories to be served:** Very low, low and moderate
- d. **Maximum award:** \$105,000
- e. **Terms:**
 - 1. **Repayment loan/deferred loan/grant:** Funds will be awarded as a deferred payment loan secured by a recorded mortgage and note.
 - 2. **Interest Rate:** 0%
 - 3. **Years in loan term:** 30 years
 - 4. **Forgiveness:** The loan will be forgiven at the end of term.
 - 5. **Repayment:** None required as long as loan is in good standing.
 - 6. **Default:** The loan will be in default if any of the following occurs: sale, transfer, or conveyance of property; conversion to a rental property; loss of homestead exemption status; or failure to occupy the home as primary residence. If any of these occur, the original loan amount will be due and payable.

In the event of death of the qualifying homeowner(s) during the loan term the loan may be assumed by a SHIP eligible heir who will occupy the home as a primary residence. If the legal heir is not SHIP eligible or chooses not to occupy the home, the original loan amount will be due and payable.

In the event of a sale, the County may exercise its right of first refusal to purchase the property at its appraised market value for continued occupancy by income eligible persons.

If the home is foreclosed on by a superior mortgage holder, the County will make an effort to recapture funds through all available legal remedies if it is determined that adequate funds may be available to justifying pursuing a recapture.

f. **Recipient Selection Criteria:**

Applicants will be ranked for assistance based on a first qualified, first-served basis with priority ranking for Veterans, Special Needs and Family Self Sufficiency (FSS) Program graduates from a local Public Housing Authority (PHA).

g. **Sponsor Selection Criteria:** N/A

h. **Additional Information:**

- Applicant must first secure a first mortgage approved by a lender.
- If the Property is determined to have Chinese drywall, the property is ineligible for purchase assistance.
- Rehabilitation/Repairs will be performed by a State certified licensed contractor, or a contractor licensed to do business in Palm Beach County.
- Applicant may not currently own or have assets exceeding \$200,000 in liquid assets and real estate.

B. First Mortgage Loan Assistance Program	Code 1/2
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a. **Summary:** Funding will provide first mortgage loan assistance to income eligible households. Maximum loan amounts are based upon established affordability guidelines and creditworthiness, based upon established underwriting guidelines.

b. **Fiscal Years Covered:** 2019-2020, 2020-2021 and 2021-2022

c. **Income Categories to be served:** Very low, low and moderate

d. **Maximum award:** \$331,888

e. **Terms:**

1. **Repayment loan/deferred loan/grant:** Funds will be awarded as a fixed rate loan secured by a recorded mortgage and note.
2. **Interest Rate:** Based on the average 30 year fixed loan rate published monthly.
3. **Years in loan term:** 30 years
4. **Forgiveness:** Loan will be satisfied at the end of the term
5. **Repayment:** The loan will be amortized with monthly principal and interest payments.

6. **Default:** The loan will be determined to be in default if any of the following occurs: sale, transfer or conveyance of property; loss of homestead exemption status; or failure to occupy the home as a primary residence. If any of these occur the original loan amount will be due and payable.

In the event of death of the qualifying homeowner(s) during the loan term, the loan may be assumed by a SHIP eligible heir who will occupy the home as its primary residence. If the legal heir is not SHIP eligible or chooses not to occupy the home, the original loan amount will be due and payable.

In the event of a sale, the County may exercise its right of first refusal to purchase the property at its appraised market value for continued occupancy by income eligible persons. The seller is prohibited from receiving a financial benefit i.e. no cash out.

f. **Recipient Selection Criteria:**

Applicants will be ranked for assistance based on a first qualified, first serve basis with priority ranking for Veterans, Special Needs and Family Self Sufficiency (FSS) Program graduates.

g. **Sponsor Selection Criteria:** N/A

h. **Additional Information:**

- FICO Credit Score: Middle FICO score must be at least 630, if less than three scores the lowest score must be 630, if not lower than 630, the borrower is deemed ineligible
- If the property is determined to have ~~mold~~ Chinese drywall, the property is ineligible for purchase assistance.
- Applicant may not currently own or have assets exceeding \$200,000 (in liquid assets and real estate).

C. Owner Occupied Housing Rehabilitation	Code 3,8
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a. **Summary:** Funding will assist income- eligible owner- occupied applicants (structure of one to two dwelling units) with:

- Rehabilitation: Assist with substantial rehabilitation to correct code violations or incipient items that will become a code violation, eliminate housing conditions which threaten the life, health or safety of occupants, connect residents to public utilities, and adapt residences to meet accessibility.
- Utility Connection: Funding will assist with:
 - a. Sewer and water connection system fees required by local water utilities; and
 - b. Costs to install service lines from the meter to the primary residence.

b. **Fiscal Years Covered:** 2019-2020, 2020-2021 and 2021-2022

c. **Income Categories to be served:** Very low, low, moderate

d. **Maximum Award:**

Rehabilitation Maximum Award	Utility Connection Maximum Award
\$80,000	\$13,000

Eligible household(s) will not be provided more funding than needed to bring the home up to current code and to make the home habitable.

e. **Terms**

1. **Repayment loan/deferred loan/grant:** Funding will be awarded as a deferred loan secured by a recorded mortgage and note.

2. **Interest Rate:** 0%

3. **Years in loan term:**

Strategy	Lien
Housing Rehabilitation	15 years
Utility Connection	5 years

4. **Forgiveness:** The loan will be forgiven at the end of the term.

5. **Repayment:** None required as long as loan is in good standing.

6. **Default:** The loan will be in default or in violation of the deed restriction if any of the following occurs: sale, transfer, or conveyance of property; conversion to a rental property; loss of homestead exemption status; or failure to occupy the home as primary residence. In the event of death of the qualifying homeowner(s) during the loan term, the loan may be assumed by a SHIP eligible heir who will occupy the home as a primary residence. If the legal heir is not SHIP eligible or chooses not to occupy the home, the original loan amount will be due and payable.

In the event of a sale, the County may exercise its rights of first refusal to purchase the property at its appraised market value for continued occupancy by income eligible persons. The seller is prohibited from receiving a financial benefit i.e. no cash out.

If the home is foreclosed on by a superior mortgage holder, the County will make an effort to recapture funds through all available legal remedies if it is determined that adequate funds may be available to justify pursuing a recapture.

f. **Recipient Selection Criteria:**

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Amendment #1 April 24, 2020/ Approved by FHFC April 24, 2020

Amendment #2 September 16, 2020 /Approved by FHFC September 17, 2020

Amendment #3 February 8, 2022 / Approved by FHFC February 16, 2022

Applicants will be ranked for assistance based on a first qualified, first-served basis with priorities established in paragraph I of the Program Details Section I. of this plan.

g. **Sponsor Selection Criteria and Duties:** N/A

h. **Additional Information:**

- If the property is determined to have Chinese drywall, the property is ineligible for rehabilitation.
- Rehabilitation /Repairs will be performed by a State certified licensed contractor, or a contractor licensed to do business in Palm Beach County procured by the Department of Housing and Economic Development.
- Applicant may not currently own assets exceeding \$200,000 liquid assets and real estate (excluding their primary residence).
- Mortgage Payments and taxes must be current/paid up to date.
- Applicants must provide proof of current homeowners insurance. In the event that the homeowner does not have an existing homeowner’s insurance policy, this program may incorporate the payment of a one (1) year insurance premium showing Palm Beach County as an additional insured. Future payments are the sole responsibility of the homeowner(s).
- Written consent will be required from affected multifamily unit owners (i.e. duplex, triplex, etc.) when required work affects multiple owners. Assistance may not be provided if consent is not provided and/or if conditions require work on an adjoining ineligible property (ex: failing common roof cannot be successfully repaired without work on portion of roof on adjoining investor-owned unit).

D. Emergency Repairs	Code: 6
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a. **Summary:** Funding will provide financial assistance to income eligible owner occupied residences to address emergency conditions such as roofing, electrical, plumbing or structural repairs. This strategy can be used for an applicant who has applied for but will not receive assistance through the housing rehabilitation strategy within the next three months. When an applicant is assisted with emergency repairs, they will not lose their place on the rehabilitation waiting list. However, the amount of funds expended for the emergency repairs will be counted towards the maximum award if the applicant receives subsequent assistance through the rehabilitation strategy and a lien on the assisted dwelling will be placed in accordance with established rehabilitation guidelines. Funds may also be awarded to pay insurance deductibles for any emergency repairs covered by the homeowner’s policy.

b. **Fiscal Years Covered:** 2019-2020, 2020-2021 and 2021-2022

c. **Income Categories to be served:** Very low, low and moderate

d. **Maximum award:** \$53,000

e. **Terms:**

1. **Repayment loan/deferred loan/grant:** Funding will be awarded as a deferred loan secured by a

recorded mortgage and note.

2. **Interest Rate:** 0%
3. **Years in loan term:** 15 years
4. **Forgiveness:** The loan will be forgiven at the end of the term.
5. **Repayment:** None required as long as loan is in good standing.
6. **Default:** The loan will be in default if any of the following occurs: sale, transfer, or conveyance of property; conversion to a rental property; loss of homestead exemption status; or failure to occupy the home as primary residence

In the event of death of the qualifying homeowner during the loan term, the loan may be assumed by a SHIP eligible heir who will occupy the home as a primary residence. If the legal heir is not SHIP eligible or chooses not to occupy the home, the original loan amount will be due and payable.

In the event of a sale, the county may exercise its right of first refusal to purchase the property at its appraised market value for continued occupancy by income eligible person. The seller is prohibited from receiving a financial benefit i.e. no cash out.

If the home is foreclosed on by a superior mortgage holder, the County will make an effort to recapture funds through all available legal remedies if it is determined that adequate funds may be available to justifying pursuing a recapture.

f. **Recipient Selection Criteria:**

Applicants will be ranked for assistance based on a first qualified, first served basis with the priorities established in paragraph I of the Program Details in Section I. of this plan.

g. **Sponsor Selection Criteria:** N/A

h. **Additional Information:**

- If the Property is deemed to have Chinese drywall, the property is ineligible for emergency repairs.
- Rehabilitation/Repairs will be performed by a State certified licensed contractor, or a contractor licensed to do business in Palm Beach County procured by the Department of Housing and Economic Development
- Applicants may not currently own or have assets exceeding \$200,000 in liquid assets and real estate.
- Mortgage payments and taxes must be current/paid up to date.
- Applicants must provide proof of current homeowner's insurance policy; this program may incorporate the payment of a one (1) year insurance premium showing Palm Beach County as an additional insured. Future payments are the sole responsibility of the homeowner(s).
- Written consent will be required from affected multifamily unit owners (i.e. structure of one to two dwelling units, duplex, triplex, etc.) when required work affects multiple owners. Assistance

may not be provided if consent is not provided and/or if conditions require work on an adjoining ineligible property (Ex: failing common roof cannot be successfully repaired without work on portion of roof on adjoining investor-owned unit).

E. Replacement Housing	Code 4
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- a. **Summary:** Funding will provide financing to homeowners residing in dilapidated structures which are beyond rehabilitation (over 50% of assessed value).

Eligible uses of funding include, but are not limited to:

- Demolition of the existing property
- Construction cost of a replacement home on the same lot (or) purchase of an existing home

- b. **Fiscal Years Covered:** 2019-2020, 2020-2021 and 2021-2022

- c. **Income Categories to be served:** Very low, low and moderate

- d. **Maximum award:** \$331,888

- e. **Terms:**

1. **Repayment loan/deferred loan/grant:** Funds will be awarded as a deferred loan and/or a payable low interest loan secured by a recorded mortgage and note. The repayable low interest loan amount will be determined on a case by case basis that is affordable to the respective homeowner.
2. **Interest Rate:** 0% for deferred loan/ 4% for payable low interest loan
3. **Years in loan term:** 30 years
4. **Forgiveness:** The loan(s) will be satisfied at the end of the term
5. **Repayment:** None required as long as loan is in good standing.
6. **Default:** The loan will be in default if any of the following occurs: sale, transfer, or conveyance of property; conversion to a rental property; loss of homestead exemption status; failure to maintain homeowner's insurance; failure to occupy the home as primary residence.

In the event of a sale, the County may exercise its right of first refusal to purchase the property at its appraised market value for continued occupancy by income eligible persons. The seller is prohibited from receiving a financial benefit i.e. no cash out.

If the home is foreclosed on by a superior mortgage holder, the County will make an effort to recapture funds through all legal remedies if it is determined that adequate funds may be available to justify pursuing a recapture.

- f. **Recipient Selection Criteria:**

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Amendment #1 April 24, 2020/ Approved by FHFC April 24, 2020

Amendment #2 September 16, 2020 /Approved by FHFC September 17, 2020

Amendment #3 February 8, 2022 / Approved by FHFC February 16, 2022

Applicants will be ranked for assistance based on a first qualified, first served basis with the priorities established in paragraph I of the Program Details in Section I. of this plan.

g. **Sponsor/Sub-recipient Selection Criteria:** N/A

h. **Additional Information:**

- Department of Housing and Economic Development staff will determine the size of the replacement home utilizing similarities to current residence.
- Mortgage payments and taxes must be current/paid up to date.
- Applicants must provide proof of current homeowner's insurance. In the event that the homeowner does not have an existing homeowner's insurance policy; this program may incorporate the payment of a one (1) year insurance premium showing Palm Beach County as an additional insured. Future payments are the sole responsibility of the homeowner(s).

F. Disaster Assistance	Code 5, 16
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a. **Summary:** Funding will be awarded to income eligible applicants in need of home repairs directly caused by a disaster that is declared by Executive Order of the United States President or the Governor of the State of Florida. Assistance will be prioritized as follows:

1. Immediate threats to health and life safety in cases where the home is still habitable.
2. Repairs necessary to correct code violations.
3. Interim repairs to avoid further damage; tree and debris removal required to make the individual housing unit habitable.
4. Payment of insurance deductibles for rehabilitation of homes covered under homeowner insurance and homeowner association policies.
5. Security deposits and rental assistance for displaced recipients
6. Retrofitting residences with mitigation features (installation of roofing straps, shutters, storm doors, hurricane impact windows and garage doors) that help prevent future storm damage.
7. Rent and utility payments for households affected by a disaster

b. **Fiscal Years Covered:** 2019-2020, 2020-2021 and 2021-2022

c. **Income Categories to be served:** Very low, low and moderate

d. **Maximum award:** Home Repair Assistance: \$68,000. Rent and Utility Payment Assistance: \$10,000

e. **Terms:**

1. **Repayment loan/deferred loan/grant:** Home Repair Assistance: Funds will be awarded as a deferred payment loan secured by a recorded mortgage and note. Rent and Utility Payment Assistance: Grant.

2. **Interest Rate:** Home Repair Assistance: 0%. Rent and Utility Payment Assistance: Grant.

3. **Years in loan term:** Home Repair Assistance: 15 years. Rent and Utility Payment Assistance: N/A.

4. **Forgiveness:** Home Repair Assistance: The loan will be forgiven at the end of term. Rent and Utility Payment Assistance: N/A
5. **Repayment:** Home Repair Assistance: None required as long as loan is in good standing. Rent and Utility Payment Assistance: N/A
6. **Default:** Home Repair Assistance: The loan will be in default if any of the following occurs: sale, transfer, or conveyance of the property; conversion to a rental property; loss of homestead exemption status; or failure to occupy the home as primary residence.

In the event of a sale, the County may exercise its right of first refusal to purchase the property at its appraised market value for continued occupancy by income eligible persons. The seller is prohibited from receiving a financial benefit i.e. no cash out.

If the home is foreclosed on by a superior mortgage holder, the County will make an effort to recapture funds through all available legal remedies if it is determined that adequate funds may be available to justify pursuing a recapture.

Rent and Utility Payment Assistance: N/A

f. **Recipient Selection Criteria:**

Home Repair Assistance:

- Applicants will be ranked for assistance based on a first qualified, first served basis with the priorities established in paragraph I of the Program Details in Section I of this plan.
- Applicants must provide proof of current homeowners insurance. In the event that the homeowner does not have an existing homeowner's insurance policy; this program may incorporate the payment of a one (1) year insurance premium showing Palm Beach County as an additional insured. Future payments are the sole responsibility of the homeowner(s).
- Must file for and use proceeds from insurance as first option.

Rent and Utility Payment Assistance:

Priority will be given to households who have received rent, security and utility deposit assistance under federal and state programs and are very low, low income and/or special needs as defined in S. 420.0004.

g. **Sponsor Selection Criteria:** Home Repair Assistance: N/A

Rent and Utility Payment Assistance: The County will use existing sponsors and/or sponsors who can provide immediate assistance under a disaster and have experience in providing rent and utility payment assistance.

h. **Additional Information:**

Home Repair Assistance:

- Funds for disaster mitigation will only be allocated from unencumbered funds, program income or additional funds awarded through Florida Housing Finance Corporation for the disaster.

- Applicant may not currently own or have assets exceeding \$200,000 in liquid assets and real estate.
- Rehabilitation/Repairs will be performed by a State certified licensed contractor, or a contractor licensed to do business in Palm Beach County procured by the Department of Housing and Economic Development

Rent and Utility Payment Assistance: N/A

G. Foreclosure Prevention	Code 7
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- a. **Summary:** Funding will be provided to assist with delinquent mortgage payments (PITI), property taxes, and homeowners insurance. Additionally, funding may assist with late fees, attorney’s fees, homeowners’ association payments, special assessments, other foreclosure associated costs, and mortgage delinquency and default resolution counseling.
- b. **Fiscal Years Covered:** 2019-2020, 2020-2021 and 2021-2022
- c. **Income Categories to be served:** Very low, low and moderate
- d. **Maximum award:** \$23,000
- e. **Terms:**
1. **Repayment loan/deferred loan/grant:** Funds will be awarded as a deferred payment loan secured by a recorded mortgage and note
 2. **Interest Rate:** 0%
 3. **Years in loan term:** 5 years
 4. **Forgiveness:** The loan amount will be forgiven at the end of the term.
 5. **Repayment:** None required as long as loan is in good standing.
 6. **Default:** The loan will be in default if any of the following occurs: sale, transfer or conveyance of property; conversion to a rental property; loss of homestead exemption status; or failure to occupy the home as primary residence.

In the event of death of the qualifying homeowner(s) during the loan term, the loan may be assumed by a SHIP eligible heir who will occupy the home as a primary residence. If the legal heir is not SHIP eligible or chooses not to occupy the home, the original loan amount will be due payable.

If the home foreclosed on by a superior mortgage holder, the County will make an effort to recapture funds through all available legal remedies if it is determined that adequate funds may be available to justify pursuing a recapture.

f. **Recipient Selection Criteria:**

In addition to being selected on a first –qualified, first-served basis, applicants must:

1. Provide proof of the arrearage in the form of notification from the first mortgage lender of applicant’s delinquency and/or intent to foreclose (this cannot be from a private mortgage holder). Verification of applicants’ ability to avoid default by showing that the first mortgage lender is willing to stop foreclosure upon assistance being provided.
2. Provide evidence of a hardship that caused the arrearage (considerable loss of income/employment, death of a household member, divorce, unexpected medical expenses, or unanticipated home repairs or costs associated with increases escrows).
3. Receive counseling from a HUD approved agency or NeighborWorks approved agency trained in foreclosure counseling.

g. **Sponsor Selection Criteria:** N/A

h. **Additional Information:**

- Participants can only receive assistance once
- Assessed value of the property may not exceed the established maximum sales price.

H. Rental Housing Assistance	Code 23, 13
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- a. **Summary:** Funding will be provided to individuals or families that are in need of assistance with obtaining a lease agreement on a rental unit and qualify under 420.9072(7)(b). This may include first and last month rent, rental security deposits, utility deposits and connection fees. Funds may be awarded to homeless very low income households for: (1) first and last month’s rent, security and utility deposit assistance; and (2) rent subsidies paying the monthly rent for up to 12 months. To be eligible for rent subsidies, the household receiving assistance must include 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. This strategy will also provide eviction prevention assistance not to exceed 6 months in the form of a rent and utility payments.
- b. **Fiscal Years Covered:** 2019-2020, 2020-2021 and 2021-2022
- c. **Income Categories to be served:** Very low, low and moderate
- d. **Maximum award:** \$ 10,000
- e. **Terms:**
1. **Repayment loan/deferred loan/grant:** Funds will be awarded as a grant

2. **Interest Rate:** N/A
 3. **Years in loan term:** N/A
 4. **Forgiveness:** N/A
 5. **Repayment:** N/A
 6. **Default:** N/A
- f. **Recipient Selection Criteria:** Recipients will be ranked for assistance based on a first qualified, first served basis with the priorities established in paragraph I of the Program Details in Section I of this plan. For eviction prevention assistance, priority will be given to those households that have received rent, security deposits, utility deposits and/or rental assistance from a County program.
- g. **Sponsor Selection Criteria:** Funding may be awarded through the non-profit organizations with documented housing delivery experience. Successful non-profits will be selected according to the following criteria:
- Organization’s past experience with direct assistance
 - Outreach capability to targeted client groups and ability to serve County residents.
 - Proof of ability to income certify applicants utilizing State SHIP standards.
- h. **Additional Information:**
- The Lease Agreement must be at least twelve (12) months

I. Developer Rental Assistance Program	Code 14/21
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- a. **Summary:** Funding will provide assistance to not-for-profit and for-profit housing developers to acquire, construct and/or rehabilitate affordable rental or single family units. Additionally, this strategy will provide developers applying for Low Income Housing Tax Credits, State Apartment Incentive Loan (SAIL), State HOME Investment Partnerships Program or other multi-family funding, with a local government contribution or other leverage/match financing for affordable rental projects.
- b. **Fiscal Years Covered:** 2019-2020, 2020-2021 and 2021-2022
- c. **Income Categories to be served:** Very Low and Low
- d. **Maximum Award:** \$68,000 per unit
- e. **Terms:**
1. **Repayment loan/deferred loan/grant:** Funds will be awarded as a loan secured by a recorded mortgage and note.
 2. **Interest rate:** Rate will be determined through the request for proposal (RFP) process, and will not exceed 3%.

3. **Years in loan term:** 15 years and will not exceed a term equal to a primary lender.
 4. **Forgiveness:** Loan amount will be satisfied when all the terms in the contract has been met
 5. **Repayment:** N/A
 6. **Default:** For all awards, a default will be determined as: sale, transfer, or conveyance of property; conversion to another use; failure to maintain standards for compliance as required by any of the funding sources. If any of these occur, the original loan amount will be due and payable.
- f. **Tenant Selection Criteria:** Management of the development will select potential renters for the SHIP assisted units on a first qualified, first served basis. All applicants for residence in a SHIP assisted unit must meet income qualifications of the program as determined and reported by the developers' management company for the development.
- g. **Sponsor Selection Criteria and Duties:** The County will advertise the availability of funds. Sponsors of affordable rental development will be selected through a request for proposal (RFP) utilizing the County's established guidelines. The RFP will require proof of developer experience in providing affordable rental housing, proof of financial capacity, evidence of site control (or contract for sale), proof of ability to proceed once all funding is closed, and a housing unit design plan meets with the county's' housing element in the Comprehensive Plan.

The county reserves the right to select developments that meet the above requirements, or utilize a competitive or non-competitive solicitation process, and:

1. Are in areas of immediate need due to lack of available units.
2. Propose to preserve and improve existing units.

All funding awards will be subject to closing on other funding sources.

- h. **Additional Information:**
- Other state, federal, private and local funds are required as SHIP funds will be used as gap financing only
 - Developers will be required to meet compliance reporting requirements on the development necessary to meet the statutory requirements for monitoring of SHIP rental units.
 - Assisted development must commit to rent stipulations as established by HUD for the term of the mortgage and all other stipulations of the loan agreement. Assisted development must commit to rent stipulations as established by HUD for the term of the mortgage and all other stipulations of the loan agreement. The housing must remain affordable, and all SHIP assisted units must be occupied by income eligible persons during affordability period.

J. Single Family New Construction	Code 10
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- a. **Summary:** Funding will be awarded to contractors, Non-profits and For-profit housing developers to construct affordable single family units for eligible first time homebuyers. Funds can be used for site acquisition, soft costs, site development, infrastructure improvements, demolition, construction

and other eligible construction related costs.

Perspective homebuyers must qualify as a First time Homebuyer under the HUD definition: An individual who has had no ownership in a principal residence during the 3-year period ending on the date of the purchase of the property. This provision is limited to a spouse (if either meets the above test, they are considered first time homebuyers). A single parent who has only owned with a former spouse while married. An individual who is a displaced homemaker and has only owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations. An individual who has only owned a property that was not in compliance with state, local or model building codes and which cannot be brought into compliance for less than the cost of constructing a permanent structure.

- b. **Fiscal Years Covered:** 2019-2020, 2020-2021 and 2021-2022
- c. **Income Categories to be served:** Very low, low and moderate
- d. **Maximum award:** \$331,888
- e. **Terms:**
 - 1. **Repayment loan/deferred loan/grant:**
Developers- Funds will be awarded as a repayable predevelopment and or construction loan secured by a recorded mortgage and note.

Homebuyers- Funds will be awarded as a deferred payment loan secured by a recorded mortgage and note.
 - 2. **Interest Rate:** 0% for Developers and Homebuyers
 - 3. **Years in loan term:** 2 years for Developers and 30 years for Homebuyer
 - 4. **Forgiveness:** The County will satisfy the promissory note to the developer and tender a recorded satisfaction upon sale of the property.
 - 5. **Repayment:** The County will require the developer to execute a restrictive covenant with a two (2) year period, mortgage and promissory note. Upon sale of the property, the loan will be paid and the County will satisfy the promissory note to the developer and tender a recorded satisfaction.
 - 6. **Default:** The loan will be in default if the developer does not successfully acquire and construct affordable housing and sell to an eligible homebuyer within the contractual timeframe. The County will recapture the subsidy or property if the housing has not been completed within two years of the date of the recorded Mortgage Agreement.
- f. **Recipient Selection Criteria:** Applicants must be income eligible and will be ranked for assistance based on a first-qualified, first- served basis with the priorities established in paragraph I of the Program details in Section of this plan.
- g. **Sponsor Selection Criteria and Duties:** Developers will apply to the County through a competitive or non-competitive solicitation process or be selected by the Board of County Commissioners. Proof of experience

in constructing affordable housing, financial capacity to carry out the project, and provide a housing unit design plan that meets the County’s housing element in the Comprehensive Plan will be required.

The County reserves the right to select developments that meet all of the above requirements and:

1. Are in areas of immediate need due to lack of available affordable units.

h. Additional Information:

- The County can act as developer on County owned properties, in which the selected contractors will be required to adhere to terms of this strategy. As such, there will not be predevelopment and/or construction loan agreement.
- If the property to be developed is encumbered by an existing mortgage, the County may choose not to fund the project.
- Developers will be required to meet the SHIP program compliance reporting requirements.
- Prospective homebuyers must first secure a first mortgage approval by a lender.
- Prospective homebuyers may not currently own or have assets exceeding \$200,000 in liquid assets or real estate.

III. LHAP Incentive Strategies

A. Name of the Incentive Strategy: EXPEDITED PERMITTING

To ensure the review of affordable housing projects is expedited to a greater degree than other projects, Palm Beach County has instituted a “Pre-Application Review Process”, in which Workforce and Affordable Housing Developers are encouraged to participate. The pre-application review process will occur prior to the submittal of a Zoning or Building permit application, for purposes of establishing a density bonus determination. The pre-application shall be established by the Planning Director, and made available to the public and be subject to Sufficiency Review. The Planning Director shall provide a written density determination letter within ten days of determining the pre-application is sufficient. The determination shall be based on the sector analysis, size, location and development characteristics of the project with consideration given towards affordability, accessibility, proximity to mass transit or employment centers, compatibility, quality of design, pedestrian and vehicular circulation, open space, and resource protection. The Planning Director shall prepare a report for the applicant, Development Review Officer (DRO) Committee, Zoning Commission (ZC), or Board of County Commissioners (BCC), whichever is appropriate, making a determination of compliance with this chapter, consistent with the Plan and recommend approval, approval with conditions, or denial of the request.

Also, Palm Beach County updated its Unified Land Development Code (ULDC) (*located in Article 5, CHAPTER G, Section 1*) ordinance (#2006-055) in 2006. The ULDC allows for the following processes with regards to expedited review for a proposed Affordable Housing Development:

a. Design Review

Review of multifamily or townhouse structures by the Building Division and Fire Rescue shall be allowed concurrent with final DRO review, prior to permit application.

b. Platting

- 1) If only a boundary plat is required for an existing single lot, building permits may be issued after submittal of the final plat for recordation.
- 2) If a subdivision plat is required, permits will be concurrently reviewed, but only issued at recording of the plat.
- 3) Pursuant to Article 3.E.1.G.1.a, Permits, Building permits may be issued for sales offices, sales models, gate houses, entry features, and utilities may be issued prior to the recording of a final plat.

This expedited permitting incentive has been in operation since November 2006. More recently, the County began providing expedited processing of building permits for residential construction funded through Department of Housing and Economic Development programs. These efforts typically reduce approval time by approximately 50%.

The County is currently developing a policy and procedure memorandum that will enhance the process for expedited development review and permitting of affordable and workforce housing. This enhanced process will include the designation of a staff liaison who will help guide the development applications through the various approval processes with County agencies.

B. Name of the Incentive Strategy: ONGOING REVIEW OF POLICIES AND PROCESS IMPACTING HOUSING COST

Comprehensive Plan Housing Element Policy 1.1-h calls for the County to review and streamline existing ordinances, codes, and regulations related to the permitting process in order to reduce excessive requirements that increase the cost of housing, and to add other provisions that increase private sector production of affordable housing. The Planning, Zoning, and Building Department (PZB) is designated to lead these efforts, with assistance from the Department of Housing and Economic Development (DHED) and other departments. When considering changes to the Comprehensive Plan or Unified Land Development Code (ULDC) that might increase the cost of housing, PZB regularly solicits review and comment from the DHED. Further, Countywide PPM CW-O-057 requires that an economic impact analysis be prepared for proposed County ordinances that may have an economic impact on commerce, employment, or incomes.

Furthermore, the State requires that all proposed changes to the Unified Land Development Code, Comprehensive Plan, Zoning Code, and Zoning Map are reviewed and approved through a public hearing process. In Palm Beach County, the bodies that perform the review and approval functions are the Land Development Regulation Advisory Board (LDRAB) and the Board of County Commissioners (BCC). The ULDC provides that the composition of the LDRAB include seats specifically for a residential builder (Gold Coast Builder’s Association), an architect (American Institute of Architects), and a realtor (Broward, Palm Beaches and St. Lucie Realtors) in addition to other professions. These experts provide input and insight to staff on how proposed changes may impact the cost of housing, and help inform BCC decision making.

C. Name of the Incentive Strategy: INVENTORY OF COUNTY OWNED LANDS SUITABLE FOR AFFORDABLE HOUSING

The Palm Beach County Comprehensive Plan Housing Element, Policy 1.1-i, requires an inventory of all surplus County owned land and foreclosed properties that may be suitable for

affordable housing. Surplus properties are those which are vacant but are not (i) currently utilized or (ii) held for some future use. The County's Property and Real Estate Management Division (PREM) is responsible for identification of such properties. DHED is responsible for review of the inventory in order to advise on suitability of properties for affordable housing purposes. PREM will make available through its website a list of potentially surplus properties which will be periodically updated. The list will include all potentially surplus properties, and make no determination or recommendation as to developability or availability of any property as the County reserves the right to revise the list at its discretion. Countywide Policy and Procedure Memorandum *CW-L-023 Requirements for the Acquisition, Disposition, Lease, and Exchange of Real Property* establishes procedural requirements for disposition of County-owned real estate, including donation to not-for-profit entities. Recipients for disposition of County owned property must be selected through a competitive process, except for not-for-profit recipients whom may be selected on a non-competitive basis, however, all dispositions must be approved by the Board of County Commissioners. PREM will post on its website information on the process for disposition of surplus properties.

- D. Name of the Incentive Strategy: IMPACT FEE AFFORDABLE HOUSING ASSISTANCE PROGRAM**
The Impact Fee Affordable Housing Assistance Program (IFAHAP) was developed to implement direction by the Palm Beach County Board of County Commissioners (BCC) to secure a funding source for the creation of affordable housing. In November 2009, the BCC authorized utilization of impact fee investment earnings on roads, parks, and public buildings to support affordable housing within Palm Beach County (R2009-2013). Under IFAHAP, the BCC designates during each budget development process 50% of the investment earnings realized during the prior year on the roads, parks and public building impact fee fund balances, but not to exceed a total of \$3 million annually. Once the Office of Financial Management and Budget establishes the amount of funding available for the IFAHAP, Department of Housing and Economic Development staff advertises a Notice of Funding Availability (NOFA) that offers the funds on a first-come, first-serve basis. The funds are provided in the form of credits to offset impact fees due on new housing development serving up to 140% AMI households. Approved projects must apply for a building permit within two (2) years of approval and be completed within four (4) years. Funds not contracted/awarded to a project within two (2) years and not spent within four (4) years will revert back to the original impact fee type and zone for use on County capital improvement projects.

Additionally, the County allows for the payment of impact fees with development financing provided through the SHIP and HOME programs. The facilitate residential development in the western rural area of the county, no County impact fees are collected in the Glades Region.

The County currently offers on the zoning Division website a free and publically-accessible tool for the comprehensive estimation of fees associated with a development application through the ePZB system.

- E. Name of the Incentive Strategy: FLEXIBLE DENSITIES FOR AFFORDABLE HOUSING**
The County's Workforce Housing Program (WHP) and Affordable Housing Program (AHP) provide similar opportunities to developers to increase density from 30 up to 100 percent in accordance with the ULDC Article 5.G.1.H.1. (WHP, adopted 2006) and Article 5.G.2.E.1. (AHP,

adopted 2010). The County’s Transfer of Development Rights Program (TDR) allows a property owner to achieve a density bonus by purchasing the increase in density in new residential developments within the Urban/Suburban Tier in unincorporated Palm Beach County.

Projects requesting a density bonus greater than 30 percent are required to conduct a sector analysis as described in Article 5.G.1.H of the ULDC. [Ord. 2006-055]

- WHP projects, including relocated WHP units, shall be equitably distributed so that there is no undue concentration of very low and low-income households.
- Table 5.G.1.H, WHP Density Bonus Guide indicates the maximum density bonus permitted and the concentration of very-low and low income housing within a sector will be one factor taken into consideration when determining the maximum density bonus permitted.

Table 5.G.1.H - WHP Density Bonus Guide

% of Very Low & Low Income Households in Sector	> 50%	40-50%	20-40%	0-20%
Maximum Density Bonus (1)	up to 40%	up to 60%	up to 80%	up to 100%
[Ord. 2009-01] [Ord. 2010-005]				
Notes:				
1. The Planning Director may recommend a density bonus in excess of the Maximum Density Bonus where the project serves to mitigate existing very low and low income concentrations by including a mix of higher income market rate units or Medium 1, Medium 2 and Middle Income WHP units. [Ord. 2006-055]				

- Other factors to be considered include:
 - the location of the proposed development and its relationship to the study area;
 - the housing type(s) proposed;
 - if the development site is located within:
 - 1/4 radius of a public park (neighborhood or regional park, not a golf course); civic uses (schools/libraries); a mass transit facility/route; child care facilities; medical facilities; a super market; a community commercial facility; employment opportunities; and
 - 1/2 mile radius of social services; a regional commercial facility; an industrial facility; additional civic uses and employment opportunities.
- Prior to submittal of a WHP pre-application, the applicant shall meet with the Planning Director or designee to establish the sector within which the distribution analysis shall be conducted.
- The boundaries of the sector shall be approved by the Planning Director or designee.
- The maximum density bonus permitted or a bonus in excess of the maximum shall be recommended by the Planning Director or designee. [Ord. 2010-005]

Additionally, County staff is currently researching the concept of establishing a new process or program to allow proposed developments to draft their own custom PDRs for residential developments as done with other Counties in Florida. Zoning Division is exploring establishing a pilot program for Workforce

and Affordable housing, with the opportunity to extend other types of residential developments in the future.

F. Name of the Incentive Strategy: RESERVATION OF INFRASTRUCTURE CAPACITY FOR AFFORDABLE AND WORKFORCE HOUSING

The County's Workforce Housing Program (WHP) and Affordable Housing Program (AHP) provide identical "traffic performance standards mitigation" opportunities to developers in accordance with the Unified Land Development Code (ULDC) Article 5.G.1. B.2.f.1. (WHP) and Article 5.G.2.D.2. (AHP).

. This allows developments with WHP/AHP units to exceed Level of Service D by 30%, increasing the available concurrency for traffic and reserving that traffic for those WHP/AHP developments that need it. Level of Service (LOS) is a measure of the operation of a roadway based upon traffic volumes in relation to road capacity. LOS is represented by the letters A through F with A representing the condition with the least driver delay and F representing conditions with the most driver delay. In general, LOS D describes high-density areas where speed and freedom to maneuver in the roadway is stable but severely restricted.

Traffic Performance Standards (TPS) mitigation for WHP provides for the following:

- WHP Special Methodologies
 - TPS mitigation shall be permitted for WHP projects in accordance with County Comprehensive Plan Transportation Element Policy 1.2-d (4). [Ord. 2006-055] [Ord. 2011-016]
- WHP Traffic Concurrency Hall Pass
 - TPS mitigation shall also include the option of applying for a WHP Traffic Concurrency Hall Pass separate from a development order application. The WHP Traffic Concurrency Hall Pass serves as a provisional traffic concurrency approval for a period of not more than 90 days, during which it must be merged into an application submitted for a Concurrency Reservation approval. The WHP Traffic Concurrency Hall Pass is described further in Art. 2.F. [Ord. 2006-055]

The County's Comprehensive Plan Transportation Element Policy 1.2-d acknowledges that under certain limited circumstances dealing with transportation facilities, countervailing planning and public policy goals may come into conflict with the requirement that adequate public facilities be available concurrent with the impacts of such development. The policy further acknowledges that under certain circumstances, lower level of service standards for specific roadway segments and intersections are appropriate. As a result, the Comprehensive Plan Transportation Element Policy provides for lower transportation facilities level of service standard for certain purposes on roadway segments and intersections as described in Policy 1.2-d.4:

- For the public purpose of allowing developments that include Workforce and Affordable Housing units (as defined in Housing Element Policies 1.5-g and 1.5-i) to be constructed, the level of service standard permitted for all housing units beyond the standard density (as defined in Future Land Use Element Table III.C.1) on affected segments and intersections shall be up to 30% above the LOS D volume on those segments and intersections.

G. Name of the Incentive Strategy: ALLOWANCE OF AFFORDABLE ACCESSORY RESIDENTIAL UNITS
Definitions and supplementary standards for specific uses, such as Accessory Dwellings, are

included in the County's Unified Land Development Code (ULDC).

According to Article 4.B.1.A.1. (adopted 2005) of the ULDC:

- An accessory dwelling unit is located on the same lot as a principal single family dwelling. An accessory dwelling is a complete, independent living facility equipped with a kitchen and provisions for sanitation and sleeping.
 - Number of Units
 - A maximum of one accessory dwelling may be permitted as an accessory use to a principal single family dwelling unit which is owner occupied. The accessory dwelling may be attached to the principal dwelling or freestanding.
 - Maximum Floor Area
 - On less than one acre: 800 square feet.
 - On one acre or more: 1000 square feet.
 - The floor area calculation shall include only the living area of the accessory dwelling under a solid roof. [Ord. 2005-041]
 - Additional Floor Area
 - Floor area under a solid roof that is utilized as a porch, patio, porte cohere, carport, or garage shall not exceed 500 square feet.
 - Maximum Number of Bedrooms/Baths
 - One bedroom and one bathroom.
 - Compatibility
 - The accessory dwelling shall be architecturally compatible in character and materials with the principal dwelling.
 - Property Development Regulations (PDRs)
 - The accessory dwelling shall comply with the PDRs applicable to the principal dwelling.
 - No Separate Ownership
 - The accessory dwelling shall remain accessory to and under the same ownership as the principal dwelling and shall not be subdivided or sold as a condominium.
 - Kitchen Removal
 - An agreement to remove all kitchen equipment shall be executed for the dwelling unit prior to the issuance of a Building Permit. The agreement shall require the kitchen to be removed if the principal dwelling is no longer owner occupied.
 - No Separate Electrical Service
 - Both the principal single family dwelling and the accessory dwelling shall be connected to the same meter. Separate electric service shall be prohibited. [Ord. 2005-041]

The Planning, Zoning, and Building Department is currently developing a ULDC Amendment proposal that includes use of ADUs and associated requirements for the upcoming amendment round. The process will involve a review of existing requirements, and may identify changes that will facilitate development of accessory dwelling units.

H. Name of the Incentive Strategy: REDUCTION OF PARKING AND SETBACK REQUIREMENTS FOR AFFORDABLE HOUSING

The County's Workforce Housing Program (WHP) and Affordable Housing Program (AHP) provide identical "setback reduction" opportunities to developers in accordance with the Unified Land Development Code (ULDC) Article 5.G.1.B.2.f.3.h. (WHP) and Article 5.G.2.D.4.h. (AHP).

Flexible regulations are described in Article 5.G.2.D.4 of the ULDC and are applicable to:

- Projects with Future Land Use (FLU) designations of:
 - Medium Residential, 5 units per acre (MR-5)
 - High Residential, 8 units per acre (HR-8)
 - High Residential, 12 units per acre (HR-12)
 - High Residential, 18 units per acre (HR-18)
- Projects approved as a Planned Development District (PDD)
- Projects approved as a Traditional Development District (TDD)

Projects with these designations may deviate from the residential requirements of Table 3.D.1.A, Property Development Regulations, or Table 3.D.2.B, Zero Lot Line Property Development Regulations, as follows:

- Single Family Dwelling units may be permitted up to a maximum ten percent deviation for the following Property Development Regulations:
 - lot size;
 - width and frontage;
 - building coverage; and
 - side and rear setbacks.
- Single Family Dwelling units limited to one floor with no loft or other similar feature, may be permitted up to a maximum 20 percent deviation for the following Property Development Regulations:
 - building coverage; and
 - front and side street setbacks.
 - Zero Lot Line lots may be permitted up to a maximum lot width reduction of five feet, and ten percent deviation from the minimum lot size, building coverage, and front setback for units with front loading garages.

I. Name of the Incentive Strategy: ALLOWANCE OF FLEXIBLE LOT CONFIGURATIONS, INCLUDING ZERO-LOT-LINE CONFIGURATIONS FOR AFFORDABLE HOUSING

The County's Comprehensive Plan Concentrations of Affordable Housing Policy 1.5 enables the public, private, and not-for-profit sectors to:

- provide affordable housing
- support the distribution of housing for very low, low, moderate and middle income households
- use the Workforce Housing Program (WHP) and the Affordable Housing Program (AHP) to avoid undue concentrations of very low and low income housing through the County

The Unified Land Development Code (ULDC) allows for "Density Bonus Development Options" for both WHP and AHP developments. The ULDC Article 5.G.1.B.2.f.3.h. (WHP) and Article 5.G.2.D.4.h. (AHP) provide for flexible lot configurations, including zero-lot-line configurations.

J. Name of the Incentive Strategy: SUPPORT FOR AFFORDABLE HOUSING IN TRANSPORTATION ORIENTED DEVELOPMENT

When determining the WHP/AHP density bonus, proximity of the site to mass transit and employment opportunities are considered, thereby providing an incentive for affordable development in closer proximity to the same. Most transit services suitable for TODs and related development opportunities are located in municipal areas, and are not subject to County property development regulations. However, for the unincorporated County, Comprehensive Plan Policy 4.4.9-a requires that not less than 20% of the total residential units of a TOD shall be designated for workforce housing or affordable housing through the associated programs.

The County has identified priority redevelopment areas along segments of Military Trail and Congress Avenue within the Urban Redevelopment Area. Within these areas the County has designated transect-based land use designations and zoning districts which place an emphasis on regulating building form and placement in relation to the public realm. These forms support redevelopment that can capitalize on existing bus service on these corridors and provide for development at higher densities than traditional future land use and zoning designation. Additionally, County staff is involved with ongoing transit studies, along with municipal representatives and partner agencies. During January 2021, the County hosted a Mobility Planning Summit that addressed various issues around transportation and land development. The Summit spurred plans for a forthcoming Board of County Commissioners mobility workshop that will provide a venue for a discussion to include residential development at transportation hubs.

Palm Beach County

Fiscal Year: 2019-2020	
Estimated SHIP Funds for Fiscal Year:	\$ 1,430,741.00
Salaries and Benefits	\$ 135,000.00
Office Supplies and Equipment	\$ 2,000.00
Travel Per diem Workshops, etc.	\$ 4,000.00
Advertising	\$ 1,000.00
Other*	\$ 1,074.00
Total	\$ 143,074.00
Admin %	10.00%
	OK

Fiscal Year 2020-2021	
Estimated SHIP Funds for Fiscal Year:	\$ 1,430,741.00
Salaries and Benefits	\$ 135,000.00
Office Supplies and Equipment	\$ 2,000.00
Travel Per diem Workshops, etc.	\$ 4,000.00
Advertising	\$ 1,000.00
Other*	\$ 1,074.00
Total	\$ 143,074.00
Admin %	10.00%
	OK

Fiscal Year 2021-2022	
Estimated SHIP Funds for Fiscal Year:	\$ 1,430,741.00
Salaries and Benefits	\$ 135,000.00
Office Supplies and Equipment	\$ 1,000.00
Travel Per diem Workshops, etc.	\$ 5,000.00
Advertising	\$ 1,000.00
Other*	\$ 1,074.00
Total	\$ 143,074.00
Admin %	10.00%
	OK

*All "other" items need to be detailed here and are subject to review and approval by the SHIP review committee. Project Delivery Costs that are outside of administrative costs are not to be included here, but must be detailed in the LHAP main document.

Details: Interdepartmental billings: County Attorney Office, Fleet, ISS, Caylx Software, etc...

Exhibit B

Timeline for SHIP Expenditures

 Palm Beach County affirms that funds allocated for these fiscal years will meet the following deadlines:

Fiscal Year	Encumbered	Expended	1 st Year AR	2 nd Year AR	Closeout AR
2019-2020	6/30/2021	6/30/2022	9/15/2020	9/15/2021	9/15/2022
2020-2021	6/30/2022	6/30/2023	9/15/2021	9/15/2022	9/15/2023
2021-2022	6/30/2023	6/30/2024	9/15/2022	9/15/2023	9/15/2024

If funds allocated for these fiscal years are not anticipated to meet any of the deadlines in the table above, Florida Housing Finance Corporation will be notified according to the following chart:

Fiscal Year	Funds Not Encumbered	Funds Not Expended	1 st Year AR Not Submitted	2 nd Year AR Not Submitted	Closeout AR Not Submitted
2019-2020	3/30/2021	3/30/2022	6/15/2020	6/15/2021	6/15/2022
2020-2021	3/30/2022	3/30/2023	6/15/2021	6/15/2022	6/15/2023
2021-2022	3/30/2023	3/30/2024	6/15/2022	6/15/2023	6/15/2024

Requests for Expenditure Extensions (close-out year ONLY) must be received by FHFC by June 15 of the year in which funds are required to be expended. The extension request shall be emailed to robert.dearduff@floridahousing.org and terry.auringer@floridahousing.org and include:

1. A statement that Palm Beach County requests an extension to the expenditure deadline for fiscal year _____.
2. The amount of funds that is not expended.
3. The amount of funds that is not encumbered or has been recaptured.
4. A detailed plan of how/when the money will be expended.

Note: an extension to the expenditure deadline (June 30) does not relieve the requirement to submit (September 15) the annual report online detailing all funds that have been expended. Please email terry.auringer@floridahousing.org when you are ready to "submit" the AR.

Other Key Deadlines:

AHAC reports are due for each local government the same year as the local government's LHAP being submitted. Local governments receiving the minimum or less allocation are not required to report.

**CERTIFICATION TO
FLORIDA HOUSING FINANCE CORPORATION**

Local Government or Interlocal Entity: **Palm Beach County**

Certifies that:

- (1) The availability of SHIP funds will be advertised pursuant to program requirements in 420.907-420.9079, Florida Statutes.
- (2) All SHIP funds will be expended in a manner which will insure that there will be no discrimination on the basis of race, color, national origin, sex, handicap, familial status, or religion.
- (3) A process to determine eligibility and for selection of recipients for funds has been developed.
- (4) Recipients of funds will be required to contractually commit to program guidelines and loan terms.
- (5) Florida Housing will be notified promptly if the local government /interlocal entity will be unable to comply with any provision of the local housing assistance plan (LHAP).
- (6) The LHAP provides a plan for the encumbrance of funds within twelve months of the end of the State fiscal year in which they are received and a plan for the expenditure of SHIP funds including allocation, program income and recaptured funds within 24 months following the end of the State fiscal year in which they are received.
- (7) The LHAP conforms to the Local Government Comprehensive Plan, or that an amendment to the Local Government Comprehensive Plan will be initiated at the next available opportunity to insure conformance with the LHAP.
- (8) Amendments to the approved LHAP shall be provided to the Florida Housing for review and/or approval within 21 days after adoption.
- (9) The trust fund exists with a qualified depository for all SHIP funds as well as program income or recaptured funds.
- (10) Amounts on deposit in the local housing assistance trust fund shall be invested as permitted by law.
- (11) The local housing assistance trust fund shall be separately stated as a special revenue fund in the local governments audited financial statements (CAFR). An electronic copy of the CAFR or a hyperlink to the document shall be provided to Florida Housing by June 30 of the applicable year.
- (12) Evidence of compliance with the Florida Single Audit Act, as referenced in Section 215.97, F.S. shall be provided to Florida Housing by June 30 of the applicable year.
- (13) SHIP funds will not be pledged for debt service on bonds.
- (14) Developers receiving assistance from both SHIP and the Low Income Housing Tax Credit (LIHTC) Program shall comply with the income, affordability and other LIHTC requirements, similarly, any units receiving assistance from other federal programs shall comply with all Federal and SHIP program requirements.

- (15) 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.
- (16) Rental Units constructed or rehabilitated with SHIP funds shall be monitored for compliance with tenant income requirements and affordability requirements or as required in Section 420.9075 (3)(e). To the extent another governmental entity provides periodic monitoring and determination, a municipality, county or local housing financing authority may rely on such monitoring and determination of tenant eligibility.
- (17) The LHAP meets the requirements of Section 420.907-9079 FS, and Rule Chapter 67-37 FAC.
- (18) The provisions of Chapter 83-220, Laws of Florida have not been implemented (except for Miami-Dade County).

R2019 0547

APR 16 2019

[Signature]
Witness

[Signature]
Chief Elected Official or designee

[Signature]
Witness

Mack Bernard Mayor
Type Name and Title

4/16/2019

Date

OR
Sharon P. Bock, Clerk & Comptroller
Fair Beach County

Attest:
(Seal) [Signature]
Deputy Clerk

RESOLUTION No.: R2019 - 0546

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA APPROVING THE LOCAL HOUSING ASSISTANCE PLAN AS REQUIRED BY THE STATE HOUSING INITIATIVES PARTNERSHIP (SHIP) PROGRAM ACT, SUBSECTIONS 420.907-420.9079, FLORIDA STATUTES; AND RULE CHAPTER 67-37, FLORIDA ADMINISTRATIVE CODE; AUTHORIZING AND DIRECTING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE ANY NECESSARY DOCUMENTS AND CERTIFICATIONS NEEDED BY THE STATE; AUTHORIZING THE SUBMISSION OF THE LOCAL HOUSING ASSISTANCE PLAN (LHAP) FOR REVIEW AND APPROVAL BY THE FLORIDA HOUSING FINANCE CORPORATION (FHFC); AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State of Florida enacted the William E. Sadowski Affordable Housing Act, Chapter 92-317 of Florida Sessions Laws, allocating a portion of documentary stamp taxes on deeds to local governments for the development and maintenance of affordable housing; and

WHEREAS, the State Housing Initiatives Partnership (SHIP) Act, ss. 420.907-420.9079, Florida Statutes (1992), and Rule Chapter 67-37, Florida Administrative Code, requires local governments to develop a one- to three-year LHAP outlining how funds will be used; and

WHEREAS, the SHIP Act requires local governments to establish the maximum SHIP funds allowable for each strategy; and

WHEREAS, the SHIP Act further requires local governments to establish an average area purchase price for new and existing housing benefiting from awards made pursuant to the Act; The methodology and purchase prices used are defined in the attached LHAP; and

WHEREAS, as required by *section 420.9075, F.S.* It is found that five percent (5%) of the local housing distribution plus five percent (5%) 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 ten percent (10%) of the local housing distribution plus five percent (5%) of program income deposited into the trust fund, except that small counties, as defined in s. 120.52(17), 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.

WHEREAS, the Department of Housing and Economic Sustainability has prepared a three-year LHAP for submission to the FHFC; and

WHEREAS, the Palm Beach County Commissioners finds that it is in the best interest of the public for Palm Beach County to submit the LHAP for review and approval so as to qualify for said documentary stamp tax funds; and

NOW THEREFORE, BE IT RESOLVED BY THE PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS, WEST PALM BEACH, FLORIDA that:

Section 1: The Board of County Commissioners of Palm Beach County hereby approves the Local Housing Assistance Plan, as attached and incorporated hereto for submission to the Florida Housing Finance Corporation as required by ss. 420.907-420-9079, Florida Statutes, for fiscal years 2019-2020; 2020-2021 and 2021-2022.

Section 2: The County Administrator, or designee, is hereby designated and authorized to execute any documents and certifications required by the Florida Housing Finance Corporation as related to the Local Housing Assistance Plan, and to do all things necessary and proper to carry out the term and conditions of said program.

Section 3: This resolution shall take effect immediately upon its adoption.

The foregoing Resolution was offered by Commissioner Kerner, who moved its adoption. The motion was seconded by Commissioner Weinroth, and being put to a vote, the vote was as follows:

Commissioner Mack Bernard, Mayor	-	<u>Aye</u>
Commissioner Dave Kerner, Vice Mayor	-	<u>Aye</u>
Commissioner Hal R. Valeche	-	<u>Aye</u>
Commissioner Gregg K. Weiss	-	<u>Aye</u>
Commissioner Robert S. Weinroth	-	<u>Aye</u>
Commissioner Mary Lou Berger	-	<u>Aye</u>
Commissioner Melissa McKinlay	-	<u>Aye</u>

The Mayor thereupon declared the Resolution duly passed and adopted this 16th day of April, 2019.

**PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS**

**APPROVED AS TO FORM AND
LEGAL SELF SUFFICIENCY**

**ATTEST: SHARON R. BOCK
CLERK & COMPTROLLER**

By: James Brako
James Brako
Assistant County Attorney

By: Sharon R. Bock
Deputy Clerk

Attachment 1

Palm Beach County Unified Land Development Code

Article 5, Supplementary Standards

ARTICLE 5

SUPPLEMENTARY STANDARDS

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ARTICLE 5

SUPPLEMENTARY STANDARDS

CHAPTER A GENERAL

Section 1 Purpose and Intent

The purpose and intent of this Article is to establish minimum standards for accessory and temporary uses, design standards, parks and recreation, performance standards, legal documents, and density bonus programs.

Section 2 Definitions

See Art. 1.1, DEFINITIONS & ACRONYMS

Section 3 Deviations

Deviation(s) from the provisions of this Article may be permitted for the following: **[Ord. 2007-013] [Ord. 2010-022]**

A. PO Zoning District

Development supporting government facilities within the PO Zoning District, subject to an application established by the Executive Director of PZB and approval by the BCC utilizing the following standards: **[Ord. 2007-013] [Ord. 2010-022]**

1. the proposed deviation(s) maintains compatibility with the uses and character of land surrounding and in the vicinity of the land proposed for development; **[Ord. 2007-013]**
2. adverse effects on adjacent uses and lands, including but not limited to visual impact, are determined to be minimal or otherwise negligible upon review and consideration of surrounding lands, uses, zoning, Future Land Use (FLU), character, or other preexisting conditions; **[Ord. 2007-013]**
3. special or unique circumstances or factors exist that are applicable to the proposed use, structure, feature, or land proposed for development; **[Ord. 2007-013]**
4. the proposed deviation(s) allows for reasonable or practical use of the land proposed for development; **[Ord. 2007-013]**
5. approval of the deviation(s) is consistent with the purpose, goals, policies, and objectives of the Plan and this Code; and, **[Ord.2007-013]**
6. approval of the deviation(s) is not injurious to the surrounding area or otherwise detrimental to public health, safety, and general welfare. **[Ord. 2007-013]**

CHAPTER B ACCESSORY USES AND STRUCTURES

Section 1 Supplementary Regulations

A. Accessory Uses and Structures

1. General

The following provisions in this Section shall apply to all development in Standard, PDD or TDD Zoning Districts, unless otherwise stated. **[2007-001] [2017-007]**

a. Standards

Uses indicated in the Use Matrix as blank in a zoning district shall not be allowed as accessory use unless stated otherwise in Art. 4, Use Regulations. An accessory use or structure shall be subject to the same regulations that apply to the principal use or structure, except as otherwise stated. **[Ord. 2017-007]**

b. Location

All accessory uses and structures except for approved off-site parking, shall be located on the same lot as the principal use. No accessory structure shall be located in the front or side street yard except for dumpsters, or unless stated otherwise herein. **[Ord. 2017-007] [Ord. 2017-025] [Ord. 2018-002]**

1) General Exceptions

Structures such as: fences and walls; entry features for access ways internal to a PUD; bike racks; outdoor recreation amenities and support structures such as cabanas, located within a Neighborhood Recreation Facility or Recreation Pod; or, structures, projects and improvements listed in Art. 3.D.1.D.5, Setback Exceptions, excluding mechanical equipment accessory to a building, may be allowed within front or side street yards. **[Ord. 2017-025]**

2) Exceptions for Buildings Accessory to Residential

A detached garage, cabana, Accessory Quarters, or Guest Cottage, may be allowed within the front or side street yard, subject to the following: **[Ord. 2017-025]**

- a) The building is consistent with the architecture characteristics of the principal building, including roofing materials, fenestration, and paint color, where applicable; **[Ord. 2017-025]**
- b) When accessory to a principal residential use, such as a Single Family Home, accessory structures shall be connected to the principal building by common shared driveways, sidewalks, or pathways; and, **[Ord. 2017-025]**
- c) An application for a DO or Building Permit for any building proposing to utilize this provision shall include an affidavit from a licensed architect or general contractor, delineating how the proposed building will be in compliance with the requirements above. **[Ord. 2017-025]**

3) Accessory Solar

Accessory solar in the form of mechanical equipment attached to other permitted structures, or Solar Trees, in accordance with the standards of Art. 5.B.1.A.27, Accessory Solar. **[Ord. 2017-025]**

c. Floor Area

1) Nonresidential Zoning Districts

Where allowed, accessory uses and structures shall not exceed 30 percent of the GFA or business receipts of the principal use or uses, whichever is more restrictive. Minor Utility Use is not subject to this provision. **[Ord. 2017-007]**

2) Residential Zoning Districts

Accessory uses and structures in the U/S Tier shall not exceed the square footage of the principal use.

d. Setbacks, Accessory Structure

1) Residential Districts (Except AR)

Accessory structures may be setback a distance of five feet from the side and rear property lines provided it is not located in an established easement or required landscape buffer.

a) Townhouse

Accessory structures shall meet the setback and separation requirements in Table 3.D.2.A, Townhouse Regulations. No detached accessory building or structure other than permitted fences or walls shall be permitted on any lot less than 30 feet in width.

b) ZLL

Accessory structures shall meet the setback requirements of Table 3.D.2.B – ZLL Property Development Regulations. **[Ord. 2008-037]**

c) Exceptions

- (1) All structures used as dwellings, such as guest cottages, grooms quarters, and accessory dwellings, shall meet the minimum setback in Table 3.D.1.A, Property Development Regulations, or Art. 1.F.2.C, Minimum Residential Setback Requirements, if applicable. **[Ord. 2016-042]**
- (2) All structures over ten feet in height shall meet the minimum setbacks in Table 3.D.1.A, Property Development Regulations, or Art. 1.F.2.C, Minimum Residential Setback Requirements, if applicable. **[Ord. 2016-042]**
- (3) Encroachment into easements shall be in accordance with Art. 5.F.2.A, Easement Encroachment.

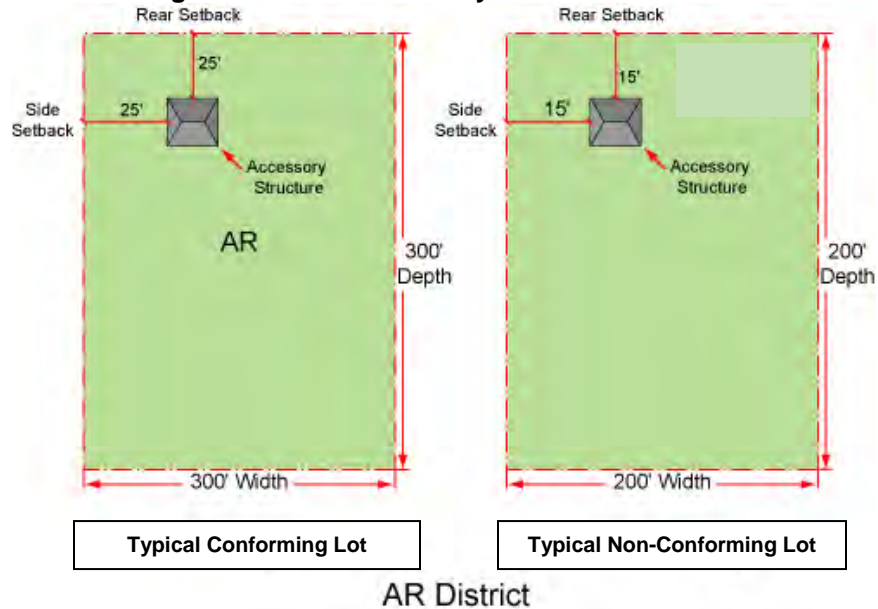
2) AR District

a) Conforming Lot Dimensions

Accessory structures may be setback a distance of 25 feet from the side and rear property lines on lots with conforming width and depth lot dimensions.

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Figure 5.B.1.A – Accessory Structure Setbacks



[Ord. 2016-042]

b) Nonconforming Lot Dimensions

The setbacks for accessory structures on lots with nonconforming width or depth may be reduced for either non-conforming dimension, as follows: [Ord. 2016-042]

(1) General

A minimum setback distance of 15 feet from the side or rear property lines; or [Ord. 2016-042]

(2) U/S Tier

The minimum setback may be reduced in accordance with the following: [Ord. 2016-042]

(a) The reduced setback permitted under Art. 1.F.2.C, Residential Development Regulations; or, [Ord. 2016-042]

(b) Parcels that are less than or equal to 13,999 square feet may apply the accessory structure setbacks of Art. 5.B.1.A.1.d.1), Residential Setbacks. [Ord. 2016-042]

c) Minimum Setback from Easements

Must be five feet from all established easements, except where use of Art. 5.B.1.A.1.d.1), Residential Districts (Except AR) is permitted. [Ord. 2016-042]

3) Prohibition in Landscape Buffers

Accessory structures shall not be located within a required landscape buffer. [Ord. 2016-042]

4) Nonresidential Districts

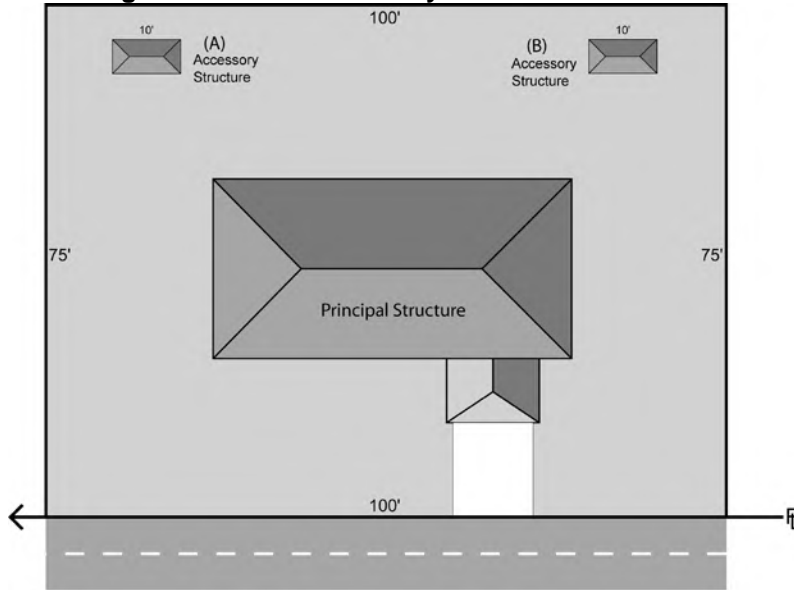
Accessory structures shall meet the setback requirements in Table 3.D.1.A, Property Development Regulations.

5) U/S Tier – Maximum Accessory Structure Dimensions

In the U/S Tier, all accessory structures located on a parcel in a residential district shall not occupy more than 25 percent of the distance between property lines. [Ord. 2008-037] [Ord. 2016-042]

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Figure 5.B.1.A – Accessory Structure Dimensions



In the U/S Tier, all accessory structures located on a parcel in a residential district shall not occupy more than 25 percent of the distance between property lines.

This Example:

Distance between property lines 100'
 Total of A+B accessory structures 10'+10'=20'
 100' X 25% = 25' maximum allowed by Code

e. Specific Accessory Uses

1) Office

- a) Areas of a building dedicated to the administrative operation and incidental to a principal use or uses listed in the Use Matrix may be Permitted by Right. **[Ord. 2017-007]**
- b) One parking space shall be provided for every 200 square feet of accessory office. **[Ord. 2017-007]**

2) Incidental Sales

Sales of products incidental to a principal use may be Permitted by Right in Commercial, Industrial, or Institutional, Public and Civic use classifications subject to the following, unless stated otherwise: **[Ord. 2017-007]**

- a) Maximum ten percent of the GFA; **[Ord. 2017-007]**
- b) One parking space for every 200 square feet of accessory sales; **[Ord. 2017-007]**
- c) Merchandise is not stored outside or visible from any street; and, **[Ord. 2017-007]**
- d) Commercial signage is only to advertise the principal use. **[Ord. 2017-007]**

2. Fences and Walls

a. Height Measurement

The height shall be measured adjacent to the fence or wall from the lowest grade on either side of the fence or wall, unless stated otherwise below: **[Ord. 2015-006] [Ord. 2016-016]**

1) Located on Berm

Height shall be measured from the elevation of the berm where the fence or wall is constructed, unless in conflict with standards for Grade Change below. **[Ord. 2015-006]**

2) Grade Change

a. Residential

Height may be increased when the fence or wall is located on a retaining wall, subject to the requirements of Art. 5.B.1.A.2.b.5), Residential District Grade Changes. **[Ord. 2016-016]**

b) PDD or Non-residential Perimeter Buffers

Height may be increased when the fence or wall is located on a retaining wall, subject to the requirements of Art. 7.D.5, Landscape Buffers with Grade Changes. [Ord. 2016-016]

b. Height and Related Standards

1) Residential Districts

The maximum height for a fence or wall on or adjacent to a residential lot line or in a landscape buffer shall be as follows: [Ord. 2015-006]

a) Within required front setback:

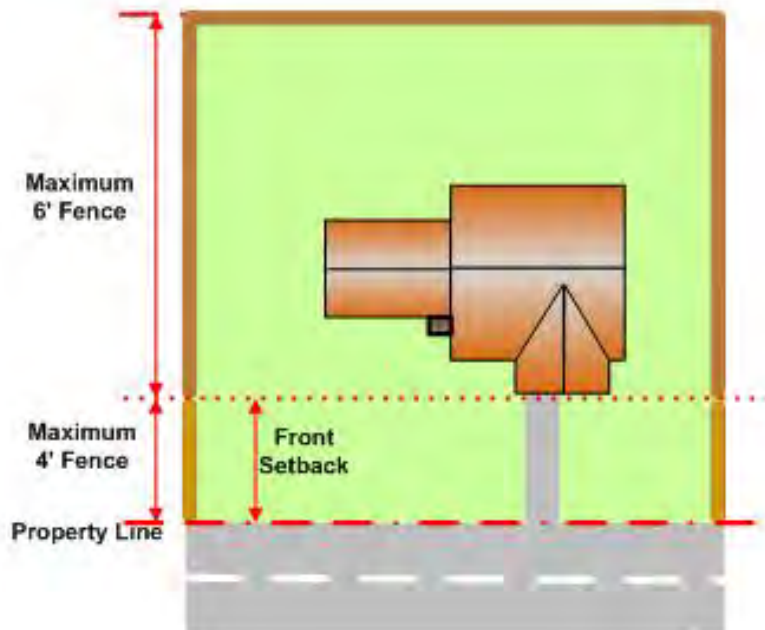
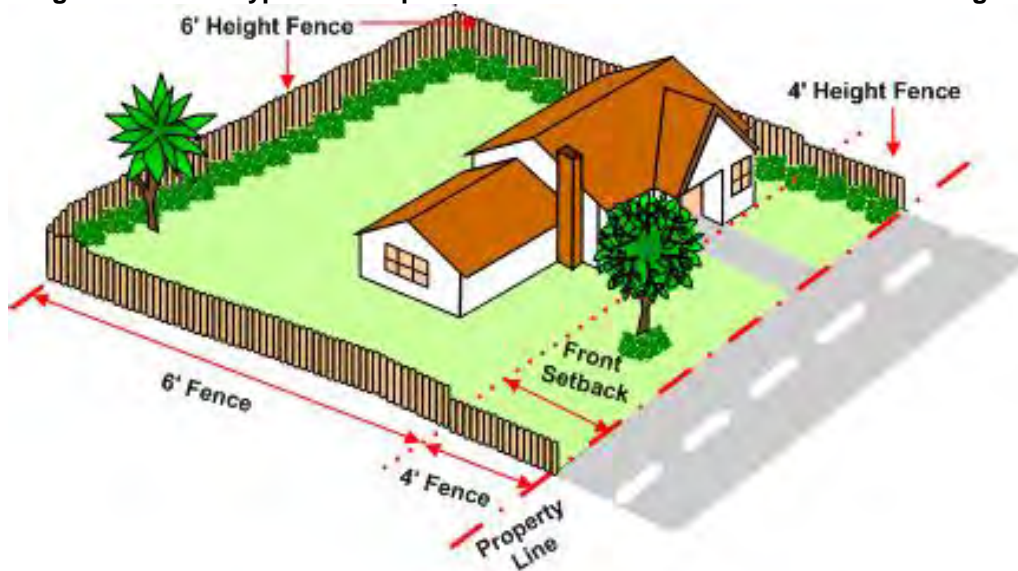
(1) four feet, or [Ord. 2005-041] [Ord. 2015-006]

(2) six feet for property owned by PBC for preservation or conservation purposes. [Ord. 2005-041] [Ord. 2015-006]

b) Within required side, side street, and rear setback: six feet. [Ord. 2015-006]

c) Within a landscape buffer: six feet. [Ord. 2015-006]

Figure 5.B.1.A - Typical Example of Residential District Fence and Wall Height



[Ord. 2005-041] [Ord. 2015-006]

2) Nonresidential Districts

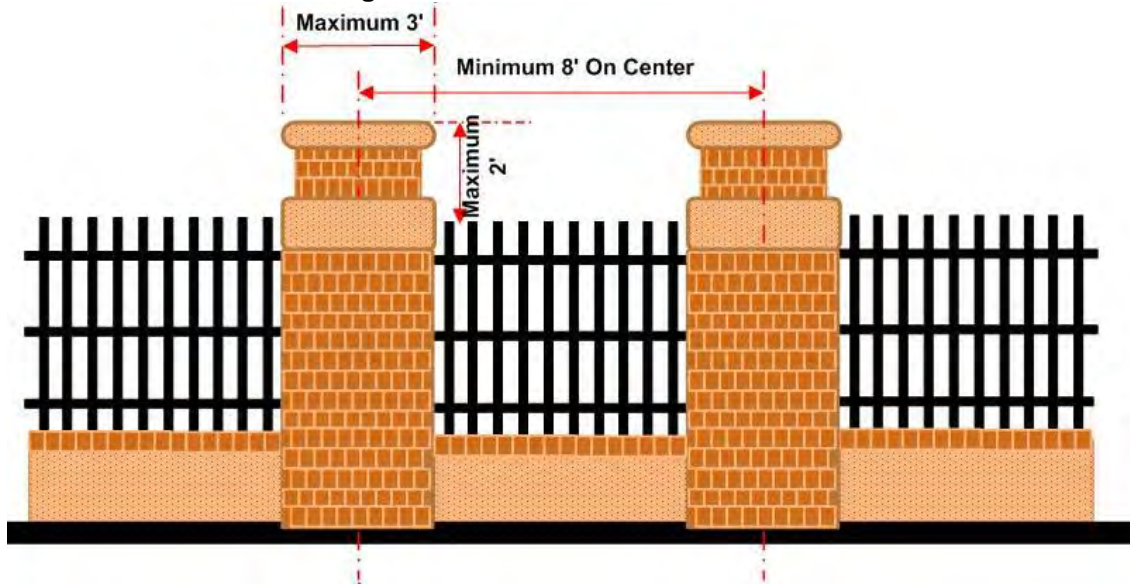
The maximum height for a fence or wall on or adjacent to a lot line or in a landscape buffer shall be as follows: **[Ord. 2015-006]**

- a) Within the required front setback: six feet. **[Ord. 2015-006]**
- b) Within the required side, side street, and rear setback: eight feet. **[Ord. 2015-006]**

3) Attachments

Gates, gateposts, decorative features, and lights attached to a fence or wall in a setback or perimeter buffer shall not exceed three feet in any horizontal distance or two feet in height above the fence or wall. Decorative features and lights shall be spaced a minimum of eight feet apart, measured on center. **[Ord. 2015-006]**

Figure 5.B.1.A - Attachments to Walls



[Ord. 2015-006]

4) General Exceptions

- a) Fences and walls up to eight feet in height shall be permitted within a street buffer adjacent to a golf course. **[Ord. 2015-006]**
- b) Fences around tennis courts may exceed six feet in height, subject to the setback requirements in Table 5.B.1.A, Tennis Court Setbacks. **[Ord. 2015-006]**
- c) The ZC and BCC may require increased heights to ensure adequate screening and buffering between incompatible uses. **[Ord. 2015-006]** **[Ord. 2016-016]**
- d) DRO may approve increased fence heights and modify allowable locations for fences with and without barbed wire for minor utilities, water and wastewater treatment plants. **[Ord. 2007-013]** **[Ord. 2015-006]**
- e) Schools may increase the fence height to eight feet along the perimeter of the site. **[Ord. 2017-007]**
- f) Walls subject to noise mitigation shall comply with Art. 7.D.4.B.2, Noise Mitigation Walls. **[Ord. 2018-002]**

5) Residential District Grade Changes

The height of a fence or wall located within the front, side or rear setback of a lot supporting a single family dwelling unit, may be increased when located adjacent to a lot having a different elevation where a retaining wall is installed along the property line, in accordance with the following: **[Ord. 2015-006]** **[Ord. 2016-016]**

a) Grade Measurement

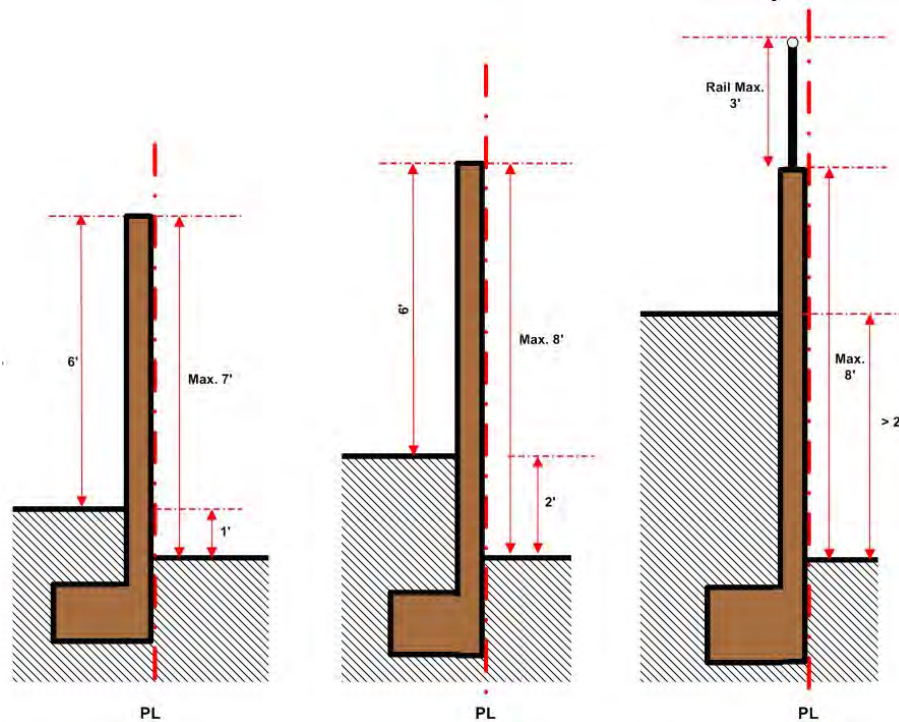
The difference in grade shall be determined by measuring the elevation where the fence or wall is constructed and the elevation of the abutting lot at the property line. **[Ord. 2015-006]**

b) Maximum Height Increase

The height of the fence or wall may be increased by the difference in grade up to a maximum of two feet, whichever is less, as follows: **[Ord. 2015-006]**

- (1) Within the required front setback: Up to a maximum of six feet. [Ord. 2015-006]
- (2) Within a side or rear setback: Up to a maximum of eight feet. [Ord. 2015-006]
- (3) A guard railing not to exceed three feet in height may be permitted where the grade difference is greater than two feet, provided the mass of the railing does not exceed the mass necessary to meet the opening limitations and strength requirements of the Florida Building Code, Residential. [Ord. 2015-006]

**Figure 5.B.1.A - Residential District Grade Changes
Examples of Wall in the Side or Rear Setbacks**



PL
Typical Example of
1' Grade Difference

[Ord. 2015-006]

PL
Typical Example of
2' Grade Difference

PL
Typical Example of Grade
Difference Greater than 2'

c. Walls - Appearance

The exterior surface of a wall shall be finished with paint, stucco, or other commonly accepted material, and continuously maintained in its original appearance.

d. Sight Distance

Walls and fences shall comply with Art. 11.E.9.C, Minimum Safe Sight Distance and Corner Clips at Intersection.

e. Dangerous Materials

Fences or walls in any zoning district, shall not be electrified or contain any substance such as broken glass, spikes, nails, barbed wire, razors, or any other dangerous material designed to inflict discomfort, pain or injury to a person or animal, except as allowed below. [Ord. 2010-005] [Ord. 2011-001]

1) Barbed Wire Exceptions and Regulations

The use of barbed wire is prohibited except in instances as detailed below. The County recognizes that barbed wire may be necessary to secure certain non-residential uses or structures. Therefore, the County allows the installation of barbed wire on top of the fence or wall, subject to the following: [Ord. 2005-002] [Ord. 2010-005] [Ord. 2011-001] [Ord. 2017-007]

a) Allowable Uses for Barbed Wire

- (1) Commercial Communication Towers [Ord. 2017-007]
- (2) Electric Power Facilities; [Ord. 2017-007]
- (3) Electric Transmission Facility; [Ord. 2017-007]
- (4) Minor Utility; [Ord. 2017-007]
- (5) Prisons; [Ord. 2017-007]

- (6) Solid Waste Transfer Stations; [Ord. 2017-007]
- (7) Water or Wastewater Treatment Plant; and, [Ord. 2017-007]
- (8) Zoo. [Ord. 2017-007]
- (9) Except when located adjacent to a parcel having a Residential FLU designation, Residential zoning district or residential use, barbed wire that is not visible from any public street, may be installed with the following uses: [Ord. 2017-007]
 - (a) Contractor Storage Yard; [Ord. 2017-007]
 - (b) Salvage or Junk Yard; [Ord. 2017-007]
 - (c) Self Service Storage; [Ord. 2017-007]
 - (d) Sugar Mill or Refinery; and, [Ord. 2017-007]
 - (e) Towing Service Storage. [Ord. 2017-007]
- (10) Bona Fide Agriculture use located in AGR, AP, and AR Zoning Districts; and AGR-PDD Preserve Parcels. When Bona Fide Agriculture is located in the AR Zoning District other than nurseries, barbed wire shall be setback a minimum of 25 feet from any property line. [Ord. 2017-007]
- (11) Properties with a Conservation FLU designation, for the purposes of protecting publicly owned natural areas; [Ord. 2005-002] [Ord. 2010-005] [Ord. 2011-001]
- (12) Properties where the owner can document a valid Development Permit for the use of barbed wire; and, [Ord. 2010-005] [Ord. 2011-001] [Ord. 2017-007]
- (13) The Zoning Director shall have the authority to allow the installation of barbed wire for any uses pursuant to Art. 4.B, Use Classification, when the applicant demonstrates a need to comply with Federal, State or Local Government regulations. In support of the barbed wire installation, the Zoning Director may require the applicant to perform mitigation in order to address compatibility with adjacent properties or visibility from adjacent street right-of-way. [Ord. 2010-005] [Ord. 2011-001] [Ord. 2017-007]
- (14) A removal agreement shall be executed to remove the barbed wire, prior to issuance of a Building Permit. This agreement shall require the removal of the barbed wire in the event the use changes to another use not allowed in the list above. [Ord. 2017-007]

b) Standards

(1) Height

The barbed wire shall not exceed 20 percent of the overall permitted height of the fence or wall or two feet whichever is less. [Ord. 2017-007]

(2) Height Exemption

Bona Fide Agriculture, Prisons, and other uses as authorized by the Zoning Director pursuant to provisions in Art. 5.B.1.A.2.e.1).a).13), shall be permitted to exceed the 20 percent provision. The calculation of the overall height of a fence or wall is inclusive of any barbed wire. [Ord. 2005-002] [Ord. 2010-005] [Ord. 2011-001] [Ord. 2017-007]

2) Electrified Fences - Exceptions and Regulations

The use of electrified fences is prohibited except in instances as detailed below. The County recognizes that electrified fences may be necessary to secure certain non-residential uses or structures. Therefore, the County allows the installation of electrified fencing, subject to the following: [Ord. 2013-018]

a) Allowable Uses for Electrified Fences

Electrified fences shall only be allowed for the following uses: [Ord. 2013-018]

- (1) Commercial uses, as follows: [Ord. 2013-018]
 - (a) Auction, Outdoor; [Ord. 2013-018]
 - (b) Contractor Storage Yard; [Ord. 2013-018]
 - (c) Flea Market, Outdoor; [Ord. 2013-018] [Ord. 2017-007]
 - (d) Landscape Service; [Ord. 2013-018]
 - (e) Laundry Services; [Ord. 2013-018]
 - (f) Marina; [Ord. 2017-007]
 - (g) Parking, Commercial; [Ord. 2013-018] [Ord. 2017-007]
 - (h) Repair and Maintenance, Heavy; [Ord. 2013-018] [Ord. 2017-007]
 - (i) Self-Service Storage Limited Access; [Ord. 2013-018] [Ord. 2017-007]
 - (j) Self Service Storage Multi Access; [Ord. 2017-007]
 - (k) Towing Service and Storage; [Ord. 2013-018] [Ord. 2017-007]
 - (l) Vehicle Sales and Rental, Light; and, [Ord. 2013-018] [Ord. 2017-007]

- (m) Vehicle or Equipment Sales and Rental, Heavy. **[Ord. 2017-007]**
- (2) Institutional, Public and Civic uses, as follows: **[Ord. 2013-018] [Ord. 2017-007]**
 - (a) Airport; and, **[Ord. 2013-018]**
 - (b) Government Services. **[Ord. 2013-018]**
- (3) Recreation uses, as follows: **[Ord. 2013-018]**
 - (a) Zoo **[Ord. 2013-018] [Ord. 2017-007]**
- (4) All uses listed as Agricultural Uses in Art. 4.B.6.A, Agricultural Use Matrix. **[Ord. 2013-018] [Ord. 2017-007]**
- (5) All uses listed under the Utilities Use Classification in Art. 4.B.7.A, Utilities Use Matrix. **[Ord. 2013-018] [Ord. 2017-007]**
- (6) All uses listed under the Excavation Use Classification in Art. 4.B.10.A, Excavation Use Matrix. **[Ord. 2017-007]**
- (7) All uses listed as Industrial Uses in Table 4.A.3.A, Use Matrix. **[Ord. 2013-018]**
- (8) Accessory Outdoor Storage in accordance with Art. 5.B.1.A.3, Outdoor Storage. **[Ord. 2013-018]**
- (9) Properties with a Conservation FLU designation, for the purposes of protecting publicly owned natural areas. **[Ord. 2013-018]**
- (10) To secure permanent mechanical equipment except on individual residential lots. **[Ord. 2013-018]**
- (11) The Zoning Director shall have the authority to allow the installation of electrified fences for any uses pursuant to Art. 4.B, Use Classification, when the applicant demonstrates a need to comply with Federal, State or Local Government regulations. The Zoning Director may require the applicant to perform mitigation in order to address compatibility with adjacent properties or visibility from adjacent street right-of-way. **[Ord. 2013-018]**
- (12) An agreement to remove an electrified fence shall be executed prior to issuance of a Building Permit. The agreement shall require removal of the electrified fence if the use changes to other than an allowable use listed above. **[Ord. 2013-018]**

b) Standards

Electrified fences shall be installed, operated or maintained in compliance with the following: **[Ord. 2013-018]**

(1) Technical Standards

All electrified fences are subject to permitting and review by the Building Division and shall be designed, installed, operated and maintained in a manner not to be injurious to individuals. **[Ord. 2013-018]**

(2) Exterior Non Electrified Fence or Wall

Electrified fences and gates shall be attached to the interior of, or completely surrounded on the side facing the property exterior, by a non-electrified fence or wall that meets the following requirements: **[Ord. 2013-018]**

- (a) Minimum of six feet in height; **[Ord. 2013-018]**
- (b) The separation between the exterior, non-electrified fence or wall and the electrified fence shall be a minimum of four inches and a maximum of eight inches; **[Ord. 2013-018]**
- (c) When adjacent to or within 50 feet of a parcel of land with a residential FLU designation or use, the non-electrified fence shall include a solid material that will screen the electric fence from view and prevent a person from being able to penetrate the non-electrified fence; and **[Ord. 2013-018]**
- (d) Exterior fences such as chain link shall have openings no larger than two and three-eighths inches. **[Ord. 2013-018]**

(3) Public Warning Signage

Provide and maintain signage, subject to prior review by the Building Division, which satisfies the intent of the requirements contained in ISO-3864 or a current equivalent internationally accepted standard, and that such signage be placed within ten feet of all corners, not more than 45 feet apart, so as to be plainly visible. Exceptions to screening or landscaping requirements may be permitted where necessary to ensure visibility of signage. **[Ord. 2013-018]**

(4) Height

The maximum height of an electrified fence and any attachments shall not exceed the height of any required exterior non-electrified fence or wall, or other required

screening, by more than a maximum of two feet in height. Any portion of an electrified fence that exceeds the height of the non-electrified fence shall be limited to a maximum of two horizontally placed strands per vertical foot, a maximum of 12.5 gauge in diameter, with attachments spaced not less than 20 feet on center, excluding gates. [Ord. 2013-018]

(5) Location, Landscaping or Screening

(a) Within Required Setbacks

Electrified fences shall not be permitted within any required setback or within 50 feet from property lines, whichever is greater, unless the perimeter landscape buffer is in compliance with Art. 7, Landscaping, unless stated otherwise herein. [Ord. 2013-018]

(b) Within 50 Feet of Any Property Line

Any electrified fence located within 50 feet of any property line (excluding within a required perimeter buffer) and abutting a non-conforming landscape buffer, shall be screened from view by landscaping, fences, walls or buildings, excluding the top two feet. [Ord. 2013-018]

(c) Outdoor Storage

The use of electrified fences in outdoor storage areas shall only be permitted when in compliance with the following screening requirements, excluding the top two feet: [Ord. 2013-018]

(1) When located in non-residential districts, the screening requirements of Art. 5.B.1.A.3, Outdoor Storage; and, [Ord. 2013-018]

(2) When located in residential districts or for uses which allow outdoor storage by definition or in another section, shall be screened from view by landscaping, fences, walls or buildings. [Ord. 2013-018]

(d) Mechanical Equipment

The use of electrified fences with mechanical equipment shall only be permitted when in compliance with the screening requirements of Art. 5.B.1.A.20, Mechanical Equipment, excluding the top two feet. [Ord. 2013-018]

6) Non-Conforming Dangerous Materials

If a property has non-conforming dangerous materials in areas that will be secured by the installation of electrified fences, the dangerous materials shall be removed prior to electrification or the issuance of a certificate of completion by the PBC Building Division for the electrified fence. [Ord. 2013-018]

(7) URAO, IRO, WCRAO and TDD Limitations

(a) Electrified fences shall not be permitted in any URAO, IRO, or TDD developments constructed with a required build to line or any other area unless located behind buildings and in areas not accessible by the public. [Ord. 2013-018] [Ord. 2017-025]

(b) Electrified Fences within the WCRAO shall be prohibited in all Sub-areas except for the UI Sub-area. [Ord. 2013-018]

3. Outdoor Storage and Activities

Outdoor storage of merchandise, inventory, equipment, refuse, or similar materials, and outdoor activities associated with a use operation in all zoning districts shall be subject to the following standards, unless stated otherwise: [Ord. 2017-007]

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Figure 5.B.1.A - Outdoor Storage
Outdoor Storage



a. General

Outdoor Storage and Activities may only be allowed when incidental to the use located on the premises. [Ord. 2017-007]

b. Location

Outdoor Storage and Activity areas shall not be located in any of the required setbacks. Bollards or other acceptable barricade to the Zoning Division shall be provided to delineate pile locations. [Ord. 2017-007]

c. Height

Outdoor Storage material shall not exceed 15 feet in height or the height of the screening, whichever is less. The height could be less if required by the F.A.C 62-709, as amended. [Ord. 2017-007]

d. Screening

Outdoor Storage and Activity areas shall be completely screened from all property lines by landscaping, fences, walls, or buildings. [Ord. 2017-007]

e. Industrial FLU Designation, Zoning Districts or Uses

- 1) Outdoor Storage and Activity areas adjacent to parcels of land with Industrial FLU designation or use and not visible from any street shall be exempted from the screening requirements. [Ord. 2017-007]
- 2) Outdoor Activity areas in industrial uses shall have a Type 3 incompatibility buffer along property lines adjacent to parcels with a Civic, Conservation, Commercial, Recreational or residential FLU designation, or use, or where visible from a public R-O-W. The incompatibility buffer shall be a minimum of 25 feet in width. [Ord. 2017-007]
- 3) Outdoor Activities such as chipping, crushing, grinding, manufacturing or processing shall be restricted to uses in the IG Zoning District and Industrial General pod of PIPD unless approved as a Class A Conditional Use. [Ord. 2017-007]

f. Exceptions

The following uses or material are exempt from this Section:

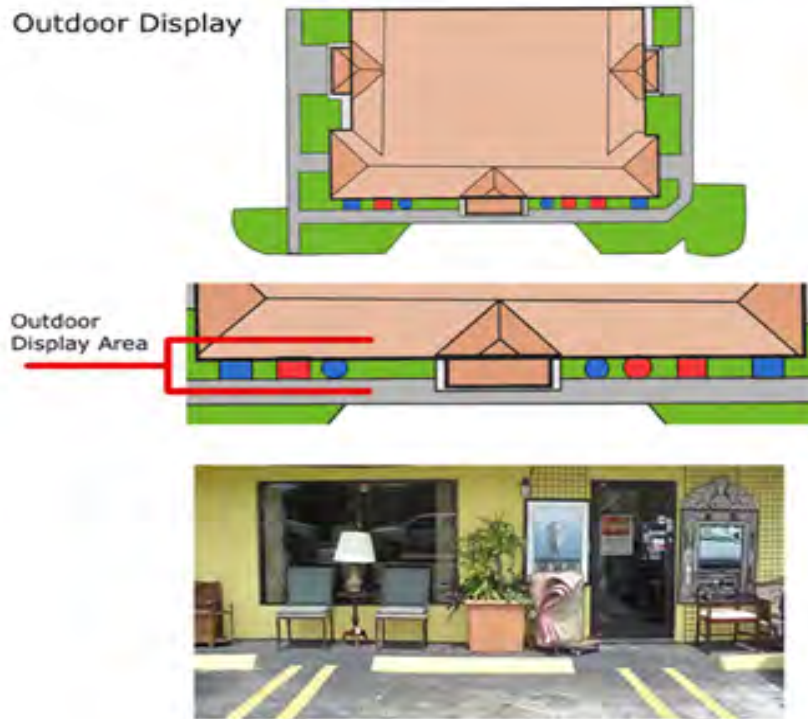
- 1) Storage and sales of landscape plant material.
- 2) Temporary storage of material used for road construction on a lot directly adjacent to the roadway under construction. [Ord. 2017-007]

4. Outdoor Display

- a. Merchandise must be mobile and stored indoors overnight daily.
- b. Merchandise must be accessory to a principal use located on the same property.

- c. Merchandise shall not be located in any required setback, parking space, loading space, loading area, vehicular use area, fire lane, landscape buffer, or required sidewalk, ADA accessibility route, or drainage easements.

Figure 5.B.1.A - Outdoor Display



5. Docks

a. Accessory Docks

Applicants shall comply with the Boat Facility Siting Plan of the Palm Beach County Manatee Protection Plan. This requirement does not apply to single family docks and only applies to expansion of existing marine facilities or development of new marine facilities with five or more slips. Accessory docks located on the same lot as a residence shall meet a five foot setback from the side property lines. Accessory docks not located on the same lot as a residence shall comply with the following setbacks: **[Ord. 2009-040]**

1) Dock in Publicly Owned Waterway

A minimum five-foot side setback measured from the extension of the property lines into the waterway. The property lines shall be extended into the waterway in the same direction and bearing as the side lot lines.

2) Dock in Privately Owned Waterway

The setback shall be determined by the Person asserting ownership in interest or jurisdiction over the waterway. Signed consent by this Person must be in place prior to permit being issued. Owner sign off and consent shall be required. The dock shall be located directly adjacent to, and abutting, the lot on which the residence is located.

6. Entry Features

Unless exempt in Art. 3.D.1.D.5, Setback Exceptions, entry features shall comply with Table 5.B.1.A, Entry Feature Setbacks. Setbacks may be taken from the edge of the pavement for access ways internal to a PDD. **[Ord. 2005-002]**

Table 5.B.1.A - Entry Feature Setbacks

Front	25 feet
Side, Street and Rear	15 feet

7. Fuel, Gas, or Chemical Storage Tanks

Above ground accessory fuel, gas, or chemical storage tanks, shall be setback a minimum of 20 feet and shall be completely screened from view by a continuous solid opaque hedge a minimum of four feet in height around the perimeter of the tank enclosure.

8. Dumpsters

Each use shall provide a method for the removal of refuse when individual collection, from a licensed solid waste hauler is not provided. All outdoor receptacles for the storage and disposal of refuse, vegetation, and recyclable material, such as dumpsters, trash compactors, and recycling containers, shall meet the following standards:

a. Storage Area

A minimum of one refuse container and one recycling container shall be provided for each nonresidential project and per multi-family project with 16 units or more. All refuse containers shall be stored in a storage area. Storage areas shall have a minimum dimension of ten feet by ten feet. [Ord. 2018-002]

b. Location

Containers shall be located to minimize turning and back up movements by pick-up and removal vehicles. Dumpster shall not encroach into easements or landscape buffers. [Ord. 2018-002]

c. Setback

- 1) Dumpsters located in a Commercial pod of a PUD shall comply with Art. 3.E.2.E.2.b, Design. [Ord. 2018-002]
- 2) In all other zoning districts, dumpsters shall be setback a minimum of 25 feet from all property lines. [Ord. 2018-002]

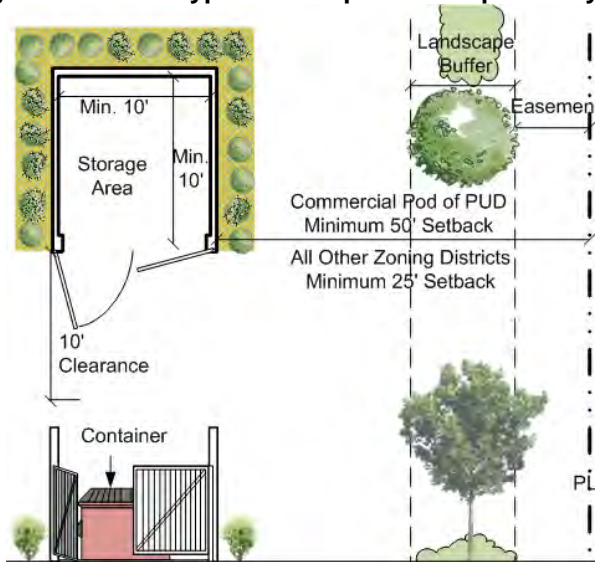
d. Screening

Containers shall be screened from view by a solid opaque enclosure. The open end of the enclosure shall have an opaque gate which provides a minimum of ten feet of clearance when open for service. All exposed exterior sides of the enclosure, other than the open end, shall be landscaped with one 36-inch high shrub planted 24 inches on center. If improvements are proposed for previously approved containers, screening shall be provided to the greatest extent possible. [Ord. 2018-002]

e. Retrofitting of Existing Developments

The retrofitting of existing developments to comply with the standards of this Section is permitted at a ratio of deletion of one parking space for each outdoor receptacle, not to exceed ten percent of the total required parking spaces.

Figure 5.B.1.A – Typical Example of Dumpster Layout



[Ord. 2018-002]

9. Neighborhood Recreation Facility

A non-profit facility designed and intended for recreational use by occupants of a residential development or subdivision owned and operated by a POA or equivalent. Recreation facilities shall be subject to the following standards: [Ord. 2011-001] [Ord. 2013-001]

a. Property Development Regulations (PDRs)

- 1) PDRs shall be in accordance with the standards for a recreation pod in Table 3.E.2.D, PUD Property Development Regulations. **[Ord. 2011-001]**
- 2) PDRs for outdoor recreation amenities shall be in accordance with Art. 5.B.1.A.10, Outdoor Recreation Amenities. **[Ord. 2013-001]**

b. Parking

Parking shall be in accordance with Art. 6, Parking, and the following: **[Ord. 2011-001]**

- 1) Clubhouses in a standard district shall apply the requirements for a recreation pod clubhouse. **[Ord. 2011-001]**
- 2) Parking shall not be required for recreation pods or facilities on less than one acre; however, a minimum of two spaces shall be required to accommodate maintenance services for pools or clubhouses. **[Ord. 2011-001]**
- 3) The POA or its equivalent shall be responsible for ensuring adequate off street parking is provided during special events. **[Ord. 2011-001]**

c. Landscaping

Landscaping shall be in accordance with Art. 7, Landscaping, except that perimeter buffers shall not be required for golf course greens (excluding driving ranges or other recreational amenities) abutting internal streets or residential lots if approved by the BCC on a Preliminary Master Plan or Subdivision Plan. **[Ord. 2011-001]**

d. Additional Requirements for Standard Zoning Districts

In addition to the above, recreation facilities in a standard zoning district shall also comply with the following: **[Ord. 2011-001]**

- 1) Shall be subject to a Class A Conditional Use approval. **[Ord. 2011-001]**
- 2) Shall be located within the residential subdivision it serves; **[Ord. 2011-001]**
- 3) Shall not front on an arterial or collector street; and, **[Ord. 2011-001]**
- 4) The applicant shall provide documentation of ownership and management by the POA or an equivalent. **[Ord. 2011-001]**

Figure 5.B.1.A - Typical Recreational Facilities



10. Outdoor Recreation Amenities

An open-air amenity designed and intended to support recreation activities including but not limited to: basketball courts, tennis courts, playgrounds and tot lots, excluding those uses regulated elsewhere such as Outdoor Entertainment. [Ord. 2013-001]

a. Principal and Accessory Use

1) Principal Use

Any outdoor recreation amenities owned and operated as a commercial enterprise or in combination with other commercial recreation uses on the same property shall be considered a principal use subject to the PDRs of the applicable district. [Ord. 2011-001] [Ord. 2013-001]

2) Accessory Use

Any outdoor recreation amenities operated by a non-profit assembly, social, civic organization, Property Owners Association (POA), or resident of a dwelling unit shall be considered an accessory use. The accessory use shall be located on the same lot as the principal use except if operated by a residential POA. If operated by a POA, the accessory use shall be located within the boundaries of the development, or a Neighborhood Recreation Facility. [Ord. 2011-001] [Ord. 2013-001]

b. Setbacks - General

The following setbacks shall apply to outdoor recreation amenities and equipment, excluding swimming pools and spas, and shall be measured to the edge of the court surface or fence, whichever is more restrictive: [Ord. 2006-004] [Ord. 2011-001] [2013-001] [Ord. 2014-001]

1) Common Recreation Amenities

Outdoor recreation amenities operated by a non-profit assembly, social, civic organization, or Property Owners Association (POA) on a community recreation POD, tract, or designated area, shall be setback a minimum of 50 feet from any residential property line, unless stated otherwise herein. [Ord. 2011-001] [Ord. 2013-001] [Ord. 2014-001]

2) Residential Lot Recreation Equipment

Recreation equipment located on a residential lot, which require issuance of a building permit shall comply with the setbacks in Table 5.B.1.A – Setbacks – General. [Ord. 2014-001]

Table 5.B.1.A – Setbacks – General

Zoning	Setbacks			
	Front	Side	Side Street	Rear
Residential Lot	25 feet	7.5 feet (3)	15 feet	7.5 feet (3)
Other (1)(2)	50 foot setback or separation to the nearest residential lot line			
[Ord. 2011-001] [2013-001] [Ord. 2014-001]				
Note:				
1. Tennis courts with a valid Development Order approved prior to the adoption of setbacks for tennis courts permitted on other than residential lots shall be considered legally-conforming. [Ord. 2011-001]				
2. Golf course greens, excluding driving ranges, shall be exempt from these setbacks.				
3. Setbacks for recreational amenities and equipment may be reduced to five feet on a residential lot, excluding the AR district. [Ord. 2014-001]				

c. Standards for Swimming Pools and Spas

1) Setbacks

a) The following setbacks shall apply to pool and spas, and shall be measured to the water's edge:

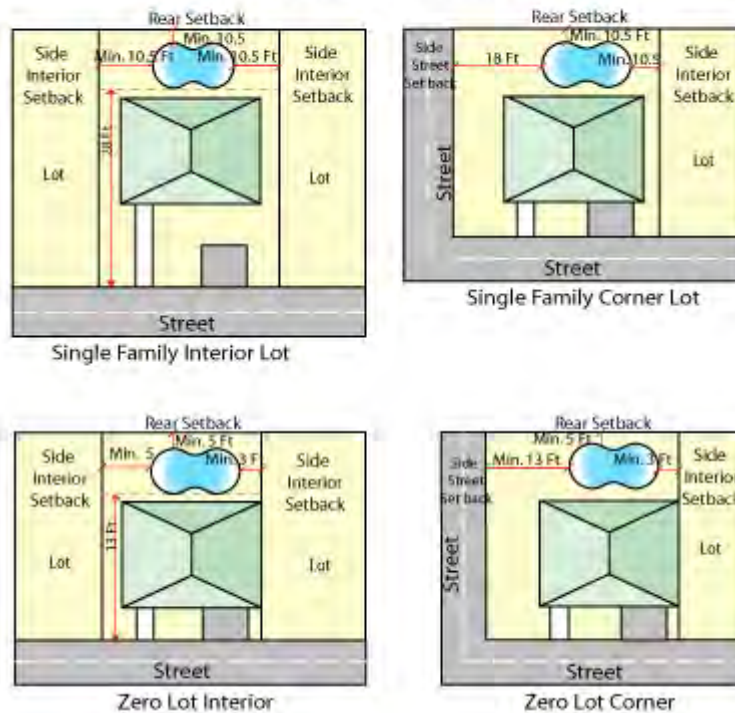
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Table 5.B.1.A - Pool/Spa Setbacks

Setbacks	Front	Side	Side Street	Rear
Single Family	28 feet	10.5 feet	18 feet	10.5 feet
Cottage Home	20 feet	5 feet	12 feet	5 feet
ZLL	13 feet	ZLL: 3 feet Non-ZLL: 5 feet	13 feet	5 feet
Townhouse	Parking Tract: 13 feet Street: 28 feet	3 feet	18 feet	5 feet
Multi-Family	28 feet	18 feet	28 feet	15 feet
Neighborhood Recreation Facility less than 1 acre	25 foot setback or separation to the nearest residential lot line			
Neighborhood Recreation Facility 1 acre or more	50 foot setback or separation to the nearest residential lot line			
[Ord. 2013-001] [Ord. 2018-018]				

Figure 5.B.1.A - Pool Setbacks

Examples of Pool Setbacks



b) Exceptions

(1) Single Family Design Clusters

Single family design clusters are a type of single-family dwellings no longer permitted. Swimming pools and spas for projects with previously approved single-family design clusters shall comply with the setbacks indicated on the PBC site plan. If setbacks are not indicated on site plan, setbacks for ZLL homes shall be applied.

(2) Single Family and ZLL Homes Adjacent to Open Space

Swimming pools or spas may be constructed with a three-foot rear or side interior setback if adjacent to dedicated open space 50 feet in width or greater. **[Ord. 2013-001]**

(3) Neighborhood Recreation Facility

Swimming pools or spas may be constructed with a ten-foot rear or side interior setback if adjacent to dedicated open space 50 feet in width or greater. **[Ord. 2008-037] [Ord. 2013-001]**

2) Building Coverage

Swimming pools and spas shall not be included in the building coverage calculation unless enclosed within a building or a screen enclosure with a solid roof.

3) Fencing, Screening, and Access

Swimming pools and spas shall be enclosed by a safety barrier, wall, fence, or other structure in accordance with the 2001 Florida Building Code, as amended. **[Ord. 2005 – 002]**

4) Common Area

The construction of private swimming pools and spas for individual dwelling units within a common area is prohibited, unless the swimming pools and spas were legally constructed prior to April 21, 1995. If 30 percent of the existing dwelling units in a pod or subdivision have existing legally constructed swimming pools or spas in the common area, the remaining dwelling units within the same pod or subdivision may construct a swimming pool or spa as shown on the final subdivision plan or final site plan. If the final subdivision plan or final site plan does not graphically depict the placement of swimming pools or spas in common area, application shall be made to DRO to amend the final subdivision plan or final site plan to depict the placement of the swimming pool or spa if in compliance with the following criteria:

a) Legally Permitted

The applicant demonstrates that existing swimming pools and spas were legally permitted and constructed in common areas;

b) Joint Applicant

The POA or equivalent must be included as part of a joint applicant on the building permit application; **[Ord. 2011-001]**

c) Setbacks

The swimming pool or spa must comply with all setback requirements measured from the outer boundary of the common area or have a 15-foot separation from primary structures, whichever is greater;

d) Perimeter Landscape Area

Accessory structures and improvements shall not be permitted in a required perimeter landscape area;

e) Open Space

The entire development must continue to meet open space requirements;

f) Documents

The homeowners' documents shall be amended to include provisions that allow private use of the common area upon association approval; and

g) Prohibitions

Swimming pools or spas shall not be permitted in a common area that is designed as a water management tract.

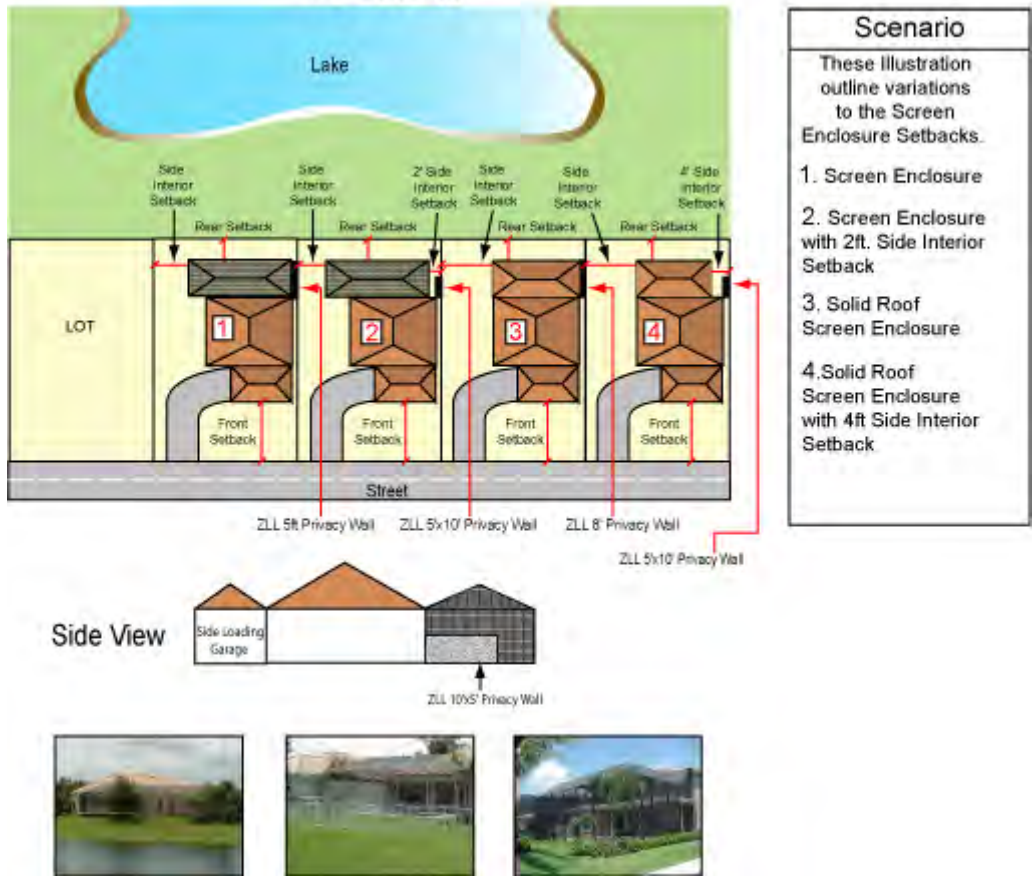
11. Screen Enclosures

a. General

Screen enclosures may be covered with a screened or solid roof, as follows:

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Figure 5.B.1.A - Typical Screen Enclosure Setbacks
PLAN VIEW



b. Setbacks for Screen Enclosures with Screened Roofs

Setbacks for screen enclosures with screen roofs shall be measured as specified in the table below:

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Table 5.B.1.A - Screen Enclosure Setbacks

Setback	Front	Side Interior	Side Street	Rear
Single family	25 feet	7.5 feet	15 feet	7.5 feet
Cottage Home	20 feet	2 feet	10 feet	2 feet
Multi-family	25 feet	15 feet	25 feet	12 feet
ZLL				
Interior lot	Parking Tract: 10 feet	Non-ZLL: 2 feet ZLL: 0 feet	N/A	2 feet
Corner lot		0 feet	10 feet	
Side street home	R-O-W: 25 feet	2 feet	10 feet	
Townhouse	Front (Setback)	Side (Setback/ Separation)	Side Street (Setback)	Rear (Setback/Separation)
Property line	Parking Tract: 10 feet	0 feet	Property line: 3 feet Street - 15 feet	0 feet
From Inside edge of landscape buffer or PUD-or tract boundary		R-O-W: 25 feet	15 feet	15 feet
Separation between groups	25 feet	15 feet	N/A	15 feet
Recreation Parcels	Front	Side	Side Street	Rear
Property Line	25 feet	20 feet	20 feet	20 feet
[Ord. 2013-001] [Ord. 2018-018]				

1) Exceptions

a) Single Family Design Clusters

Single-family design clusters are a type of single-family dwelling no longer permitted. Screen enclosures with screen roofs for projects with previously approved single-family design clusters shall comply with the setback indicated on the approved site plan. If setbacks are not indicated on an approved plan, setbacks for ZLL homes shall be applied.

b) Single Family and ZLL Homes Adjacent to Open Space

Screen enclosures with a screen roof may be constructed with zero foot rear or side interior setbacks in accordance with Art. 3.D.1.D.4.a, Open Space. **[Ord. 2008-037]**

c) Recreation Facilities

Screen enclosures may be constructed with a minimum of seven foot rear or side setback if adjacent to dedicated open space 50 feet in width or greater.

2) Townhouses

- a) Setbacks are required to be in compliance with the townhouse standards of Art. 3.D.2.A, Townhouse;
- b) Screen enclosure shall maintain a minimum separation between other screen enclosures or the principal structure of townhouse groups, as specified in Table 5.B.1.A, Screen Enclosure Setbacks;
- c) Separations between two townhouse groups shall be measured by drawing a centerline between the two adjacent groups and measuring a minimum distance of equal to one-half of the required separation from the centerline between structures to ensure an equidistant separation; and
- d) Screen enclosures for townhouses may cover 100 percent of the total lot area provided minimum separations between townhouse groups are met.

3) ZLL Developments

A minimum five-foot high opaque privacy fence or wall shall be provided on the zero side of ZLL extending from the rear of the structure to the rear corner of the screen enclosure. The screen enclosure may be attached to the fence or wall. The wall shall be constructed of materials consistent with Art. 3.D.2.C.9.e, Privacy Walls or Fences. A screen enclosure which is not attached to the privacy wall shall be setback a minimum of two feet from the ZLL side.

- 4) **Building Coverage**
Screen enclosures with screen roofs shall not be included in the building coverage calculation.
- 5) **Maximum Allowable Size**
Screen enclosures shall be permitted to cover a maximum of 30 percent of the total lot area, except for townhouses.
- 6) **Height**
The height of the screen enclosure shall not exceed the height of the home to which it is attached.
- 7) **Screen Enclosures Within Common Areas of a Residential Development**
See procedures under Art. 5.B.1.A.10.c.4.
- c. **Screen Enclosures with Solid Roofs**
 - 1) **Setbacks**
Screen enclosures with a solid roof shall meet the minimum setbacks of the principal use of the lot.
 - 2) **Special Townhouse Provisions**
If the roof of the enclosure is solid, there shall be a minimum eight-foot high wall on the shared lot line extending from the dwelling to the rear corner of the portion of the enclosure that is roofed. The wall shall be fire-rated in accordance with applicable Building Codes. The screen enclosure may be attached to the masonry wall.
 - 3) **Height**
The height of the screen enclosure with a solid roof shall not exceed the height of the dwelling unit to which it is attached.
 - 4) **Screen Enclosures with Solid Roofs Within Common Areas of Residential Developments**
See procedures under Art. 5.B.1.A.10.c.4.
 - 5) **ZLL Setback**
A screen enclosure which is not attached to the privacy wall shall be setback a minimum of four feet from the ZLL side.

12. Communication Antennas

A transmitting and/or receiving device used for AM/FM radio, television, microwave, telephone, cellular, personal wireless services, and related forms of electronic communications. This excludes amateur radio antennas and satellite dish antennas. **[Ord. 2017-007]**

a. Applicability

Unless an Eligible Facilities Request for Modification is approved pursuant to Art. 4.B.9.E, these standards below shall apply to antennas mounted on roofs, or attached to buildings or legal billboards (collocations). **[Ord. 2006-004] [Ord. 2017-007]**

b. Review Process

- 1) Antennas, excluding whip antennas not exceeding eight feet in height and six inches in diameter, may be permitted and shall be reviewed as follows: **[Ord. 2017-007]**

Table 5.B.1.A- Antenna Review Process

Zoning District or Use				
Structure Height	Single Family Residential	Multi-Family Residential	IG, IL, PO Zoning Districts	All Other Non-Residential Zoning Districts
< 25'	Not Permitted	Not Permitted	Building Permit Review	Not Permitted
25' to 45'	Development Review Officer	Development Review Officer	Building Permit Review	Development Review Officer
>45'	Class B Conditional Use	Building Permit Review	Building Permit Review	Building Permit Review

[Ord. 2017-007]

2) Building Permit

A building permit shall be required for the installation of all antennas in addition to any other review process. **[Ord. 2017-007]**

c. Architectural Compatibility

Demonstrate architectural compatibility (color and/or texture) with the structure on which it is located. **[Ord. 2017-007]**

d. Screening

If the antenna is attached to a pole support structure, the pole shall be concealed by an opaque screen. [Ord. 2017-007]

e. Size Limitations for Panel Antenna

Each panel shall not exceed a maximum height of eight feet; maximum depth of four feet; and maximum width of four feet. [Ord. 2017-007]

f. Supplemental Application Requirements

In addition to the requirements indicated above, plans depicting cross sections or elevations of the panel attached to the structure shall be provided at the time of submittal of the application package. [Ord. 2017-007]

g. Setbacks

1) Accessory Structures

Roof mounted accessory structures shall meet a minimum 25-foot setback from the edge of the roof or comply with the architectural compatibility standards pursuant to Art. 5.B.1.A.12.c, Architectural Compatibility. [Ord. 2017-007]

2) There shall be no minimum setback required for antennas. [Ord. 2017-007]

h. Whip Antennas

Whip antennas not exceeding eight feet in height and six inches in diameter shall be permitted in any zoning district. Whip antennas may be attached to residential structures, utility poles, etc. Whip antennas, unless attached to a residential structure, shall be installed at least 50 feet from any existing residential structure. [Ord. 2017-007]

13. Accessory Radio Tower

A radio tower for noncommercial electronic communication purposes may be permitted as an accessory structure to civic, institutional, recreational, and agricultural uses subject to the following standards:

a. Height

The radio tower shall not exceed 100 feet in height from ground level; and

b. Setbacks

An accessory radio tower shall be setback a distance equal to the height of the tower. The radio tower shall be located in such a manner that it will not fall on any power line.

c. Exceptions for SFWMD Telemetry Towers in the Glades Tier

SFWMD Telemetry towers may be considered an accessory use within the Glades Tier, subject to the following: [Ord. 2014-025]

1) DRO approval of a FSP; [Ord. 2014-025]

2) Located on parcels owned by the SFWMD or leased from the Board of Trustees of the Internal Improvement Trust Fund (TIITF) of the State of Florida; [Ord. 2014-025]

3) Height may exceed 80 feet; [Ord. 2014-025]

4) The DRO may approve setback reductions for property lines or lease tracts within parcels owned by the SFWMD or TIITF, when it is demonstrated to DRO that the tower will collapse within the property or the adjoining parcels owned by the SFWMD or TIITF. [Ord. 2014-025]

5) If located within the USA of the Glades Tier, rezoning for consistency with the parcel's FLU designation shall not be required. [Ord. 2014-025]

14. Government Owned Towers

The following regulations shall be applicable to government owned towers providing governmental services, including but not limited to emergency services. [Ord. 2018-002]

a. New or modification of towers 100' or less in height, may be permitted by right in any zoning district, provided the setbacks, separation and distance between towers is at least 100 percent of the tower height, unless stated otherwise. All government towers in excess of 100' in height shall be subject to the standards in Tables 5.B.1.A. [Ord. 2018-002]

b. Government owned towers that do or will support commercial antennas shall be subject to the approval and supplementary use standards pursuant to Art. 4.B.9 Commercial Communication Towers. [Ord. 2018-002]

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Table 5.B.1.A – New, Modified or Relocated Government Towers Related to an Emergency(1)

Improvement	Tower Height	Approval Process (2)	Regulations
New Tower	Towers 100' or less in height that do not comply with Art. 5.B.1.A.14.a, above.	BCC Hearing (3)	(5)
	Towers greater than 100'	Subject to approval in the Use Matrix of Art. 4.B.9, Commercial Communication Towers (4)	<ul style="list-style-type: none"> • Setbacks, separation and distance between towers are at least 100 percent of the tower height. (5)
Modification	Towers greater than 100'	Permitted by Right	<ul style="list-style-type: none"> • Tower height, base station and location are the same as in the original approval; or • Subject to the limitations in Art. 4.B.9.E, Eligible Facilities Request for Modification; or, • Stealth or Monopole towers shall comply with the limitations in Art. 4.B.9.D.1.e.1), Stealth; or, • Modifications of the tower requires relocation of the tower on the same parcel and the setbacks, separation and distance between towers are at least 100 percent of the tower height.
		BCC Hearing (3)	Modification of towers, not subject to Eligible Facilities Request for Modification, resulting in setbacks, separation and distance between towers less than 100 percent of the tower height. (5)
[Ord. 2018-002]			
Notes:			
(1) As defined in Art. 1.1.2.E, Emergency [Ord. 2018-002]			
(2) Applications subject to public hearing shall comply with and be limited to only the notification requirements in Art. 2.B.5.B, Newspaper Publication and Art. 2.B.5.D, Signs. [Ord. 2018-002]			
(3) For government entities other than Palm Beach County, coordination shall be undertaken with the County's Facilities Development and Operation Department (FDO) for placement on the next available BCC meeting or hearing following receipt of a sufficient written request and fulfillment of required public notification. [Ord. 2018-002]			
(4) A government agency looking to locate a tower in a prohibited zoning district per Table 4.B.9.A, Commercial Communication Towers, may request BCC approval of the tower as an emergency conditional approval provided that: [Ord. 2018-002] <ul style="list-style-type: none"> • There are no properties owned by that government agency that are available within the defined service area in the zoning districts where towers are allowed; [Ord. 2018-002] • The tower is the minimum necessary to protect the public health, safety, or welfare of PBC residents; and, [Ord. 2018-002] • The applicant makes a presentation to the BCC at a scheduled meeting or hearing on the merits of the request. [Ord. 2018-002] 			
(5) Setbacks, separation or distance between towers may be reduced or exempted by the BCC based on findings of fact, including but not limited to: [Ord. 2018-002] <ul style="list-style-type: none"> • Demonstrate that the tower is the minimum necessary to maintain the level of service to <i>protect the public health, safety, or welfare</i> of PBC residents [Ord. 2018-002] • Setbacks, separation and distance between towers are the minimum necessary to protect adjacent uses and structures. [Ord. 2018-002] • All setbacks less than 100 percent of the tower height shall be substantiated by a registered engineer in the State of Florida certifying breakpoint calculations. The breakpoint calculations shall confirm that should tower failure occur, the failed portion of the tower shall fall within the property where the tower is located on. [Ord. 2018-002] 			

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Table 5.B.1.A – New, Modified or Relocated Government Towers Not Subject to an Emergency

Improvement	Height or Base Station Area	Approval Process	Regulations
New Tower	101' or more of any tower type	Subject to the provisions in Art. 4.B.9, Commercial Communication Towers(1)	
Modification	Tower height, base station area and location are the same as in the original approval	Permitted by Right	Consistent with the original approval
			Replacement of towers, subject to Art. 4.B.9.G.2, Replacement
	Modification to tower location	Permitted by Right	Setbacks, separation and distance between towers are at least 100 percent of the tower height.
	Modifications to the tower height, base station area and/or location other than above	Subject to the limitations in Art. 4.B.9.E, Eligible Facilities Request for Modification	
Stealth or Monopole Tower comply with the limitations in Art. 4.B.9.D.1.e.1), Stealth			
All other towers subject to Art. 4.B.9.G.3, Tower Height Increases			
	BCC Hearing	All other dimensions not noted above shall comply with Art. 4.B.9.H.5, Type 2 Waiver from Required Dimensional Criteria.	
[Ord. 2018-002]			
(1)	A government agency proposing to locate a tower in a prohibited zoning district per Table 4.B.9.A, Commercial Communication Towers, may request approval of the tower as a Class A Conditional Use. [Ord. 2018-002]		

15. Amateur Radio and Television Antennas

a. Purpose and Intent

The purpose and intent of this Section is to provide for the safe and effective installation and operation of amateur radio, citizens band radio, and television antenna support structures, and the beam, satellite, or other antennas installed on those support structures. It is also the purpose and intent of this Section to provide for a reasonable accommodation of amateur radio communications, in accordance with Parts 95 and 97 of Chapter 1 of Title 47 of the Code of Federal Regulations, while reflecting PBC's legitimate interest of protecting and promoting the health, safety, welfare, neighborhood aesthetics, and morals of its citizens.

b. Applicability

All amateur and citizens band radio and television transmission and receiving antennas, including satellite dish antennas, shall be governed by the standards of this Section.

c. Antennas and Antenna Support Structures

All antenna support structures and the beam, satellite, or other antenna installed on those antenna support structures, shall be considered accessory uses, allowed only in conjunction with a single family dwelling, and shall comply with this Section and Art. 16, Airport Regulations.

d. Use Approval

1) Existing Uses

All antenna support structures and the beam, satellite, or other antennas installed on these support structures which have been constructed, installed, and are operational as of February 1, 1990, shall be considered legal, nonconforming uses which are vested.

2) New Uses

Antenna support structures and their antennas shall be permitted as accessory uses to residential uses and be reviewed and approved as provided below:

a) All Lots

A maximum of two antenna support structures and their antennas, 40 feet or less in height, shall be permitted on any lot. Two additional antenna support structures and their antennas shall be allowed, one to a maximum of 75 feet in height, and the second to a maximum of 100 feet in height. Additional support structures or structures that exceed these height limitations shall require a Class B conditional use approval.

b) Permits

All applicable permits shall be obtained.

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e. Standards

1) Base Size

The base dimension for each antenna support structure shall be limited to a maximum five feet in overall width at grade. The foundation for each antenna support structure shall be no more than one foot above grade.

2) Setbacks

a) Antenna Support Structure

(1) Location

Antenna support structures shall not be located in the front setback.

(2) Lots Less than One Acre

Antenna support structures shall be located to comply with the district setback standards or a minimum of 25 feet, as measured from the center of the support structure, whichever is greater.

(3) Lots on One Acre or More

Antenna support structures shall be located to comply with the greater of the following:

- (a) The minimum district setback standards as measured from the center of the support structure;
- (b) 25 foot setback for support structures and their antennas less than 75 feet in height; or
- (c) A setback of 50 percent of the height of the support structure and its antenna equal to or greater than 75 feet in height.

(4) All Lots

Antenna support structures shall be located on the property so as to provide adequate setbacks from above-ground utility power lines other than applicant's service lines as follows:

- (a) Setback a minimum distance equal to 50 percent of the height as calculated from grade to the highest point of the antenna support structure and its antenna; or
- (b) The owner shall submit a break point calculation certified by a professional engineer, or the owner shall submit the manufacturer's specifications that demonstrate a clear fall radius.

f. Antennas

In addition to complying with the setback standards, beam array, satellite, or other antennas shall be mounted so as to provide for removal at approach of hurricanes, if necessary, or provide for the lowering of such beam. The antenna or any element thereof shall be set back a minimum of ten feet from all R-O-Ws, easements, or property under different ownership.

g. Anchors

All peripheral anchors shall be located entirely within the boundaries of the property. If said supports and anchors are closer than five feet to property under different ownership, and if such support or anchor extends greater than three feet above the ground, it shall be effectively screened against direct view from abutting properties and shall extend no greater than six feet above ground.

16. Satellite Dish Antennas

a. Applicability

All satellite dish antennas shall be governed by the standards of this Section unless exempted below or regulated as part of an amateur radio antenna.

1) Exemptions

a) Residential Uses

Satellite dish antennas 40 inches or less in diameter shall be exempt from these requirements.

b) Non-Residential Uses

Satellite dish antennas under 80 inches in diameter shall be exempt from these requirements.

b. Standards

1) Residential Uses

a) Number

A maximum of one satellite dish antenna over 40 inches in diameter shall be allowed on a residential lot.

b) Location and Setbacks

Satellite dish antennas shall be mounted on the wall, ground, or a support structure in the side or rear yard and shall not be located on a wall facing the front property line or within an easement.

(1) Setbacks

Satellite dish antennas shall meet setback requirements of the district as measured from the outermost point of the dish on the side closest to the applicable setback or property line.

c) Screening

Satellite dish antennas, if located in the side or rear yard, shall be screened by an opaque fence or hedge.

d) Height

Satellite dish antennas shall not exceed the height limitations of the district.

2) Non-residential Uses

a) Number

No limitation.

b) Location and Setbacks

Satellite dish antennas shall be wall, roof, or ground mounted, and shall not be located in the front or side corner yard.

(1) Setbacks

Satellite dish antennas shall meet setback requirements of the district as measured from the outermost point of the dish on the side closest to the applicable setback or property line.

c) Screening

Satellite dish antennas shall be completely screened from adjacent residential districts by an opaque wall (including parapet walls), fence, or hedge, or combination thereof, pursuant to Art. 5.B.1.A.2, Fences, Walls and Hedges.

17. Neighborhood Commercial Development (NCD)

a. General

It is the purpose of this Section to allow a limited amount of commercial uses in certain residential developments which developed prior to the establishment of planned development regulations in Ordinance 1973-002 (1973). Residential developments which meet the criteria in this Section will be allowed a limited amount of commercial area within the project without rezoning to a planned development district. It is the purpose of this Section to allow limited neighborhood serving commercial uses in residential areas under the control of a HOA without a commercial FLU designation or rezoning to a commercial district.

b. Procedure

Residential developments which meet the criteria in this Section may create a Master Plan showing existing development and the proposed commercial area. The area shall be subject to approval as a Class A conditional use.

c. Criteria

1) Property Owners Association (POA)

The application for a NCD shall be submitted by an HOA under the control of the residents.

2) Minimum Threshold

The HOA must contain a minimum of 500 units.

3) Location

The NCD shall meet the location criteria for a commercial pod in a PUD Art. 3.E.2, Planned Unit Development (PUD).

4) Number

A maximum of one NCD shall be permitted for each HOA.

5) Size

A NCD shall not exceed three acres in area.

6) Limitation

Uses shall be limited to the regulations of the CN district, excluding real estate sales offices.

[Ord. 2005-041]

18. Bike Racks

a. Number of Bikes

Each bike rack shall accommodate a minimum of five bikes.

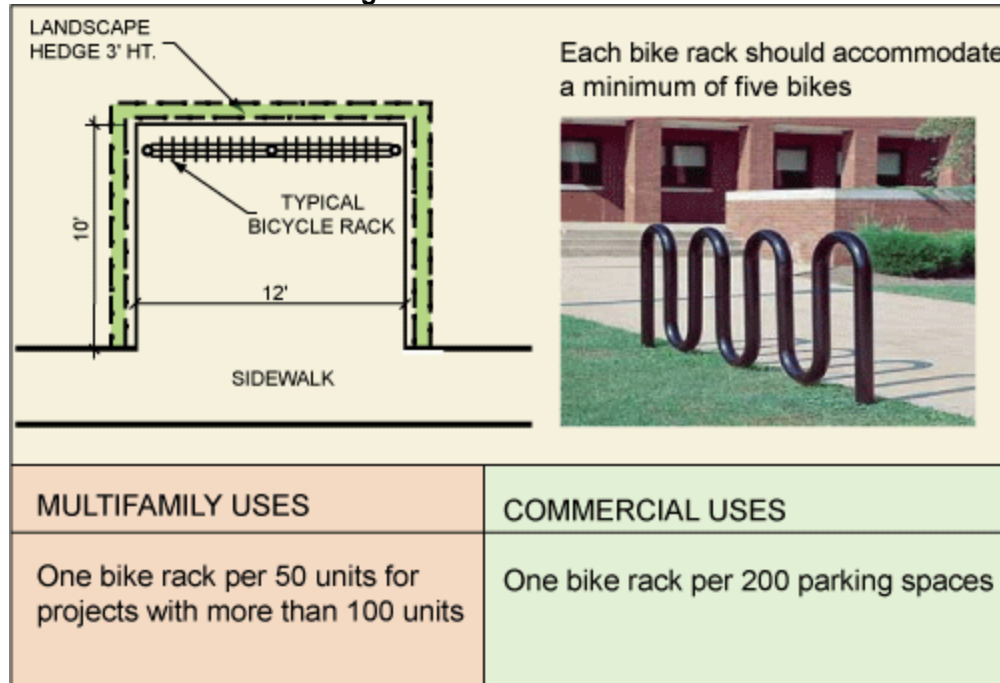
b. Multifamily Uses

Multifamily projects with more than 100 units shall provide one bike rack per 50 units.

c. Commercial Uses

All commercial projects subject to site plan approval by the DRO shall provide one bike rack per 200 parking spaces.

Figure 5.B.1.A - Bike Racks



19. Permanent Generators

a. Applicability

1) Permitted Use

Use of permanent generators shall be permitted during periods of electrical power outages in utility systems maintained by the utility service provider or when the BCC declares a state of emergency. **[Ord. 2006-004] [Ord. 2007-013]**

2) Type 2 and 3 CLF, Club Houses and Nursing or Convalescent Facility

A permanent emergency generator shall be required for all Type 2 and 3 CLFs, Nursing or Convalescent Facilities, and PDD or TDD clubhouses 20,000 square feet, or greater. **[Ord. 2006-004] [Ord. 2007-013]**

a) Exemptions

- (1) Developments that have a BCC or DRO approved plan that graphically indicates a clubhouse(s) shall be exempt from the generator requirement except for projects that exceed 75 percent or more of the Improvement Value as stated below. **[Ord. 2007-013] [Ord. 2013-001]**
- (2) Renovations or additions that do not exceed 75 percent or more of the Improvement Value may be exempt from these requirements. **[Ord. 2007-013] [Ord. 2011-016]**
- (3) A PDD or TDD clubhouse located in the Coastal High Hazard Area as defined by the Plan, shall be exempt from this requirement. **[Ord. 2007-013]**
- (4) A PDD or TDD that has one or more clubhouses with a generator meeting the requirements of this Section, shall be exempt for any other remaining clubhouses within the development. **[Ord. 2007-013]**

b. Standards

1) General

The following standards shall apply to all permanently installed generators. **[Ord. 2006-004]**

a) Maximum Permissible Sound Level

Refer to Art. 5.E.4.B.2, and Table 5.E.4.B Maximum Sound Levels. **[Ord. 2006-004]**

b) Screening

Generators that are not located within, or completely screened by a building, shall be screened from view when adjacent to or visible from a public R-O-W or parcels with a conservation or residential FLU or use. Screening may include the use of fences, walls or hedges, or a combination thereof. [Ord. 2006-004]

c) Maintenance Cycle

Generators may be operated for exercising purposes one time per week, excluding Sundays, for a period not exceeding 30 minutes between the hours of 10:00 a.m. to 5:00 p.m. [Ord. 2006-004]

d) Location and Setbacks

Generators shall meet the district setback requirements for principal structures, but shall not be located between the front or side street façade of a building and a R-O-W or in an easement, unless: [Ord. 2006-004] [Ord. 2007-001]

- (1) Encroachment is limited to ten percent of setback; [Ord. 2007-001]
- (2) Where applicable, the applicant indicates that a HOA has been notified of the application for building permit; [Ord. 2007-001]
- (3) The generator shall be screened from view from any public rights-of-way or adjacent property lines by an opaque fence/wall; and [Ord. 2007-001]
- (4) If this criteria cannot be met, the applicant may apply for a Type 1 Variance, pursuant to Art. 2.C.5.D. [Ord. 2007-001]

2) Residential

The following shall be applicable to SFD, ZLL, TH, and MF units. [Ord. 2006-004]

a) Number

A maximum of one generator shall be allowed on a SFD, ZLL or TH lot. A maximum of one generator per structure shall be permitted for multi-family developments, with exception to condominiums, which shall be permitted one generator per unit. [Ord. 2006-004]

b) Setback Exceptions

Generators less than four feet in height from finished grade may be allowed within the required side and rear setbacks in accordance with Table 5.B.1.A, Setbacks for Generators less than Four Feet in Height. [Ord. 2006-004]

Table 5.B.1.A - Setbacks for Generators less than Four Feet in Height (1)

	Side	Rear
SFD	3 feet	5 feet
ZLL	5 feet	5 feet
TH	NA	5 feet
Ord. 2006-004		
Note:		
1. Refer to FBC for additional location criteria.		

3) Type 2 and 3 CLF, PUD Club Houses and Nursing Homes

Required generators shall have a minimum operating capacity to provide service for the following: [Ord. 2006-004]

a) Essential Functions

Essential electrical systems within the building, including but not limited to, exit lighting, emergency lighting, elevators, fire alarm system, bathroom exhaust fans, and, bathroom hot water heaters. [Ord. 2006-004]

b) General Lighting

Lighting for a minimum of 30 percent of the building's GFA, including but not limited to, main meeting or gathering area, hallways, and bathrooms. [Ord. 2006-004]

c) Multipurpose Room

Air conditioning for 30 percent of the building's GFA including the largest meeting or gathering room. [Ord. 2006-004]

d) Fuel Storage

Sufficient to operate the generator for the minimum of 72 hours at the full load capacity. [Ord. 2006-004]

4) Non-Residential

There is no limitation to the number of generators. [Ord. 2006-004]

20. Mechanical Equipment

a. Applicability

This section shall apply to the installation of improvements associated with mechanical equipment. [Ord. 2008-037]

1) Location and Setbacks

a) Setback Exceptions

Setback exceptions shall be applied pursuant to Art. 3.D.1.D.5, Setback Exceptions. [Ord. 2008-037]

b) Height Exceptions

Height exceptions shall be applied pursuant to Art. 3.D.1.E.4, Height Exceptions. [Ord. 2008-037]

2) Screening Requirements

a) New and replacement equipment, shall be screened on all sides by an opaque barrier constructed of materials, and color compatible with the building or structure, or equivalent landscaping for ground mounted equipment, to a minimum height equal to the highest point of the equipment. [Ord. 2006-004] [Ord. 2008-037] [Ord. 2011-016]

b) Type 1 Waiver - Roof Mounted Mechanical Equipment

(1) Screening shall not be required: [Ord. 2006-004] [Ord. 2011-016]

(a) if the equipment is less than one foot in height, measured from the roof deck, and is painted to match the color of the structure it is attached to or servicing; [Ord. 2006-004] [Ord. 2008-037] [Ord. 2011-016]

(b) for any industrial use with industrial FLU designation if adjacent to a parcel with an industrial use and industrial FLU designation; [Ord. 2011-016]

(c) if an existing roof cannot structurally support additional weight associated with required screening materials. A certified letter, from a structural engineer or architect registered in the State of Florida, shall be submitted with the applicable permit substantiating that the roof cannot support the additional weight. [Ord. 2008-037] [Ord. 2011-016]

(2) Subject to approval of a Type 1 Waiver, the screening may not be required for any industrial use with industrial FLU designation if the equipment cannot be viewed from adjacent R-O-W. In addition to the standards applicable to Type 1 Waiver, a line of sight drawing may be required by the DRO to ensure compliance with screening of equipment. [Ord. 2011-016] [Ord. 2012-027]

c) Screening Exemptions

(1) Solar Energy Systems

Solar Energy Systems, including Solar Trees, are exempt from the screening requirements. [Ord. 2014-001] [Ord. 2017-025]

(2) Existing Multifamily Condominium

Replacement of roof mounted mechanical equipment located on a multi-family condominium may be exempt from new screening requirements, subject to the following: [Ord. 2015-006] [Ord. 2017-025]

(a) Shall not be relocated closer to the edge of a roof, with exception to the minimum necessary to accommodate current technology requiring larger equipment, such as a heat pump or high efficiency air compressor; and, [Ord. 2015-006]

(b) Increase in height shall only be permitted to accommodate elevated stands required to comply with the Building Code or upon demonstration that replacement equipment is larger due to current technology. [Ord. 2015-006]

21. Livestock

a. Standards of Approval

Domesticated livestock shall be allowed accessory to a single family residential use subject to the following standards: [Ord. 2012-027]

1) Tier

Shall only be located in the Rural and Exurban Tiers and when not within a PUD. [Ord. 2012-027]

22. Pot Bellied Pigs

Pot bellied pigs may be kept as pets in a Single Family or Zero Lot Line Home, subject to the following: [Ord. 2013-001]

a. Maximum Number

No more than two pot bellied pigs per household are allowed. [Ord. 2013-001]

- b. Residence**
Pot bellied pigs shall reside within the residence (Single Family or ZLL Home) of its owner. [Ord. 2013-001]
- c. Limitations**
The commercial care, boarding or grooming, and the breeding of domesticated miniature or pot-bellied pigs is prohibited. [Ord. 2013-001]

23. Mobile Home

The use of a mobile home shall be prohibited unless stated otherwise in Art. 4, Use Regulations and Art. 5, Supplementary Standards. [Ord. 2017-007]

Table 5.B.1.A – Mobile Home (1) Applicability

Dwelling Unit	Structure
MHPD or Existing Approved Mobile Home Park (2)	Accessory to Bona Fide Agriculture (2)
	Farm Workers Quarters (2)
	Caretaker Quarters (2)
	Watchman Trailer (3)
	While Constructing a SF Dwelling (3)
[Ord. 2017-007]	
Notes:	
1.	Mobile Home shall not be used for storage or display.
2.	Supplementary use standards are indicated in Art. 4, Use Regulations.
3.	Specific regulations are stated in Art. 5, Supplementary Standards.

24. Air Curtain Incinerator

A combustion device used to burn trees and brush. [Ord. 2017-007]

a. Standards

1) Exemptions

The following temporary air curtain incinerators are exempt from the requirements of this Section: Incinerators operating under written approval from the PBC Health Department in accordance with the PBC Open Burning Ord. 2005-020; and incinerators used for the emergency burning of storm generated debris by a local government. [Ord. 2006-004] [Ord. 2017-007]

2) Storage

Except in the AP Zoning District, on site outdoor storage of unprocessed material shall be limited to 45 days. Pile height shall be limited to 15 feet. Outdoor storage shall be setback a minimum of 25 feet from any property line or 50 feet from any property line adjacent to a residential district or use. Storage areas shall be screened from view pursuant to Art. 5.B, Accessory and Temporary Uses. [Ord. 2006-004] [Ord. 2017-007]

3) Hours of Operation

Hours of operation are limited to 8:00 a.m. to 5:00 p.m., Monday through Friday. The incinerator shall not be charged before 9:00 a.m. and shall be completely extinguished one hour before sunset. [Ord. 2006-004] [Ord. 2017-007]

4) No Burn Days

The incinerator shall not operate on “no burn days” as designated by the PBC Fire-Rescue Department. [Ord. 2006-004] [Ord. 2017-007]

5) Setback

The incinerator shall be set back a minimum of 1,200 feet from any property line abutting a residential district or use. [Ord. 2006-004] [Ord. 2017-007]

b. Supplemental Application Requirements

1) Site Plan

A site plan illustrating how the operation functions, circulation routes, square footage, height and location of buildings, incinerator and storage piles. [Ord. 2017-007]

2) Waste

An explanation of the quantity of waste to be received expressed in cubic yards per day or tons per day. [Ord. 2017-007]

3) Dust Control

A plan which addresses dust control in traffic, storage and processing areas. Dust control measures may include: additional setbacks, full or partial enclosure of air curtain incinerator and watering or enclosing storage piles. If facility with an air curtain incinerator also includes

chipping, mulching or composting, adherence to the supplementary use standards applicable to such use shall also be required. [Ord. 2017-007]

25. Air Stripper

A remedial system which treats contaminated groundwater. [Ord. 2017-007]

a. Duration

The length of time a remedial system may remain on a site shall be determined by ERM. [Ord. 2017-007]

b. Setback

If the applicant is unable to meet the property development regulations, in lieu of a variance, the Zoning Division shall be authorized to determine the location of the structure and set necessary conditions for landscaping and screening. [Ord. 2017-007]

26. Kennels and Runs

Runs applicable to any Kennel use shall be subject to the following:

a. Fences

Safety fences around the outdoor runs shall not exceed six feet in height. [Ord. 2017-007]

b. Hedge

If the safety fence is not opaque, a continuous solid opaque hedge, a minimum of four feet at installation, shall be provided around the outdoor run. [Ord. 2017-007]

c. Setbacks

1) General

a) Enclosed structures or enclosed runs shall comply with the minimum setbacks applicable to the principal dwelling unit. [Ord. 2006-036] [Ord. 2017-007]

b) Outdoor runs or non-enclosed structures shall not be located within 25 feet of any property line. [Ord. 2006-036] [Ord. 2017-007]

2) Hobby Breeders

Outdoor runs or non-enclosed structures used by hobby breeders shall not be located within 50 feet of any property line adjacent to a residential district or 25 feet of any property line adjacent to a non-residential district. [Ord. 2006-036] [Ord. 2017-007]

d. Guard Dog Shelter Exemption

Adequate shelter required by ACC for any guard dog registered in accordance with ACC Ord. 98-022 may be allowed in any zoning district. A shelter for a permanent on-site guard dog, associated with guard duty, shall be exempt from the setback requirements of this section when adjacent to non-residential zoning districts or uses. [Ord. 2008-036] [Ord. 2017-007]

27. Accessory Solar Energy Systems

Accessory Solar Energy Systems may be allowed as an accessory use, subject to the following: [Ord. 2017-025]

a) Incidental and Subordinate

Applications for the installation of an accessory Solar Energy System shall include documentation from the manufacturer, architect, engineer, or contractor performing installation, verifying the system is the maximum necessary to meet onsite energy usage. This limitation does not prohibit the use of net metering where permitted. [Ord. 2017-025]

b) Collocation with Buildings

Solar Energy Systems are classified as mechanical equipment, and may be placed on principal or accessory buildings, including those permitted within a front or side-street yard. [Ord. 2017-025]

c) Standards for Other Structures

Solar Energy Systems installed on other structures shall be limited to the side or rear yard in accordance with the Standards of this Chapter, except as follows: [Ord. 2017-025]

1) Exception

Where the conditions of the side or rear yard prohibit installation, a Solar Energy System may be installed in the front or side street yard, subject to the following" [Ord. 2017-025]

(a) Structures greater than six feet in height shall meet the minimum setbacks for the district. Structures less than six feet in height may be permitted within required setbacks, but in no case shall the system be located within 25 feet of the property line; and, [Ord. 2017-025]

(b) The system is completely screened from view from any other parcel or R-O-W through use of landscaping, fences or walls. [Ord. 2017-025]

(2) Solar Trees

A Solar Energy System installed on a structure intended to provide shade, provide for public art, or other similar function, may be allowed provided that the structure complies with

setbacks, does not adversely impact any required or preserved landscaping, be placed so as to conflict with any vehicular or pedestrian circulation system, nor shade more than ten percent of any Open Space area. [Ord. 2017-025]

(3) Associated Solar – with Mechanical Structures

Where used to power electric gates, environmental monitoring stations, street lights, or other similar, provided the solar panel does not exceed a maximum of four square feet, and all electrical cables or equipment are hidden within the structure. [Ord. 2017-025]

d) Incorporation of Solar in Vehicular and Pedestrian Surfaces

The incorporation of Solar Energy Systems into any parking lot, sidewalk, bike path, or similar surface, shall be exempt from any setback or front or side-street yard limitation. [Ord. 2017-025]

B. Emergency or Temporary Government or Utility Structures

This Section is intended to facilitate the placement or construction of structures or facilities that are temporary. These structures or facilities are utilized to ensure the health, safety and welfare of the public from natural or pending disasters; or construction staging activities for infrastructure improvements. Typical uses may include: fire stations, hurricane shelters, utility facilities; or construction staging areas.

[Ord. 2011-001] [Ord. 2018-002]

1. Review and Approval Process

Emergency or temporary structures shall be subject to the approval by the DRO through a ZAR process. The ZAR process may be waived by the Executive Director of PZB as stated below: [Ord. 2018-002]

a. Emergency Structures

The Executive Director of PZB may waive the ZAR process, and authorize the issuance of a building permit for a temporary structure upon determination that a public emergency, pending natural disaster, or actual natural disaster, exists. [Ord. 2011-001] [Ord. 2018-002]

b. Temporary Structures

The Zoning Director may require a PAC with the DRO in order to seek input from the various County Agencies on the temporary structure, or may seek direction from the BCC through an AI. The Zoning Director shall consider documentation from the Applicant and any other input from County Agencies before issuance of a DO. [Ord. 2011-001] [Ord. 2011-016] [Ord. 2017-007] [Ord. 2018-002]

1) Duration

The DO shall be valid for up to a period of six months from date of issuance, with one three month extension by the Zoning Director. The BCC may extend the timeframe through an AI by the Zoning Director. [Ord. 2011-001] [Ord. 2018-002]

2) Construction Staging Areas for Right of Ways (R-O-W)

In addition to the requirements listed above, the following shall apply to those construction staging areas located on or adjacent to residentially zoned parcels. [Ord. 2008-003] [Ord. 2018-002]

a) Hours of Operation

Activity on the site shall not commence prior to 7:00 a.m. and must be completed prior to 10:00 p.m. A Type 1 Variance may be applied for to request modification from this provision. [Ord. 2008-003] [Ord. 2018-002]

b) Setbacks or Separations

Stored materials shall not be located within the required minimum district setback. [Ord. 2008-003] [Ord. 2018-002]

c) Screening

Temporary screening material, a minimum of five feet in height and 85 percent opacity shall be provided around the perimeter of the staging area, adjacent to residential uses, to mitigate visual impact. [Ord. 2008-003] [Ord. 2018-002]

d) Dust Control

Appropriate measures shall be taken, pursuant to Health Department requirements, to control dust or other airborne particulate matter. [Ord. 2008-003] [Ord. 2018-002]

e) Exceptions

Projects with a duration of 30 days or less shall be exempt from the requirements of this section. [Ord. 2008-003] [Ord. 2018-002]

2. Tents

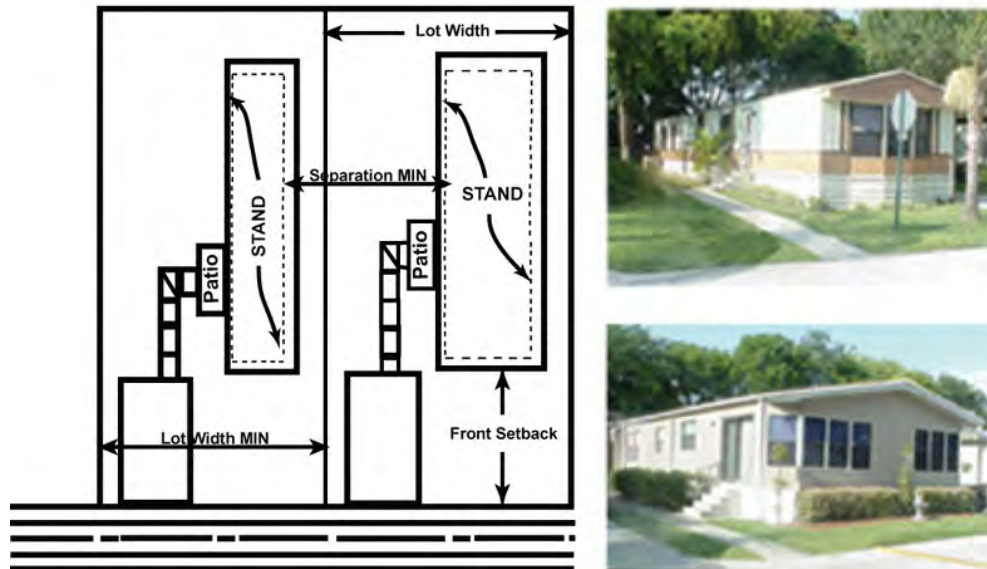
A tent may be used as a temporary structure subject to approval as a special permit and the standards of this Section. Tents used for retail purposes are also subject to Art. 4.B.11.C.8, Temporary Retail Sales.

- a. **Frequency**
Three times per lot per year.
 - b. **Maximum Duration**
The tent may be used for a maximum period of 90 days, provided that an additional 30-day administrative extension may be approved subject to a finding by the Zoning Division that the tent and use continue to meet all the applicable requirements of this Code and the Building Code.
 - c. **Setbacks**
All principal use setback requirements of the underlying district shall be met.
 - d. **Location**
The tent shall be located on the lot so as not to adversely interfere with on-site circulation and shall not be located in any required parking space.
 - e. **Access**
Access shall be from an arterial street.
 - f. **Lighting**
Lighting shall be extinguished no later than 12:00 midnight.
 - g. **Parking**
Parking shall be provided in accordance with Art. 6, Parking.
3. **Temporary Structures and Uses During Development Activity**
Temporary structures and uses may be allowed as follows: **[Ord. 2008-003]**
- a. **Construction Trailer**
 - 1) **Use**
A construction trailer shall be limited to an office used by the businesses of professions actively involved in the construction of a building or structure authorized by a valid building permit issued for the site on which the trailers are located. Use of the office shall be limited to on site activities only. A construction trailer shall not be used as a dwelling.
 - 2) **Number**
A maximum of one trailer per construction business or profession shall be allowed.
 - 3) **Duration**
The construction trailer shall remain on site only for the length of time necessary to construct a building or structure which has been issued a building permit.
 - 4) **Location**
The construction trailer and related parking shall be located on site so as not to interfere with access to developed areas or areas under construction.
 - 5) **Removal**
A construction trailer shall be removed from the site no later than 30 days after the final CO has been issued. The trailer shall be removed if construction ceases for more than 180 consecutive days. An abandoned trailer shall be considered an unsafe structure and abated pursuant to the Building Code Enforcement Administrative Code of PBC.
 - b. **Watchman Trailer**
 - 1) **Use**
A watchman trailer may be allowed on the site of an active construction project which has been authorized by a building permit. Use of the trailer shall be limited to on site security purposes only. A watchman trailer may be used as a dwelling.
 - 2) **Number**
A maximum of one watchman trailer per construction project shall be allowed.
 - 3) **Location**
A watchman trailer, and required parking, shall be located in areas under construction only.
 - 4) **Parking**
A minimum of two parking spaces shall be provided.
 - 5) **Duration**
A watchman trailer shall remain on site only for the length of time necessary to construct a building or structure which has been issued a building permit.
 - 6) **Removal**
A watchman trailer shall be removed from the site no later than 30 days after the final CO has been issued. The trailer shall be removed if construction ceases for more than 180 consecutive days. An abandoned trailer shall be considered an unsafe structure and abated pursuant to the Building Code Enforcement Administrative Code of PBC.

7) **Mobile Home**

A mobile home used as a watchman quarters shall be subject to the following additional requirements:

Figure 5.B.1.B - Typical Mobile Home Lot Layout



a) **Special Permit**

A special permit shall be required. The special permit shall be renewed annually, for a maximum of two years; and

b) **Removal Agreement**

A notarized removal agreement shall be executed and submitted with the application for a special permit.

c. **Real Estate Sales And Management Office**

1) **Use**

A temporary structure for real estate sales and sales management offices may be allowed on the site of an active construction project which has been authorized by a building permit. Use of the structure shall be limited to on site real estate sales and related activities only. A temporary structure used for real estate sales may not be used as a dwelling, as defined in Art. 3.E.1.G, Sales Office and Models.

2) **PDD**

Real estate sales offices in PDDs shall be in accordance with Art. 3.E.1.G, Sales Office and Models.

3) **Number**

A maximum of one sales office per construction project shall be allowed.

4) **Location**

The sales office, and required parking, shall be shown on the master plan, site plan, or subdivision plan approved by the DRO. A sales office shall comply with the setback requirements in Table 3.D.1.A, Property Development Regulations, and shall be located so as not to interfere with on site construction operations and access.

5) **Parking**

A minimum of six parking spaces, plus one for each employee on the shift of greatest employment, shall be provided. All parking areas, with the exception of handicap spaces and access, shall be provided on a hard surface of pavement, asphalt, shell rock, or mulch, provided the sub-grade is compacted. Handicap spaces and access shall be provided in accordance with F.S. §316.1955, F.S. §316.1956, and F.S. §553.48.

6) **Banners, Streamers, and Pennants**

A maximum of two of any one of the following: banners, streamers or pennants may be permitted for every 200 feet of frontage along a public R-O-W. They shall be setback a minimum of five feet from the property line, not to exceed eight feet in height and 20 square feet in size, and may be clustered or dispersed along the R-O-W. **[Ord. 2008-037]**

- 7) **Duration**
A sales office shall remain on site only for the length of time necessary to construct a building or structure which has been issued a permit.
- 8) **Removal**
A sales office, and all accessory signs, banners, streamers and pennants shall be removed from the site no later than 30 days after the final CO has been issued for the last residential unit. The office shall be removed if construction ceases for more than 180 days. An abandoned office shall be considered an unsafe structure and abated pursuant to the Building Code Enforcement Administrative Code of PBC. **[Ord. 2008-037]**
- 9) **Mobile Home**
A mobile home used as a sales office shall be subject to the following additional requirements:
 - a) **Special Permit**
A special permit shall be required. The special permit shall be renewed annually, for a maximum of two years; and
 - b) **Removal Agreement**
A notarized removal agreement shall be executed and submitted with the application for a special permit.
- d. **Mobile Home While Constructing Single Family Dwelling**
 - 1) **Definition**
A mobile home used as a temporary residence during the construction of a Single Family structure. **[Ord. 2017-007]**
 - 2) **Zoning District – AR (RSA)**
A temporary mobile home may be allowed only in the AR Zoning District of the - Rural Service Area (RSA). **[Ord. 2017-007]**
 - 3) **Agency Approval**
Sanitary sewage facilities and potable water well shall be approved by all governmental agencies having appropriate jurisdiction, permits, and inspections for the installation which must be obtained from the PZB Department and Health Department; **[Ord. 2017-007]**
 - 4) **Building Permit**
 - a) A valid building permit for a Single Family dwelling unit on the land shall have been issued by the Building Division prior or concurrent to issuance of the tie down permit for the mobile home; **[Ord. 2017-007]**
 - b) The approval for the mobile home shall be valid for two years or up to 30 days after the issuance of the Certificate of Occupancy for the Single Family dwelling, whichever occurs first. A removal agreement shall be notarized and executed between the Building Division and property owner and recorded on the property in the official records of the PBC Clerk prior to issuance of any building permit. No time extensions shall be granted. No more than one MH approval shall be granted per Property Control Number. **[Ord. 2007-001] [Ord. 2017-007]**
 - 5) **Additions**
No additions shall be allowed to the mobile home, except awnings and demountable screen panels, stairs, decks and trellises. **[Ord. 2017-007]**
 - 6) **Proof of Ownership**
A current recorded warranty deed for the subject property shall be submitted.
- e. **Modular and Manufactured Structures**
 - 1) **Use**
A modular or manufactured structure may be temporarily utilized for non-residential uses with an approved DRO site plan during the construction of the permanent facility. **[Ord. 2008-003]**
 - 2) **Approval Process**
The approved site plan shall be administratively amended to indicate the location and square footage of the structure. The tie down permit shall be applied for in conjunction with the building permit for the permanent structure. The structure shall comply with all applicable sections of the ULDC and existing conditions of approval. **[Ord. 2008-003]**
 - 3) **Time Limitations**
The temporary structure shall be removed prior to issuance of the CO for the permanent facility if it is located in required parking spaces or impacts the circulation or function of the site as originally approved. If the temporary structure is not located in required parking

spaces and does not impact the circulation or function of the site the temporary structure shall be removed within fourteen working days of the issuance of the CO. [Ord. 2008-003]

4. Portable Storage Container

Portable storage containers are weather resistant receptacles used for the temporary storage of goods for residential uses which may be Permitted by Right as follows: [Ord. 2017-025]

- a) A maximum of one container 16 feet in length, 8 feet in width and 8 feet in height may be allowed, for no more than 2 times a year for a maximum of 15 days each time. [Ord. 2017-025]
- b) Shall be located on driveways not to overlap easements, sidewalks or R-O-W. [Ord. 2017-025]
- c) Shall be setback a minimum of 7.5 feet from the side property lines, except where no other driveway areas are available, the setback may be reduced subject to the dimensions in Art. 6.C.1.A.1.a, Local or Residential Access Streets. [Ord. 2017-025]
- d) Container location shall not result of required parking to be placed on areas not designed to park vehicles. [Ord. 2017-025]

5. Shipping Containers

- a) Shipping containers used as temporary storage on a construction site shall be permitted by right subject to the Building Division requirements. [Ord. 2017-025]
- b) A repurposed Shipping Container that complies with the Florida Building Code shall not be considered a Shipping Container. [Ord. 2017-025]

C. Flex Space

A type of use that allows a flexible amount of retail, office and industrial space in one structure located on parcels with an Industrial (IND), Economic Development Center (EDC), or Commercial High (CH) Future Land Use Designation (FLU), that are directly related to the principal use. [Ord. 2010-005]

1. Review Process

Applications for flex space shall be reviewed pursuant to Art. 2, Application Processes and Procedures, in addition to one of the following options: [Ord. 2010-005]

- a. Option 1 – Uses requiring BCC approval shall be subject to the applicable review process pursuant to Art. 2.B.7, Types of Applications. The applicant shall identify the portion of the building designated for flex space on the site plan. All other uses subject to an administrative review process shall be permitted in the BCC approved building. [Ord. 2010-005] [Ord. 2017-007]
- b. Option 2 – Uses requiring DRO approval shall be subject to the review process pursuant to Art. 2.C, Administrative Processes. The applicant shall identify the portion of the building designated for flex space on the site plan. All other uses subject to the Building Permit review process shall be permitted in the DRO approved building. [Ord. 2010-005]
- c. Option 3 – Uses subject to the Building Permit review process may occupy a bay or the entire building as long as they comply with the applicable Supplementary Use Standards and additional ULDC requirements (parking, signage, etc.). The applicant shall identify the portion of the building designated for flex space on the site plan. The applicant has the option of applying flex space provisions to a specific bay in the building or having the entire building (single use tenant) dedicated to flex space. The applicant shall submit the Building approved site plan to the Zoning Division for informational purposes indicating the area designated as flex space and demonstrating that the overall site is in compliance with the applicable ULDC regulations. [Ord. 2010-005]

2. Development Standards

a. CH FLU

Flex Space located on parcels with a CH FLU shall be permitted to have the following mix of uses: a minimum of 50% industrial, not to exceed 75%; with the balance consisting of office or retail. [Ord. 2010-005]

b. IND OR EDC FLU

Flex space located on parcels with an IND FLU shall be permitted to have the following mix of uses: a maximum of 30% retail, with the balance consisting of industrial. [Ord. 2010-005] [Ord. 2017-007]

c. Parking and Loading Requirements

1) CH-FLU

Parking shall be calculated at the rate of 3 spaces per 1000 square feet of floor area. [Ord. 2010-005]

2) IND-FLU

Parking shall be calculated at the rate of 2.5 spaces per 1000 square feet of floor area. [Ord. 2010-005]

3) Reserve Parking or Parking Covenant

- a) Additional parking shall be reserved on site in the event that the flex space is converted back to regular commercial or industrial use, the minimum requirements based upon the proposed use as indicated in Table 6.A.1.B – Minimum Off-Street Parking and Loading Requirements; or, **[Ord. 2010-005]**
- b) A restrictive parking covenant informing current and future owners of the required parking requirements for the uses. If the flex space is converted at a future date the site must comply with the minimum parking requirements based upon the use as indicated in Table 6.A.1.B – Minimum Off-Street Parking and Loading Requirements prior to final DRO or Building Permit approval, whichever is applicable. In the event the onsite parking is not sufficient for the proposed use or parking spaces cannot be accommodated on the site, the owner shall be limited to uses that generate parking consistent with existing parking. The covenant shall be submitted to the Zoning Division for County Attorney review and approval at the time of final DRO or building permit application. The approved covenant shall be recorded in the Clerk of Circuit Courts of PBC, and a copy of the approved and recorded covenant shall be submitted to the Zoning Division prior to issuance of a building permit. **[Ord. 2010-005]**

d. Thresholds

Proposed flex space uses shall comply with the established review thresholds pursuant to Table 4.A.3.A – Thresholds for Projects Requiring DRO Approval, and Table 4.A.3.A – Thresholds for Projects Requiring Board of County Commissioner Approval. **[Ord. 2010-005]**

3. Uses Allowed

The uses indicated in the table below, may utilize flex space provisions pursuant to the applicable approval process indicated in Review Process above. **[Ord. 2017-007]**

Table 5.B.1.C - Uses Allowed as Flex Space Component

Commercial Use	Industrial Uses
Retail Sales (1)	Contractor Storage Yard (2) Manufacturing and Processing (2) Warehouse (2) Wholesaling (2)
[Ord. 2017-007]	
(1) Flex space use to be allowed in IND or EDC FLU designation subject to DRO Approval.	
(2) Flex space use to be allowed in CH FLU designation subject to Class A Conditional Use approval.	

CHAPTER C DESIGN STANDARDS

Section 1 Architectural Guidelines

A. Purpose and Intent

The purpose of these guidelines is to encourage development to contribute to PBC as a unique place by enhancing the built environment. These guidelines are intended to ensure that new development and redevelopment will be compatible with the surrounding area and enhance the appearance of the local community.

B. Threshold

This Chapter shall apply to the following projects, buildings and related signs:

1. General

- a. All nonresidential projects or buildings requiring approval by the BCC or ZC; **[Ord. 2006-036]**
- b. All nonresidential projects or buildings requiring approval by the DRO in accordance with the use matrices in Art. 4, Use Regulations, and Table 3.D.1.A, Property Development Regulations, or those exceeding the thresholds in Table 4.A.9.A, Thresholds for Projects Requiring DRO Approval; **[Ord. 2006-036] [Ord. 2017-007]**
- c. Multi-family buildings with more than 16 units or three or more stories; **[Ord. 2006-036] [Ord. 2009-040] [Ord. 2010-005]**
- d. Substantial renovations of existing built projects or buildings meeting the threshold of this Chapter; and **[Ord. 2006-036]**
- e. The following uses, regardless of building size: **[Ord. 2006-036]**
 - 1) Heavy or Light Repair and Maintenance; **[Ord. 2006-036] [Ord. 2012-027] [Ord. 2017-007]**

- 2) Retail Sales for automotive parts and accessories; [Ord. 2006-036] [Ord. 2012-027] [Ord. 2017-007]
 - 3) Type 1 restaurants with drive through requesting location criteria exception pursuant to Art.4.B.2.C.33, Restaurant, Type 1; and, [Ord. 2012-027] [Ord. 2017-007]
 - 4) Type 3 CLF. [Ord. 2017-007]
- 2. Mixed Use**
Mixed use development that includes a combination of residential and one or more non-residential uses that do not trip the thresholds listed above, shall comply with the following guidelines to ensure the project is vertically or functionally integrated: [Ord. 2006-036]
- a. Art. 5.C.1.H.1.a, General; [Ord. 2006-036]
 - b. Art. 5.C.1.H.1.d, Entries [Ord. 2006-036]
 - c. Art. 5.C.1.I.3.d, Pedestrian Amenities; and, [Ord. 2006-036]
 - d. Art. 5.C.1.I.3.b.4), Covered Walkways. [Ord. 2006-036]
3. Any mixed use project in the WCRAO. [Ord. 2006-004]
- C. Exemptions**
1. Agricultural or industrial buildings not visible from a public street or residential zoning district.
 2. Buildings which are exempt from local building permits or government review pursuant to State of Florida or Federal Statutes.
 3. Recreational buildings and accessory structures within a PUD or a standard zoning district. [Ord. 2009-040].
 4. Primary and secondary building frontages within a TMD, and buildings in the NRM, NG and NC Sub-areas of the WCRAO that have a side setback of less than 15 feet, shall be exempt from the requirements of Art. 5.C.1.H.1.c.1).a), Recesses/Projections. [Ord. 2005-041] [Ord. 2006-004]
 5. Palm Beach County Water Utility Facilities which are not visible from a public street or residential zoning district or are limited access, high security facilities not open to the general public. [Ord. 2007-013]
 6. All of the uses/features (except for parapet screening of mechanical equipment noted in the height exceptions in Art.3.D.1.E.4.a, are also exempt from architectural requirements. These uses/features include: [Ord. 2007-013]
 - a. Tanks; [Ord. 2007-013]
 - b. Water towers; [Ord. 2007-013]
 - c. Cooling towers; [Ord. 2007-013]
 - d. Miscellaneous, unoccupied utility support structures of 1,000 SF or less (proposed addition to list). [Ord. 2007-013]
- D. Effect**
1. **Effect on Prior BCC and ZC Approvals**
These guidelines shall apply to all previously approved projects as a BCC or ZC condition of approval as part of a DOA or Status Report. Previously approved architectural conditions of approval shall remain in full effect unless amended by the BCC or ZC. Non-residential projects previously approved by the BCC or ZC shall comply with Art. 5.C.1.H.1.a, General. [Ord.2006-004]
 2. **Effect on Prior DRO Approvals**
These guidelines shall not apply to projects or buildings which have a previously approved site plan by the DRO, unless within a PDD or for any use specifically identified within Art. 4.B, Use Classification. Non-residential projects previously approved by the DRO or ZC shall comply with Art. 5.C.1.H.1.a, General. [Ord. 2006-004]
 3. **Effect on Other Regulations**
These guidelines shall supplement architectural requirements of an Overlay District, Neighborhood Plan, or other applicable regulations. In case of a conflict, the more strict regulation shall apply.
- E. Review Process**
PZB shall review all applicable buildings for compliance with this Chapter during the building permit or zoning review process, and provide a written determination of compliance with the requirements of this Chapter. An application submitted for any type of review process listed below may apply for Type 2 Waiver for a Unique Structure designation or Type 2 Variance, pursuant to Art. 2.B.7., Types of Applications: [Ord. 2009-040] [Ord. 2017-007]
1. **Methods**
An applicant or PBC may request review for compliance with this Chapter in accordance with any one of the following methods: [Ord. 2005 – 002]

a. Type 1 - Projects Requiring BCC Approval

A request for a determination of compliance with the requirements of this Chapter may be submitted with the application. A written determination of compliance with this Chapter shall be made in the staff report containing the recommendation for the development order. The request for a determination shall be submitted no less than 30 days prior to the public hearing. [Ord. 2005-002] [Ord. 2009-040]

b. Type 2 - Projects Requiring ZC Approval

A request for a determination of compliance with the requirements of this Chapter may be submitted with the ZC application. A written determination of compliance with this Chapter shall be made in the staff report containing the recommendation for the development order. The request for a determination shall be submitted no less than 30 days prior to the ZC public hearing. [Ord. 2009-040]

c. Type 3 - Projects Requiring DRO or Site Plan Approval

A request for a determination of compliance with the requirements of this Chapter may be submitted with the original DRO or site plan approval application. A written determination of compliance with this Chapter shall be made in the comment letter regarding the development order for the project. The request for a determination shall be included in the initial DRO application. [Ord. 2009-040]

d. Type 4 - Projects Requiring Building Permit Approval

Buildings requiring a building permit only shall be reviewed for compliance through the standard building permit review process. The request for a determination shall be submitted prior to or concurrent with the building permit application. [Ord. 2009-040]

2. Unique Structure

a. Purpose and Intent

To recognize structures that comply with the definition in Art. 1.1.2.A, Unique Structure, that by the nature of their: scale, massing, proportion, rhythm, style, harmony, order, balance, etc, warrant a special designation. PBC has diverse architectural styles in the various Tiers that are reflective of the historical evolution of the community. The architecture guidelines were established to preserve and enhance those communities through common building design elements. The allowance for unique structures will continue to foster preservation of key design elements while recognizing new and creative design and materials. An applicant may apply for Unique Structure designation pursuant to Art. 2.B.7.D, Type 2 Waiver, for any of the types of review outlined in Art. 5.C.1.E, Review Process. A Unique Structure designation will require the applicant to clearly demonstrate that by complying with the standard architectural guidelines in Art. 5.C.1.H, Guidelines, the overall design would be compromised. A structure classified as unique does not have to apply for variances, but shall comply with the standards in Art. 2.B.7.D.4, Standards for a Unique Structure. The Unique Structure process shall not be requested if the applicant can seek variances in Art. 2.B.7.E, Type 2 Variance. [Ord. 2009-040] [Ord. 2011-001]

b. Applicability

An applicant seeking a Unique Structure designation shall submit the request on forms specified by the PBC official responsible for reviewing the application, pursuant to Art. 5.C.1.F, Application Requirements. [Ord. 2009-040]

c. Review Process

The Unique Structure shall be reviewed pursuant to Section 5.C.1.E, Review Process and Art. 2.B.7.D.4, Standards for a Unique Structure. Staff shall review the request and prepare a Staff Report for approval, approval with conditions or denial to the Zoning Commission. The Zoning Commission will make a finding and recommendation to the BCC that the request is consistent with the required Standards. The BCC shall make the final decision to approve, approve with conditions or deny the designation of Unique Structure. [Ord. 2009-040]

3. Type 1 Waiver - Green Architecture

a. Purpose and Intent

To encourage and promote the design and construction of green architecture. This Section provides for Type 1 Waivers from the architecture design guidelines, provided the applicant can achieve the minimum points necessary to be classified as Green Architecture. In order to design sustainable architecture, certain allowances for Type 1 Waivers in Art. 5.C.1.H, Guidelines, need to be recognized and allowed if minimum standards are met. The provisions in Table 5.C.1.E, Green Architecture Designation Rating Program, provide alternative design solutions to achieve green architecture while still complying with the general intent of the architecture guidelines. [Ord. 2009-040] [Ord. 2012-027]

b. Applicability

An applicant proposing to utilize the Green Building Architecture waiver provisions for the construction of new or structurally renovated buildings shall be required to comply with the following: **[Ord. 2009-040]**

- 1) Submit an application as required in Art. 5.C.1.F, Application Requirements, **[Ord. 2009-040]**
- 2) Comply with the review process outlined below in Art. 5.C.1.E.3.c, **[Ord. 2009-040]**
- 3) Comply with the requirements outlined in Table 5.C.1.E, Green Architecture Designation Rating Program. **[Ord. 2009-040]**

c. Review Process

The Green Architecture designation application shall be reviewed and approved, approved with conditions, or denied in conjunction with one of the review processes outlined in Art. 5.C.1.E, Review Process. The registered architect shall complete the required Zoning application, which will require compliance with the Green Architecture Designation Rating Program, Table 5.C.1.E. **[Ord. 2009-040] [Ord. 2011-016]**

1) Calculating Points

The registered architect shall be responsible for calculating the total points obtained for requirements listed in Table 5.C.1.E. Any requirement that does not have specific qualitative and or quantitative measurements the registered architect shall refer to the USGBC Green Building Council rating system to determine acceptable national measurements. In order for the Zoning Director to grant the Green Architecture designation, the applicant shall obtain a minimum of 30 out of a total of 50 points from Table 5.C.1.E. The applicant may choose one or any combination of these categories to achieve the minimum 30 point requirement. If a minimum of 30 points cannot be achieved, then the architecture shall comply with Art. 5.C.1.H. The registered architect of the building shall be required to monitor the building construction until final Certificate of Occupancy to ensure compliance with the Green Architecture approval. **[Ord. 2009-040]**

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Table 5.C.1.E - Green Architecture Designation Rating Program

Requirements	Allocated Points	Total Points
Roof Configuration		12
* Flat planted green roof for cooling and storm water management on a minimum of 50 percent of the roof area	2	
* 30 percent of the gross area of the roof surface is planted with vegetative plants	2	
* Roof that incorporates clear story glazing, solar tubes and or light wells	1	
* Roof that incorporates energy strategies (photovoltaic solar panels, solar thermal panels for hot water) and specific slopes related to the sun's solar path thru the sky	1	
* Roof that incorporates thermal chimneys as passive cooling devices	1	
* Roof that is designed to harvest rain water for non potable uses	1	
* Roof materials that are highly reflective (light colored standing seam metal; white single membrane for flat roofs and green planted roofs)	2	
* Roof materials that have a Solar Reflectance Index of 78 for low-sloped roof and 29 for steep-sloped roof for a minimum of 75 percent of the roof surface (refer to the USGBC for roof type, slope and reflectance/emittance information)	2	
Facade, Exterior Treatment, Fenestration Details, Entries and Color		33
Facade		
* The building exterior design treatments vary based on the orientation related to the sun (south facade might have an expanse of glazing and shading devices and light shelves; east and west facade have a limited surface area with a small amount of glazing area; north facade opens to allow the cool north daylight to enter the facility)	5	
* Building form takes on natural shapes that relate to the solar system	5	
Exterior Treatment		
* The building shape, form and orientation take advantage of the sun's path across the sky (innovative building forms inspired by nature, building forms are shaped to harvest daylight, building forms are shaped to harvest solar energy from photovoltaic panels for the generation of electric and heat energy for solar water systems)	5	
* The following typical architectural features or details such as: windows, awnings, covered arcades, sills, shutters, relief's trims, columns, pilasters, quoins, reveals, cornices, horizontal banding, arches, decorative vents, and/or accent tile, shall be integrated into the facade to avoid blank walls.	N/A	
Fenestration Details		
* Achieve a minimum glazing factor of 2 percent in a minimum of 75 percent of all regularly occupied areas	4	
* The building has an expanse of glazing and permanent shading devices and light shelves to harvest daylight	4	
* The use of high performance glazing and/or automatic photocell-based controls	4	
Entries		
* All public entries are easily identifiable and integrated into the building architecture	N/A	
* Each freestanding principal structure does have a minimum of one clearly defined primary public entrance feature and does incorporate a minimum of one primary entry feature design element such as: canopies, porte-cochere, or porticos; wall recess or projection a minimum of 12 inches in depth; covered arcades, a minimum of eight feet clear in width; peaked roof forms; arches, columns or pilasters	N/A	
* A minimum of one secondary decorative treatment has been provided such as: overhangs, cornices, and eaves; decorative moldings or trims around windows and doors; covered public outdoor patio or plaza incorporated with entry area which are not part of a tenant space; special pavers, bricks, decorative concrete, or other similar pavement treatment; architectural details, such as tile work or moldings.	N/A	
Color		
* Specialty coatings such as: radiation control and anti-corrosive paint	3	
* The use of light colored reflective paint	3	
Recycled Materials		5
* Minimum of 50 percent of non-hazardous building construction materials, components and demolition debris is reused, recycled or salvaged	2.5	
* Minimum of 5 percent of the sum, based on cost of the total value of building materials, with recycled content are used and permanently installed. Mechanical, electrical and plumbing components and specialty items	2.5	
Note:		
N/A No points are allocated for these requirements. If the registered architect can demonstrate these Code requirements, if applied would conflict with Green Architecture, waivers may be granted. [Ord. 2009-040]		

d. Appeals

If the application is denied, the applicant may appeal the decision to the Zoning Commission in compliance with the standards of Art. 2.C.5.E, Type 1 Waiver. **[Ord. 2011-016] [Ord. 2012-027]**

4. Administrative Amendments by DRO

Minor amendments to BCC or ZC approved architectural elevations pursuant to Review Types 1 and 2 may be approved by the Zoning Director provided the changes do not reduce compatibility with surrounding properties. Changes shall be limited to the following: **[Ord. 2009-040]**

- a. A maximum increase of 25 percent or ten feet in overall building height, from finished grade to highest point, whichever is less;
- b. Modifications to the architectural composition which are equal to or enhance the approved elevation; and,
- c. Modifications to ensure consistency with this Chapter.

F. Application Requirements

The application form and requirements for Architecture Review, including Unique Structure and Green Architecture shall be submitted on forms specified by the PBC official responsible for reviewing the application. All application documents shall be consistent with the Technical Manual. **[Ord. 2009-040]**

G. Visual Impact Analysis

A visual impact analysis shall be submitted with the chosen method of review only for projects or buildings which are contiguous to a public street or to a residentially zoned property. The visual impact analysis shall be prepared and certified by a design professional and include:

1. Environmental Assessment

An assessment of the natural and man-made environments surrounding the proposed building utilizing a minimum of four views taken from the subject property of all contiguous public streets and/or residentially zoned properties and one aerial photograph with the proposed building superimposed on the site.

2. Line of Sight Analysis

A line of sight analysis of the proposed building in relation to the surrounding area. This may be accomplished by submitting a two-dimensional cross section(s) of the site showing the proposed building elevations in relation to contiguous public R-O-W's and residentially zoned properties.

3. Prevalent Theme

A written description by the design professional of the prevalent architectural character of the surrounding area, or desirable architectural character, if no prevalent architectural character exists. If a prevalent architectural character does not exist, the use of architectural styles such as Spanish Eclectic, Mediterranean Revival, Florida Vernacular, or Bermuda/Island is encouraged.

4. Architectural Compliance Statement

A written description by the qualified design professional that the visual impact analysis indicates that the architectural composition of the proposed project or building creates focal points in scale with the pedestrian environment, and complements or enhances existing structures in the surrounding area.

H. Guidelines

1. Nonresidential Design Elements

The following guidelines shall apply to all nonresidential projects or buildings that meet the threshold in Art. 5.C.1.B, and are not exempt in Art. 5.C.1.C,: **[Ord. 2005 – 002]**

a. General

An overall unified architectural character and image shall be created by the use of common elements such as consistent forms, colors, materials, and details. Similar, but not identical, architectural treatment between pods within a multi-pod project may be permitted to allow diversity within the project.

- 1) Similar architectural composition and treatment shall be provided on all sides of each building contiguous to or visible from a public street or residential zoning district. **[Ord. 2009-040]**
- 2) Out parcels and accessory buildings within a project shall be constructed of compatible materials, color, and character as the principal building.

b. Roofline

The roofline along each elevation shall incorporate a minimum of one design feature each from Table 5.C.1.H, Primary Roof Design Element, and Table 5.C.1.H, Secondary Roof Treatment, below. The same features are not required on each elevation:

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Table 5.C.1.H - Primary Roof Design Element

a.	Articulated parapet along 30 percent of the roof line for each elevation (1), (2)
b.	Pitched roof with minimum 12 inch overhanging eaves
c.	Two or more plane breaks or slopes per facade elevation
d.	Any combination of the above
Notes:	
1.	Parapet length used as part of wall signage shall not be counted as articulation.
2.	Maximum spacing between articulation = 100 feet. Spacing may vary for recognized architectural styles such as Art Deco, which cannot comply with this requirement.

Table 5.C.1.H - Secondary Roof Treatment

a.	Decorative roof details, such as dormers, cupolas, rafter tails, balconies, terraces, or exposed beams
b.	Cornices with decorative moldings
c.	Pediments, porticos, architectural features at entryways, or decorative towers

c. Facade

The front, side, and rear facades, if contiguous to a public street or residential zoning district of every building, shall incorporate recesses, projections, and architectural elements such as columns, arches, etc., as provided below:

1) Required Design Elements

All applicable facades, unless exempted above, shall meet the following standards:

a) Recesses/Projections

Facades greater than 50 feet in length shall incorporate recesses and projections a minimum of 12 inches in depth along a minimum of 20 percent of the total length of the facade. The recesses or projections shall be distributed along the facade with a maximum spacing of 100 feet between each recess or projection. Facades with four or more bay doors may exclude the combined length of the bay doors from the total facade length.

b) Walls

Blank walls shall not exceed ten feet in height or 20 feet in length. Control and expansion joints shall constitute a blank wall, unless used in a decorative pattern with varied materials or textures and spaced a maximum of ten feet on center. Relief and reveal depth shall be a minimum of three quarters of an inch.

c) Storefronts

Individual ground-level retail uses with exterior public access that are part of a larger freestanding building, other than regional commercial facilities, shall have display windows along a minimum of 20 percent of the facade length. Windows shall be defined with details such as frames, sills, shutters, planters, relief trims, or lintels. Storefront design, relief features, and decorative treatments shall complement contiguous storefronts.

2) Additional Design Elements

In addition to Art. 5.C.1.H.1.c.1, Required Design Elements, the front and side facades shall include a minimum of one of the following design elements:

a) Exterior Treatment

The exterior treatment of the front elevation shall consist of a minimum of two different building materials, textures, or finishes at a ratio of a maximum of 80 percent for the primary treatment and a minimum of 20 percent for the secondary treatment. Exterior finishes such as stucco, brick, wood, coquina, or cut stone are encouraged. The surfaces of multiple exterior storefronts within a building, except regional commercial facilities, shall compliment contiguous storefronts.

b) Fenestration Details

Architectural features or details such as, windows, awnings, covered arcades, sills, shutters, reliefs, trims, columns, pilasters, quoins, reveals, cornices, horizontal banding, arches, decorative vents, and/or accent tile, shall be integrated into the facade to avoid the appearance of a blank wall and shall be provided along a minimum of 60 percent of the facade length of the front, side and rear facades if contiguous to a public street or residential zoning district.

d. Entries

All public entries shall be easily identifiable and integrated into the building architecture. Each freestanding principal structure shall have a minimum of one clearly defined primary public entrance feature. The primary entrance shall incorporate a minimum of one design element each from Table 5.C.1.H, Primary Entry Feature Design Element, and Table 5.C.1.H, Secondary Decorative Treatment, below:

Table 5.C.1.H - Primary Entry Feature Design Element

a.	Canopies, porte-cochere, or porticos
b.	Wall recess or projection a minimum of 12 inches in depth
c.	Covered arcades, a minimum of eight feet clear in width
d.	Peaked roof forms
e.	Arches, columns or pilasters

Table 5.C.1.H - Secondary Decorative Treatment

a.	Overhangs, cornices, and eaves
b.	Decorative moldings or trims around windows and doors
c.	Covered public outdoor patio or plaza incorporated with entry area which are not part of a tenant space
d.	Special pavers, bricks, decorative concrete, or other similar pavement treatment
e.	Architectural details, such as tile work or moldings

e. Color

Color shall be considered to achieve architectural compatibility with architecture in the surrounding area and to complement structures within a development. **[Ord. 2009-040]**

f. Design Elements Subject to ZC or BCC Approval

The following elements are prohibited, unless approved by the ZC or BCC pursuant to the review process of this Chapter:

- 1) structures which are of symbolic design for the purpose of advertising;
- 2) high intensity, metallic, neon, or fluorescent colors;
- 3) neon tubing, fiber optics or similar lighting, excluding those used for signage;
- 4) high gloss vinyl and plastic awnings;
- 5) awnings with horizontal ribbing, flowered or similarly patterned designs;
- 6) unpainted or plain/unfinished exterior facades, excluding galvalume and galvanized steel roof; and
- 7) smooth-faced, painted, concrete masonry block.

g. Rural Design Elements

The following standards shall also apply to nonresidential projects, buildings, and signs in the Rural and Exurban Tiers.

1) Roof

The roofline along each elevation shall incorporate a minimum of one design feature each from Table 5.C.1.H, Roof Design Element, and Table 5.C.1.H, Decorative Roof Treatment below. The same features are not required on each elevation. **[Ord. 2018-002]**

Table 5.C.1.H – Rural Roof Design Element

1.	Articulated roofline for each 200 linear feet with pitched roof (e.g. hip-on-deck, hip, gable, gambrel, or a combination of them) along a minimum of 70% of the length of the façade, and, a minimum 12 inch overhanging eave; or,
2.	Full pitched roof (e.g. hip, gable, gambrel, etc.) with two or more plane breaks or slopes; or
3.	Combination of items 1 and 2 above.
[Ord. 2018-002]	

Table 5.C.1.H – Rural Decorative Roof Treatment

1.	Decorative roof details such as dormers, cupolas, rafter tails, balconies, terraces, or exposed beams;
2.	Cornices with decorative moldings; or
3.	Pediments, porticos, or architectural features at entryways, or decorative towers.
[Ord. 2018-002]	

a) Material

Roof materials shall be limited to standing seam metal, corrugated, or 5V crimp made of copper, terne-coated stainless steel, galvalume or galvanized steel, slate, dimensional or architectural wood shingles, or metal shingles.

2) Exterior Building Finishes

Exterior building and sign finishes shall be limited to:

- a) vinyl, lap cedar or hard textured concrete siding with rough or smooth horizontal planks, six inch lap siding, shingles or vertical board and batten;
- b) brick or brick veneer;
- c) stone;
- d) textured stucco; and
- e) split face, pre-formed, or textured masonry block.

3) Facades

a) Single Story Buildings

A minimum of three of the following architectural details or other similar treatment shall be integrated into all applicable single story building facades to avoid the appearance of a blank wall:

- (1) columns or pilasters;
- (2) decorative cornices;
- (3) horizontal banding;
- (4) arches;
- (5) decorative vents or louvers;
- (6) moldings and trims;
- (7) decorative shutters; and
- (8) bay windows.

b) Multi-Story Buildings

In addition to the required architectural details above, multi-story buildings shall also have breaks such as a canopy, balcony, overhang, or other horizontal projections.

4) Porches and Entryways

All buildings shall have prominent entryways with well-defined porches and railings. Porches shall be provided along the entire front facades, and 50 percent of the side or rear facades if contiguous to a public street or residential zoning district. The design of a porch may be interrupted by required exits, paved pedestrian entrances, loading areas, and shall include the following: **[Ord. 2018-002]**

a) Width

Porches shall have a minimum clear, unobstructed width of eight feet.

b) Railings and Posts

Porches shall incorporate decorative railings with posts at a maximum of 12 feet on center along the entire length, excluding pedestrian access points.

5) Windows and Doors

All windows and doors shall have architectural details such as panels, transoms, crossbucks, shutters, decorative trims, or moldings. All glass areas shall appear to be multi-paned.

2. Multi-Family Design Elements

In addition to the guidelines for non-residential projects, multi-family projects shall adhere to the following guidelines: **[Ord. 2010-005]**

a. Master Elevations

Master elevation approvals may be reused within a project, provided the master elevation complies with Art. 5.C.1.G, Visual Impact Analysis, for each location in which that elevation is used.

b. Balconies and Patios

Individual balconies and/or patios shall be provided for a minimum of 20 percent of the total number of units within each building.

I. Large Scale Commercial Development

Large Scale Commercial Development shall be defined as any large single tenant retail use, with or without accessory tenants, in a single building, between 65,000 and 200,000 gross square feet. These regulations shall apply to all new developments and developments meeting the requirements of Art. 5.C.1.D, Effect. **[Ord. 2005 – 002]**

1. Single Tenant Limit

Variances from these requirements shall be prohibited. [Ord. 2005 – 002] [Ord. 2011-001]

a. CL FLU

The maximum building size for a single tenant shall be less than 65,000 gross square feet except as follows: [Ord. 2005-002] [Ord. 2013-001] [Ord. 2017-025]

- 1) The commercial development of the parcel located at the northwest corner of Southern Boulevard and Seminole Pratt Whitney Road and identified in the legal description in Ordinance 2010-030 (LGA 2010-012); and, [Ord. 2005-002] [Ord. 2013-001] [Ord. 2017-025]
- 2) Sites approved under Ordinances 2008-048 and 2009-028 as an LCC in the Urban/Suburban Tier are allowed to have up to a maximum of 100,000 square feet. [Ord. 2017-025]

b. CH FLU

The maximum building size for a single tenant shall be 200,000 gross square feet. [Ord. 2005 – 002]

1) Exception

An additional 10,000 square feet shall be permitted, for a total of 210,000 gross square feet, subject to Class A Conditional Use approval and the following requirements: [Ord. 2005 – 002] [Ord. 2018-002]

- a) Perimeter landscaping buffer widths and plant material required by Art. 7.C, Landscape Buffer and Interior Landscaping, shall be increased by twenty percent. [Ord. 2005 – 002]
- b) One additional pedestrian amenity shall be required in addition to the requirements of Art. 5.C.1.I.3.d, Pedestrian Amenities. [Ord. 2005 – 002]
- c) A minimum of 50 percent of the walkways required by Art. 5.C.1.I.3.d.2), shall be covered, providing overhead shelter from the elements. Covered areas shall be evenly distributed between the furthest parking stalls and public entrances. [Ord. 2005 – 002]
- d) A maximum of two out-parcels shall be permitted, subject to the following: [Ord. 2005 – 002]
 - (1) Walkways consistent with those required by Art. 5.C.1.I.3.d.2, shall be provided to both outparcels from a public entrance for any single tenant having greater than 200,000 gross square feet. [Ord. 2005 – 002]
 - (2) Building square footage for convenience stores with gas sales and/or auto service stations shall be deducted from the additional 10,000 square feet permitted under this exception. [Ord. 2005 – 002]

If the project is to be phased, all of the above improvements shall be installed in the first phase. [Ord. 2005 – 002]

2. Facade Orientation

For the purposes of this section, facade orientation shall be defined as follows: [Ord. 2005 – 002]

- a. Front facade: The wall of a building containing the principal public entrance. The front façade is generally located parallel with and facing the principal parking area for the building. [Ord. 2005 – 002]
- b. Side A facade: The wall of a building containing a secondary public entrance. The Side A façade is generally located parallel with and facing secondary parking area for the building. [Ord. 2005 – 002]
- c. Side B facade: Any side building façade not having a secondary public entrance. [Ord. 2005 – 002]
- d. Rear facade: The rear wall of a building generally opposite the front facade. [Ord. 2005 – 002]

3. Single Tenants 65,000 Gross Square Feet or More

Developments with single tenants occupying 65,000 gross square feet or more shall be subject to the requirements of Table 5.C.1.I-13, Large Scale Commercial Development. [Ord. 2005 – 002]

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Table 5.C.1.I - Large Scale Commercial Development

Facade Requirements	Front	Side A (1)	Side B	Rear
Roofline - Parapet Articulation	5 feet	5 feet	2.5 feet (2)	2.5 feet (2)
Facade - Recesses and Projections (3)	Option 1: 15 foot depth for 20%; or Option 2: 15 foot depth for 15%, and 5 foot depth for 15%	10 foot depth for 20% (2)	5 foot depth for 20% (2)	5 foot depth for 20%
Fenestration Details - Windows (3)	1.6 sf per lf of facade	0.8 sf per lf of facade	Not Required	Not Required
Exterior Treatment - Use of Building Materials	Minimum of 2 types – 70%/30% ratio			
Covered Walkways/Arcades	70%	30%	Not Required	Not Required
Location of Required Parking	75% maximum	25% minimum side and/or rear (6)		
Foundation Planting % of Facade Length (4)	Min. 50%	Min. 50%	Min. 50%	Min. 20%
Width of Foundation Plantings (5)	50% of facade height	50% of facade height	12 feet	12 feet
Perimeter Buffers	Perimeter buffers shall be in accordance with Art. 7.C.7, Large Scale Commercial Development			

[Ord. 2005 – 002]

Notes:

1. Any side or rear facade with a secondary public entrance shall meet the requirements of Side A above.
2. Front facade requirements shall be used for any façade that is oriented towards a street.
3. Percentage as a total length of façade.
4. The percentage length shall be in accordance with Table 5.C.1.I-12, Large Scale Commercial Development, or Table 7.C.3-1, Minimum Tier Requirements, whichever is greater.
5. Minimum width: 12 feet.
6. A minimum of 15 percent of the parking shall be located immediately fronting a Side A entrance. **[Ord. 2005 – 002]**

a. Roofline

1) Parapet Articulation

- a) Articulation in parapet shall be required with a minimum of five feet for front and side A facades, and any façade oriented towards a street; and, two and one half feet for side B and rear facades. **[Ord. 2005 – 002]**
- b) A Parapet return is required with a length equal to or exceeding the required parapet articulation. **[Ord. 2005 – 002]**

b. Facade

1) Recesses/Projections

Facades greater than 100 feet in length shall incorporate recesses and projections along the total length of the façade, in accordance with Table 5.C.1.I-13, Large Scale Commercial Development. Required recesses and projections shall be distributed along the façade with a maximum spacing of 150 feet. Recesses and projections shall be from finished grade to roofline. **[Ord. 2005 - 002]**

2) Fenestration Details

a) Windows

Windows shall be provided in accordance with Table 5.C.1.I-13, Large Scale Commercial Development. **[Ord. 2005 – 002]**

(1) A minimum of 70 percent of windows on front and side A façades shall be transparent, or window box displaying only merchandise. The remaining 30 percent may be non-transparent. **[Ord. 2005 – 002]**

(2) Windows shall be at pedestrian scale. **[Ord. 2005 – 002]**

3) Exterior Treatment

a) A minimum of two different types of building materials shall be used, with a 70 percent-30 percent ratio. A change in stucco or use of windows will not count toward meeting this requirement. **[Ord. 2005 – 002]**

b) Exposed gutters or rain leaders are permitted if decorative in nature. **[Ord. 2005 – 002]**

4) Covered Walkways

a) Facades with a public entrance shall provide covered walkways along a minimum of 70 percent of the overall length of the front façade, and 30 percent of the overall length of side A facades. **[Ord. 2005 - 002]**

b) Covered walkways shall be a minimum of 10 feet in width, unobstructed, with appropriately spaced columns and pitched roofs. **[Ord. 2005 - 002]**

c. Public Entrances

- 1) A minimum of one public entrance shall be provided along the front façade. [Ord. 2005 – 002]
- 2) One additional secondary public entrance shall be provided on a side façade, subject to the following: [Ord. 2005 – 002]
 - a) The secondary entrance shall be accessible to the public during the same business hours as the primary entrance, or from 10 a.m. to 6 p.m., whichever is less. [Ord. 2005 – 002]
 - b) Secondary public entrances shall be located a minimum distance of 25 percent of the length of the side A façade, from the corner of the front facade. [Ord. 2005 – 002]

d. Pedestrian Amenities

- 1) One public amenity shall be provided for every 50,000 square feet, or fraction thereof, including but not limited to public art; (not depicting any advertising); fountains (of at least eight feet in height, 16 feet diameter; pergolas; bell or clock tower; and public seating areas (not in conjunction with a restaurant). Required pedestrian amenities shall be a minimum of 800 square feet and 25 feet in width. [Ord. 2005 – 002]
- 2) A minimum of two pedestrian pathways a minimum of ten feet in width leading from the furthest parking spaces to public entrances shall be required. These pathways shall incorporate the use of decorative pavement, trellises, seating, pergolas, arbors, gazebos and landscaping. [Ord. 2005 – 002]

J. Appeal

1. Non-Judicial Remedies

Any applicant aggrieved by an administrative interpretation or decision regarding this Chapter who wishes to appeal the interpretation or decision shall file an appeal to the ZC and follow the appeal procedures established in Art.2.C.5.E, Type 1 Waiver. [Ord. 2005 – 002] [Ord. 2011-016] [Ord. 2012-027]

2. Exhaustion of Non-Judicial Remedies

Any applicant, the Executive Director of PZB, the BCC member representing the district in which the project or building is to be located, aggrieved by a decision of the ZC regarding an interpretation or decision regarding this shall, within 30 calendar days from the date a decision by the ZC is rendered, file an appeal to the BCC. [Ord. 2005-002] [Ord. 2011-016]

CHAPTER D PARKS & RECREATION – RULES AND RECREATION STANDARDS

Section 1 General

The Director of Parks and Recreations shall be responsible for implementing, applying, interpreting, and modifying the standards of Art. 5.D, Parks and Recreation - Rules and Recreation Standards.

A. Purpose and Intent

The purpose and intent of this Chapter is to ensure the provision of parks, on-site recreation areas, and facilities in proportion to the demand created by development. By requiring such facilities, it is the intent of this Section to ensure the provision of functionally adequate, aesthetically pleasing and safe park and recreation areas. The specific objectives of this Chapter are as follows:

1. Establish recreational standards for the development of land within unincorporated PBC;
2. Aid in the coordination of land development in PBC in accordance with orderly physical patterns;
3. Provide public and private park and recreation areas in accordance with the objectives of the Recreation Open Space Element of the Plan; and
4. Ensure that necessary recreational improvements will be provided for residents concurrent with residential development.

B. Applicability

The standards of this Chapter shall apply to all development in unincorporated PBC, or existing development that is modified to the extent that it includes residential uses or site design changes or features that were not specifically shown on the previously approved plans. All recreation areas established by this Chapter shall be continuously maintained according to the standards of this Chapter.

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Section 2 Types of Parks

A. Countywide Parks and Preservation/Conservation Areas

1. Countywide Parks

The PBC Parks and Recreation Department supplies a countywide system of public park and recreational facilities for which Level of Service (LOS) standards are established in the Recreation and Open Space Element of the Plan. For purposes of park concurrency, Regional, Beach and District Park LOS are established and Park Impact Fees assessed on new residential development to maintain the countywide park systems LOS concurrent with growth. The CIE is updated annually to include projects needed to meet countywide Comprehensive Plan LOS that will be funded through the Parks and Recreational Department's ongoing Capital Improvement Program. **[Ord. 2006-004]**

2. Countywide Park Impact Fees

Park impact fees shall be assessed according to the provisions of Art. 13.B, County District, Regional, and Beach Parks Impact Fee, as amended, to meet Countywide LOS needs for public regional beach, and district parks.

3. Reservations

Where a planned countywide Beach, Regional, District park, or Preservation/Conservation area is shown in the Plan, and a proposed development application is located in whole or part within the planned beach, regional, district park, or preservation/conservation area, such area shall be reserved for a period not to exceed two years during which time PBC shall either acquire the land or release the reservation. The time period initiating the reservation shall commence with the filing of an application for development order.

B. Community and Neighborhood Park Recreation Standards

1. Required Recreational Areas

All proposed residential development shall make adequate provisions for recreation areas to accommodate the neighborhood and community park level recreational needs of the residents of the development. The recreation areas shall consist of a developed parcel of land that includes recreational facilities of a type consistent with the needs of the residents. The recreation parcel shall be located so as to provide convenient and safe pedestrian access for the residents of the development. The recreation area shall be reserved by the developer for the perpetual use of the residents of the development. The owner of the land or a property owner's association and their successors in interest shall be responsible for the perpetual maintenance of the recreation area.

2. Calculation of Required Recreation

The required recreation area shall be the equivalent of two and one-half acres of developed land per 1,000 people population, based on the 2010 Census average Person Per Household (PPH) rate of 2.39 people per unit. Development of recreational facilities shall be of a type suitable for general neighborhood or community park use. The dollar amount to be spent on recreational improvements per acre shall be no less than 75 percent of PBC's average cost per acre for developing community and neighborhood park type facilities as calculated by the Park and Recreation Department based on the current PBC cost per acre to develop Community or Neighborhood park facilities. The minimum dollar amount to be spent on recreation facilities shall be determined by the Parks and Recreation Department at the time of final site plan submission. **[Ord. 2016-042]**

a. WCRAO

The required recreation area shall be the equivalent of one and one quarter acres of developed land per 1,000 people population, based on 2.39 people per unit. **[Ord. 2008-037]**

3. Approval

Prior to DRO certification, projects proceeding to the public hearing process shall indicate the character and location of the proposed recreation in the application for review and approval by the Park and Recreation Department. For projects requiring final site plan approval, the proposed location and configuration of the recreation area(s) and the recreational improvements shall be indicated on the plan for review and approval by the Parks and Recreation Department.

4. Reduction in Recreation Area Land Requirement

The Parks and Recreation Department may allow reduction of the recreation land area requirement by not more than 25 percent when other open space tracts are platted and made available to residents for recreational purpose and the combined value of the recreation facilities to be constructed and the resulting reduced land area exceeds the total value of the recreation land area and facilities requirement of Art. 5.D.2.B.2, Calculation of Required Recreation, by a minimum of 25 percent. **[Ord. 2006-004]**

5. Cash-Out Option

At the option of the Parks and Recreation Department, the developer may, in lieu of or in combination with Art. 5.D.2.B.2, Calculation of Required Recreation, contribute the dollar value of the total recreational area requirement of this Chapter including land and improvements of this Chapter for the entire development at the time the first plat is submitted for recording. Land value shall be based on PBC's cost to acquire land for community or neighborhood parks at the time the first plat is submitted for recording, or on a PBC approved certified MSA appraisal of the average value of the land in the development at the time of first plat. All such funds collected shall be held in a non-lapsing Park and Recreation Trust Fund for the acquisition and improvement of community or neighborhood parks according to the provisions of Art. 5.D.2.B.6, Park and Recreation Trust Fund.

a. WCRAO

At the option of the Parks and Recreation Department, with a positive recommendation from the WCRA, the developer may, in lieu of or in combination with Art. 5.D.2.B.2, Calculation of Required Recreation, contribute the dollar value of the total recreational area requirement, or convey land of equal value within the WCRA targeted area to the County, as identified by the Parks and Recreation Department or the WCRA Plan, including land and improvements for the entire development, or a portion thereof, at the time the first plat is submitted for recording or issuance of the first residential or mixed use building permit. Land value shall be based on PBC's cost to acquire land for community or neighborhood parks at the time the first plat is submitted for recording, issuance of the first residential or mixed use building permit or on a PBC approved certified MSA appraisal of the average value of the land in the development at the time of first plat or issuance of the first residential or mixed use building permit. All such funds collected shall be held in a non-lapsing Park and Recreation Trust Fund for the acquisition and improvement of the WCRA community or neighborhood parks according to the provisions of Art. 5.D.2.B.6, Park and Recreation Trust Fund. **[Ord. 2008-037]**

6. Park and Recreation Trust Fund

Monies deposited by a developer pursuant to this Chapter shall be expended within a reasonable period of time for the purpose of acquiring and/or developing land necessary to meet the need for neighborhood or community type recreational facilities created by the development in order to provide a system of parks which will be available to and sufficiently benefit the residents of the development. Monies deposited by a developer pursuant to this Chapter shall be expended to acquire and/or develop land for park purposes not farther than five miles from the perimeter of the development.

7. Other

The BCC shall establish an effective program for the acquisition of lands for the development of public parks in order to meet, within a reasonable period of time, the existing need for public parks. The annual budget and capital improvement program of PBC shall provide for appropriation of funds as may be necessary to carry out PBC's program for the acquisition and/or development of land for public parks. The funds necessary to acquire lands to meet the existing need for PBC parks must be provided from a source of revenue other than from the amount deposited in the Trust Fund.

8. Open Space Credit

Where developed recreational facilities are provided within lands required or credited for other open space purposes pursuant to this Code, (i.e., buffer areas, natural preserves, utility easements, R-O-W, drainage, or water management tracts), only credit for the cost of approved facilities may be applied towards the recreation area requirement of Art. 5.D.2.B.2, Calculation of Required Recreation, and only if the facilities are reserved for the use of the residents of the development.

9. Other Credits

Any parcel used to satisfy Parks and Recreation Standards shall meet the following requirements: **[Ord. 2006-004]**

a. Minimum Parcel Size

Minimum parcel size shall be 7,500 square feet exclusive of above ground easements and landscape buffers. **[Ord. 2006-004] [Ord. 2016-042]**

b. Minimum Parcel Width

Minimum parcel width shall average 75 feet with no dimension less than 50 feet. **[Ord. 2006-004]**

c. Minimum Parcel Depth

Minimum parcel depth shall average 100 feet with no dimension less than 75 feet. **[Ord. 2006-004]**

d. Waiver of Minimum Parcel Dimensions

The Parks and Recreation Department may reduce the minimum recreation parcel dimensions by not more than ten percent when considering location, abutting land uses, accessibility, recreation

facilities to be offered and the parcels function in the overall recreation and open space network of the development. [Ord. 2006-004]

e. Underground Easements

Underground easements are permitted in the recreation parcel with prior approval by the Director of the Parks and Recreation Department, and as long as the utility of the recreation parcel is not adversely impacted. [Ord. 2016-042]

f. Exceptions

1. CLFs may be exempt from the minimum parcel size and minimum dimensions, with prior approval by the Director of the Parks & Recreation Department. [Ord. 2016-042]
2. CLF recreational requirements may be satisfied using a combination of interior and exterior recreation areas, with prior approval by the Director of the Parks and Recreation Department. [Ord. 2016-042]

C. Passive Park

See Art. 4.B.3.C.8, Park, Passive

D. Public Park

See Art. 4.B.3.C.9, Park, Public

E. Infill Neighborhood Park

See Art. 4.B.3.C.7, Park, Neighborhood Infill

F. Phasing

Any development required to provide recreation shall follow one of the following phasing plans:

1. Single Phasing

When the development is to be constructed in a single phase, or where each phase will provide recreational facilities specifically for the residents of that phase, then the recreational site(s) for that phase shall be site planned, or platted, concurrent with that phase of construction. No more than 40 percent of the building permits for residential units shall be issued for the phase until the recreational improvements have been completed in their entirety and open for use and accessible to the residents, or unless a phasing plan for completion of the required recreation area is agreed to and approved by the Parks and Recreation Department. [Ord. 2006-004]

2. Multiple Phasing

When the development is to be constructed in multiple phases or plats and one or more required recreational site(s) is/are intended to serve the residents of two or more phases of the development, then the following sequence shall be adhered to:

- a. The recreation site(s) shall be site planned concurrent with the site plan for the first phase of residential development for which the recreational site will serve.
- b. The recreation site(s) shall be platted concurrent with the plat for the residential development phase they will serve. No more than 40 percent of the building permits for residential units shall be issued for any phase until the recreational improvements have been completed in their entirety and open for use and accessible to the residents, or unless a phasing plan for completion of the required recreation area is agreed to and approved by the Parks and Recreation Department. [Ord. 2006-004] [Ord. 2016-042]

3. Multifamily and Congregate Living Facilities

No more than 20 percent of the Certificates of Occupancy for the residential units shall be issued for the phase until the recreational improvements have been completed in their entirety and open for use and accessible to the residents, or unless a phasing plan for completion of the required recreation area is agreed to and approved by the Parks and Recreation Department. [Ord. 2016-042]

G. Public Park Landscape Standards

This section recognizes that public parks require flexibility in landscape design to address unique natural and manmade resources that serve the public. Public park landscape standards are applicable in all development Tiers and promote open views and vistas into natural landscapes, lakes, greenways, blueways, and open spaces for appreciation and benefit of the public. Deviations for publicly owned and operated public parks from the landscaping requirements of Art. 7, Landscaping, are as follows: [Ord. 2006-004] [Ord. 2008-003] [Ord. 2011-001]

1. General Standards

a. Minimum Tree Quantities

A minimum of one tree is required per 1,200 sq. ft. overall area, excluding lakes, natural areas and recreation areas. [Ord. 2006-004] [Ord. 2008-003]

b. Minimum Shrub Quantities

A minimum of one shrub is required per 1,250 sq. ft. of impervious area, excluding lakes and wetlands. [Ord. 2006-004] [Ord. 2008-003]

- c. **Interior and Perimeter Buffer Trees**
A minimum of 75 percent of required trees shall be canopy trees. Palms or pines may be counted as one canopy tree, not to exceed 25 percent of the total number of required trees. [Ord. 2006-004]
 - d. **Foundation Planting [Ord. 2006-004]**
 - 1) **Exemption**
Open air pavilions, bathrooms, scoreboxes, mechanical vaults, and similar park structures less than 2,000 sq. ft. are exempt from foundation planting requirements. [Ord. 2006-004]
 - 2) **Dimensions**
Foundation planting shall be provided along a minimum of 50 percent of front and side facades, and the rear facade if oriented towards any public use area. Width shall be a minimum of five feet along front and rear facades, where required, and eight feet along side facades. [Ord. 2006-004]
- 2. Perimeter Buffer Landscape Requirements**
- a. **R-O-W Buffers**
 - 1) **Applicability**
R-O-W buffers pursuant to Art. 7, Landscaping for public parks, open space, and golf courses, shall be exempt from the planting requirements of Table 7.C.2.A ROW Buffer Landscape Requirements. Required R-O-W buffer trees may be planted in a natural pattern within and adjacent to the designated landscape buffer. [Ord. 2006-004] [Ord. 2008-037]
 - 2) **Required Plantings**
Where parking lots, maintenance buildings and/or loading areas are located immediately adjacent to R-O-W buffers, the standards in Art. 5.D.2.G.2.a.1, shall not apply. Where shrubs plantings are required, the minimum number of layers of shrubs indicated in Table 7.C.2.A, R-O-W Buffer Landscape Requirements may be reduced to two in all Tiers. [Ord. 2008-037]
 - b. **Compatibility Buffer**
Compatibility buffers shall be a minimum of five feet in width. Public park uses adjacent to other public park open space and civic uses or pods shall be exempt from compatibility buffer requirements. Required compatibility buffers shall be exempt from the shrub planting requirements of Table 7.C.2.B, Compatibility Buffer Landscape Requirements. Required trees may be planted in a natural pattern within or adjacent to the designated landscape buffer. [Ord. 2006-004] [Ord. 2008-037]
 - c. **Incompatibility Buffer**
Incompatibility buffers shall be a minimum of 15 feet in width. The minimum number of layers of shrubs indicated in Table 7.C.2.C, Incompatibility Buffer Landscape Requirements may be reduced to two in all Tiers. [Ord. 2006-004] [Ord. 2008-037]
 - d. **Pathways in Buffers**
Pedestrian pathways, exercise trails and other related recreational trails may be allowed to meander in required R-O-W and compatibility buffers. [Ord. 2006-004]
 - e. **Berms**
Berms shall be permitted in any perimeter buffer in all Tiers. [Ord. 2006-004]
 - f. **Fences and Walls**
Walls and fences may be located along the property line, and may be exempt from the tree, shrub and hedge requirements of Art. 7.D.4.B, Walls and Art. 7.D.4.C, Fences. Vinyl coated chain link fences are permitted in any perimeter buffer in any Tier, and may be exempt from the requirements of Art. 7.D.4.C.1, Chain Link Fences. [Ord. 2006-004]
 - g. **WCRAO**
Landscape buffers shall not be required if the proposed park and recreation areas are internally integrated within the development. [Ord. 2008-037]
- 3. Off Street Parking Requirements**
- a. **Landscape Islands**
One landscape island a minimum of ten feet in width shall be required per ten spaces, in all Tiers (maximum 100 feet apart), excluding spaces that are designated for vehicles with trailers. [Ord. 2006-004] [Ord. 2018-002] [Ord. 2018-018]

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CHAPTER E PERFORMANCE STANDARDS

Section 1 Major Intersection Criteria

As specified in this Code, certain specific uses shall be located at major intersections or internal to a PDD that is located at a major intersection. For the purpose of this Chapter, to be considered a major intersection each roadway at the intersection, shall meet at least one of the following standards:

A. Four Lanes

The roadway currently exists at four lanes or more, link to link, and is shown on the Thoroughfare R-O-W Protection Map. Dedication of R-O-W or construction of additional lanes solely in front of a property shall not satisfy this standard;

B. Five Year Road Plan

The roadway appears in the Five Year Road Plan to be constructed as a major arterial of at least four lanes;

C. Traffic Volume

The current average traffic volume on the roadway is greater than ten thousand trips per day as shown on the Peak Season Traffic Volume Table published by the Palm Beach County Traffic Division; [Ord. 2009-040]

D. R-O-W

The roadway is shown on the Thoroughfare Plan as 120-foot R-O-W or greater; or

E. Upgrade Agreement

The applicant agrees to improve the roadway system to meet the standards in this Chapter as a condition of approval.

Section 2 Location Criteria

A. Purpose and Intent

To mitigate the adverse impacts created by excessive concentrations of specific uses at intersections and along roadways that adversely impact traffic flow, pedestrian circulation and visual impacts related to site layout. [Ord. 2006-004]

B. Intersection Criteria

Applicable uses shall be limited within 1,000 feet of any intersection, measured from the intersection of the centerlines of each street to the nearest exterior wall or outdoor dining area of the use. [Ord. 2006-004]

C. Separation Criteria

Any use within 1,000 feet of an intersection pursuant to the location criteria above shall be exempt from this requirement. A use shall meet the following separation criteria of any other same and existing or approved use, measured by drawing a straight line between the nearest point of the exterior wall or outdoor dining area of the proposed use to the same for an existing or approved use: [Ord. 2006-004]

1. 1000-feet; or
2. 500-feet.

D. Existing Uses

The locational and separation criteria in this Section shall have no effect on any existing uses that are conforming uses as of the effective date of this Code. Where applicable, any DOA to an existing use shall comply with Art. 4.B.2.C.33.f.3), Exception, to the greatest extent feasible. [Ord. 2006-004]

Section 3 Drainage

For all development in all districts, drainage shall be designed and constructed in accordance with the drainage and storm water management standards of Art. 11, Subdivisions, Platting and Required Improvements, except that the requirements for legal positive outfall, pursuant to Art. 11.E.1.A.3, Stormwater Management System, shall not apply to:

A. Development That Meets Both of the Following Criteria

1. The primary use is a parking lot, open storage, open sided structure with no utilities, or similar use as determined by the County Engineer.
2. The property is not located adjacent or contiguous to a drainage facility which provides access to a point of legal positive outfall

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B. Industrial Designations

Individual lots designated as Industrial on the FLUA which have a zoning designation of IL, IG, MUPD, PIPD, or SWPD are limited to industrial uses, are located 300 hundred feet or more away from connecting to legal positive outfall, and which provide either:

1. Adequate on-site lake area to store the 100 year, three day rainfall event within the limits of the lake; or
2. Store a 100 year, three day rainfall event on this site in a combination of lake and surface storage conditioned upon providing a hydrological study showing that inundation of the parking lot areas and driveways does not persist for more than 72 hours following cessation of the 100 year, three day rainfall event.

C. Security Trailers or Caretakers' Quarters Allowed In Conjunction with an Exempted Use

Any parcel meeting the above listed exemptions from the provisions of legal positive outfall shall connect to a central sewer system and shall not utilize a septic tank system.

D. Lands with Paola or St. Lucie Soil Types

Projects that are planned on lands located approximately along the I-95 corridor that consist of Paola or St. Lucie soil types which are excessively drained and have a depth to water table in excess of 8 feet, as measured from the average natural elevation of the property. In lieu of providing legal positive outfall for projects meeting the above criteria, projects shall be developed utilizing a water management system that contains the 100 year three-day storm event entirely within a designated retention area, after accounting for soil storage. Calculations showing total on-site retention shall be provided utilizing the rainfall distribution as detailed in SFWMD's Vol. IV Manual, latest edition. **[Ord. 2005 – 002]**

Section 4 Nuisances

A. General

1. Purpose and Intent

The purpose and intent of this Chapter is to regulate possible nuisances, such as excessive noise, vibration, odors, and outdoor lighting which could interfere with the peaceful enjoyment of land.

2. Applicability

This Chapter shall apply to all land in the unincorporated area of PBC, unless exempt pursuant to Art. 5.E.1.E, Upgrade Agreement.

3. Conflicts

Any conflict between this Chapter and any other provision in this Code or any other Ordinance adopted by the BCC, or provision, regulation, standard, or law adopted by Statute, the more stringent shall apply.

4. Definitions

See Art. 1.1, Definitions and Acronyms

5. Exemptions

The following are exempt from this Chapter:

a. Transportation

Sound generated from motor vehicles legally operating on any public R-O-W regulated by F.S. Chapter 316 (Uniform Traffic Control Law). Sound generated by interstate rail carriers operating on any railroad R-O-W. Sound generated by an airport, including all airport related operations. All other uses of land preempted by applicable State of Florida or Federal laws or regulations.

b. Sanctioned Activities

Sound generated by a government sanctioned activity conducted on public land or in a public R-O-W (e.g. parades).

c. Crowd Noise

Non-amplified sound generated by a crowd noises at sporting events.

d. Research and Technology Overlay (RTO)

Sound generated from a source located within the RTO.

e. Farm Operation

Bona fide agricultural operations conforming to generally accepted agricultural and best management practices.

f. AGR District

Noise, vibration, smoke, emissions, particulate matter, and odors by farm operations conforming to generally accepted agricultural and management practices in the AGR district. **[Ord. 2005-041]**

g. Temporary, Portable Power Generators

Sound generated by temporary, portable power generators used only during periods of electrical power outages in utility distribution systems maintained by the utility service provider. [Ord. 2005-041]

B. Noise Limitations and Prohibitions

In addition to the maximum sound levels set forth in Table 5.E.4.B, Maximum Sound Levels, the following activities shall be limited or prohibited as follows:

1. Prohibitions

a. Horns

Sounding a horn or other audible signal device, except as required by law or as a warning of imminent danger. The sounding of any device for an unnecessary reason or unreasonable period of time is prohibited.

b. Parks

Operating or playing any radio, television, phonograph, musical instrument, or similar device on public land or in a public R-O-W at a distance of 100 feet from the source which generates excessive noise.

c. Amplified Sound

Operating, playing or using any loud speaker, loud speaker system, sound amplifier, radio, television, phonograph, musical instrument, or similar device which generates excessive noise at the property line of inhabited residential land. This provision shall not apply to special events but shall apply to lounges, restaurants, or nightclubs.

d. Advertising

Operating, playing, or using any device which generates excessive noise at the property line that is cast or emitted upon the public streets and sidewalks for the purpose of commercial advertising or for attracting the attention of the public.

e. Machinery and Construction Work

The operation of any machinery, demolition equipment, construction equipment, excavating equipment, power tool, equipment of semi-mechanical device, or undertaking construction work which generates excessive noise at the property line of inhabited residential land between the hours of 10:00 PM and 7:00 AM. Construction work other than minor repairs by a homeowner and work permitted to an owner builder shall be prohibited on Sunday. This restriction shall not prohibit the use of pumps or machinery which, because of their nature and purpose, are required to be in operation 24 hours a day.

f. Lawn Equipment

The operation of lawn or garden maintenance equipment or machinery which generates Excessive Noise at the property line of inhabited residential land between the hours of 10:00 PM and 7:00 AM.

2. Maximum Sound Levels

- a. No person shall operate or cause to be operated any source of sound from any location in such a manner as to create a sound level which exceeds the limits set forth below in Table 5.E.4.B, Maximum Sound Levels, for more than ten percent of any measurement period, which period shall not be less than ten minutes. Sound Level Measurement Compliance shall be determined with a Type 2 or equivalent sound level meter using the A Weighting Scale in accordance with the standards of the American National Standards Institute (ANSI). All measurements shall be made with a sound meter at or within the boundary of the complaining landowner within the property lines of the receiving land.

Table 5.E.4.B - Maximum Sound Levels

Receiving Land Use Type	Sound Source	Time of Day	Maximum Sound Level	
			USA	RSA
Residential	Fixed mechanical equipment	Any time	60 dB	60 dB
Residential	Permanent Generator	See Art. 5.B.1.A.18	75 dB	75 dB
Residential	All other sources	7 AM to 8 PM	60 dB	55 dB
		8 PM to 10 PM	55 dB	50 dB
		10 PM to 7 AM	50 dB	50 dB
Commercial Nonresidential	All sources	Any time	70 dB	70 dB
Non-Residential	Permanent Generator	See Art. 5.B.1.A.18	75 dB	75 dB

[Ord. 2006-004]

3. Public Nuisance

a. Injunctive Relief

Any emission of noise the generation of sound from any source in excess of the limitations established in, or pursuant to, this Chapter shall be deemed and is hereby declared to be a public nuisance. Upon receipt of written complaint of violation of this Chapter, the Code Enforcement Officer may investigate and request the County Attorney to file injunctive proceedings to abate the nuisance. Such proceedings shall be cumulative and in addition to the penalties provided herein.

b. Civil Action

The generation of sound from any source not limited by this Code shall be considered a civil issue and addressed accordingly by law.

C. Vibration

1. Non-Industrial Districts

In all districts, except with an Industrial (IND) FLU designation, no use shall operate so as to produce ground vibration noticeable by a person of reasonable sensitivity at the property line.

D. Smoke, Emissions and Particulate Matter

1. General Requirements

No use or activity shall be operated except in full compliance with the standards controlling air pollution as provided in the laws of the State of Florida and the ordinances. **[Ord. 2006-004]**

2. Smoke

In all districts, unless otherwise covered by a specific visible emission limiting standard by a FDEP Rule or County Ordinance, every use shall be operated so as to prevent the emission of smoke from any source whatever, the density of which is equal to or greater than that designated as Number 1 on the Ringlemann Chart, or the opacity of which is equal to or greater than twenty percent. For the purpose of grading the density of smoke, the Ringlemann Chart, as published and used by the United States Bureau of Mines, or Method 9, as published in Rule 62-296 F.A.C., is incorporated herein by reference. All measurements shall be at the point of emission. **[Ord. 2006-004]**

3. Dust and Particulate

Every use shall be operated to prevent the emission into the air of dust or other solid particulate matter which may cause danger to land and the health of persons or animals at or beyond the lot line of the premises on which the use is located, in accordance with Rule 62-296 F.A.C. **[Ord. 2006-004]**

4. Objectionable Odors

No person shall cause, suffer, allow or commit the discharge of air pollutants which contribute to an objectionable odor in accordance with Rule 62-296 .320 (2) F.A.C. **[Ord. 2006-004]**

5. Toxic or Noxious Matter

No use shall for any period of time, discharge across the boundaries of a lot on which it is located, toxic or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety, comfort, or general welfare, or cause injury or damage to persons, land, or the use of land, or render unclean the waters of the state to the extent of being harmful or inimical to the public health, or to animal or aquatic life, or to the use of such waters for domestic water supply, industrial purposes, recreation, or other legitimate and necessary uses. **[Ord. 2006-004]**

E. Outdoor Lighting

1. Purpose and Intent

It is the intent of this Section to preserve, protect, and enhance the lawful nighttime use and enjoyment of any and all property through the use of appropriate lighting practices and systems. Such individual fixtures, luminaries and lighting systems are designed, constructed, and installed to: control glare and light trespass, minimize obtrusive light, eliminate the increase of lighting levels on competing sites, provide safe roadways for motorist, cyclists and pedestrians, conserve energy and resources while maintaining safety, security and productivity, and curtail the degradation of the nighttime visual environment. **[Ord. 2005-041]**

2. Applicability

All outdoor lighting shall be subject to the requirements of Table 5.E.4.D - 15, Illumination Levels, and Table 5.E.4.D - 16, Maximum Permitted Luminaire Height, unless exempted or permitted to deviate as described herein. Lighting not specifically listed may be classified by the Executive Director of PZB pursuant to Art. 1.B, Interpretation of the Code. In Addition to the standards in this Section, outdoor lighting shall be consistent with Art. 14, Environmental Standards. **[Ord. 2005-041] [Ord. 2011-016]**

a. Conflict

In the case of a conflict between this Section other provisions of this Code, or other applicable codes, the more strict regulation shall apply. [Ord. 2005-041]

b. Non-conforming Lighting

All luminaries that do not comply with the standards of this Section shall be subject to the limitations on expansion, maintenance, relocation, damage repair and renovations pursuant to Art. 1.F, Non-conformities. [Ord. 2005-041]

c. Exemptions

The following uses shall be exempt to the extent listed below: [Ord. 2005-041]

1) Residential

Single-family, townhouses, multi-family dwellings up to two units shall not be subject to the requirements of this Section. [Ord. 2005-041]

2) Street Lights

Street lights in any public ROW that meet the requirements of the appropriate public utility. [Ord. 2005-041]

3) Temporary Lighting

The temporary use of low wattage or low voltage lighting for public festivals, celebrations, and the observance of holidays are exempt from regulation except where they create a hazard or nuisance from glare. [Ord. 2005-041]

4) Landscape and Accent Lighting

Landscape and Accent Lighting fixtures that comply with the Florida Building Code, Chapter 13 Section 13-415.1ABC.2.1 efficacy requirements shall be exempt. All exempt Landscape and Accent Lighting fixtures must have a locking mechanism and a glare shield so that light is aimed, and remains aimed at the surface intended. [Ord. 2008-037]

5) Public Park and Recreation Facilities

Government owned or operated public parks and recreation facilities that are only open between dawn and dusk, shall not be subject to the requirements of this Section. [Ord. 2018-018]

d. Prohibited Outdoor Lighting

The following types of outdoor lighting are prohibited in unincorporated PBC: [Ord. 2005-041]

1) Any light that creates glare observable within the normal range of vision onto a street or creates a safety hazard; [Ord. 2005-041]

2) Any light that resembles an authorized traffic sign, signal, or device, or that interferes with, misleads, or confuses vehicular traffic as determined by the Zoning Director or Traffic Director; [Ord. 2005-041]

3) Beacon or searchlights, except for temporary grand openings and special events, as limited by State of Florida or Federal law; [Ord. 2005-041]

4) Any drop lens fixture or fixture that does not meet the IESNA Full-Cutoff classification of 0% of lumens above 90 degrees from nadir. This includes, but is not limited to, parking lot fixtures, building façade fixtures, and other non-landscape lighting fixtures. [Ord. 2008-037]

5) Animated lighting, unless authorized under Art.8, Signage. [Ord. 2005-041]

e. Deviations

Lighting may vary from this Section to the extent necessary to comply with the following: [Ord. 2005-041]

1) F.S. 655.962, related to ATM lighting; [Ord. 2005-041]

2) F.S.812.173, related to Parking lots for Convenience Businesses; [Ord. 2005-041]

3) Lighting on Public Schools required by FBC Chapter 423, and the SDPBC Electrical Design Criteria; [Ord. 2005-041] [Ord. 2012-027]

4) Airport Lighting regulated by State or Federal law; [Ord. 2005-041]

5) Lighting for obstructions to air navigation as provide U.S. Department of Transportation, Federal Aviation Administration Advisory Circular 70/7460-1K; [Ord. 2005-041]

6) Lights required on vehicles under state uniform traffic control statutes or for vessels under vessel safety statutes under F.S. 316 and 327; [Ord. 2005-041]

7) Lighting for public health required by F.S. 381; [Ord. 2005-041]

8) Electrical code statute requirements under state building code; [Ord. 2005-041]

9) F.S. 553.963 and F.S. 553.904, Efficiency and Energy Conservation Statutes under Building Code Standards; [Ord. 2005-041]

10) Lighting for outdoor theaters under F.S. 555.07; [Ord. 2005-041]

- 11) Lighting for Commercial Communication Towers under Art. 4.B.9.B.10 of the ULDC; and **[Ord. 2005-041] [Ord. 2017-007]**
- 12) Other federal, state and local laws and regulations that may apply. **[Ord. 2005-041]**

3. Submittal Requirements

a. Photometric Plan

All building permit applications that include the use of external luminaries, or luminaries visible from the exterior of a structure shall include an outdoor lighting plan and an outdoor security lighting plan showing location, type, and height of all luminaries, and photometrics in foot-candle output of all proposed and existing luminaries on-site. On-site lighting to be included in the calculations shall include, but is not limited to, lighting for parking lot, canopies, recessed lighting along the building and/or overhang. Each plan shall include any calculations or modifications required to comply with items listed in Art. 5.E.4.E.2.e, Deviations. The photometric plans shall include the following: **[Ord. 2005-041]**

- 1) A table showing the average, minimum, and maximum foot-candles, average to minimum ratio, and maximum to minimum ratio on the site, and maximum luminaire heights. Maximum photometric calculation grid shall not exceed ten feet. **[Ord. 2005-041]**
- 2) Manufacturer's catalog cuts that provide a description of the luminaries, including wattage, lumen output, glare reduction/control devices, lamps, on-off cycle control devices and mounting devices. **[Ord. 2005-041]**
- 3) All photometric plans must be signed and sealed by a licensed engineer, architect or Landscape Architect. **[Ord. 2005-041] [Ord. 2008-037]**
- 4) A Certificate of Compliance signed and sealed by a licensed engineer, architect or Landscape Architect, must be submitted prior to the issuance of a Certificate of Occupancy. **[Ord. 2005-041] [Ord. 2008-037]**
- 5) The photometric plan shall not include time averaging or other alternative methods of measurement. A Light Loss Factor (LLF) shall be used for the calculations in a photometric plan. The values of the LLF shall be a maximum value of 0.72 for Metal Halide, 0.81 for High Pressure Sodium and 0.95 for LED, based on manufacturers' initial lamp lumens. **[Ord. 2005-041] [Ord. 2008-037]**

4. Standards

a. Confinement

All outdoor lighting shall utilize full cutoff luminaries per the Illuminating Engineering Society of North America (IESNA) definition of full cutoff which allows for 0% of lumens above 90 degrees from nadir. No luminaries other than landscape lighting exempted per Art. 5.E.4.E.2.c.4, shall be directed upwards to avoid urban sky glow. In the U/S Tier, accent and landscape luminaries not exceeding 100 watts. **[Ord. 2005-041] [Ord. 2008-037]**

b. Light Trespass

The maximum illumination at the property line of an adjoining residential parcel or public ROW is 0.33 horizontal and vertical foot-candles measured at six feet above grade level. Said illumination likewise measured at the property line of an adjoining non-residential parcel, shall not exceed 3.0 horizontal and vertical foot-candles measured at six feet above grade level. **[Ord. 2005-041]**

c. Security Lighting and Time Restrictions

- 1) Full cutoff luminaires shall be used for all security lighting and dusk-to-dawn area lighting. **[Ord. 2005-041]**
- 2) Outdoor illumination, including but not limited to, areas used for outdoor sales and display, eating, parking, assembly, service, storage of equipment and freight, loading and unloading, repair, maintenance, commercial activities, and industrial activities shall not continue after 11:00 P.M., or no more than one hour after active use of the area ceases, whichever is later, except for security lighting. **[Ord. 2005-041]**
- 3) Security lighting shall be required for all active entrances to buildings, parking lots and access to buildings or parking lots. All security lighting shall maintain an average of 0.75fc, a minimum of 0.3fc and a maximum of 3fc from dusk until dawn. **[Ord. 2005-041] [Ord. 2008-037]**
- 4) No outdoor recreational facility shall be illuminated after 11:00 P.M. except to conclude a scheduled and sanctioned recreational or sporting event by PBC or other authorized agency in progress prior to 11:00 P.M. The luminaries shall be extinguished after outdoor recreational events are completed and the site has been vacated. **[Ord. 2005-041]**

a) Exceptions

Public recreational facilities such as boat ramps, fishing piers, or other similar facilities that operate or are open to the public on a 24 hour basis. [Ord. 2005-041]

- 5) Automatic timing devices with a photosensor or an astronomical timeclock, which control the hours of illumination shall be required for all parking lots, car dealerships/outdoor display lots and parking garages. These devices may remain on Eastern Standard Time throughout the year. [Ord. 2005-041] [Ord. 2008-037]

d. Illumination Levels

Table 5.E.4.E, Illumination Levels, indicates the minimum and maximum illumination levels for specific site elements, as well as the maximum to minimum, and average to minimum ratios. [Ord. 2005-041]

Table 5.E.4.E - Illumination Levels

Outdoor Lighting	Maximum Illumination (1)	Minimum Illumination (1)	Max to Min Ratio	Average to Min Ratio
Buildings and Accessory Structures				
a. Pathway Lighting (2)	5.0 (5)	-	-	-
b. Canopies, Drive-thru and Overhangs	30.0	3.0	10:1	2.5:1
Parking Lots				
a. Multi-family Residential	3.0	0.3	10:1	-
b. All Others	12.0	1.0	12:1	3:1
Parking Structures				
a. Parking Area	10.0	1.0	10:1	4:1
b. Ramps – Day	20.0	2.0	10:1	-
c. Ramps – Night	10.0	1.0	10:1	-
d. Entrance Area – Day	50.0	5.0	10:1	-
e. Entrance Area – Night	10.0	1.0	10:1	-
f. Stairways	-	10.0	-	-
Property Boundary	Refer to Light Trespass			
Specialty Lighting (4)				
a. Golf Courses	Per IESNA Lighting Handbook			
b. Outdoor Entertainment				
c. Parks				
Other Lighting Types				
a. Outdoor Display and Storage for vehicle sales and rental.	15 (3)	1.0	15:1	4:1
b. Other Outdoor Display and Storage Areas.	20	1.0	15:1	4:1
c. Outdoor Work Areas	20	1.0	15:1	4:1
[Ord. 2005-041] [Ord. 2008-037] [Ord. 2010-005]				
Notes:				
1. Measured in foot-candles.				
2. Building or accessory mounted luminaires used to light parking lots shall comply with Parking Lot illumination levels.				
3. May be increased to 20 foot-candles for the first row of display parking located adjacent, but not more than 100' from a ROW.				
4. Applicable to outdoor recreation areas only, excluding areas such as parking lots, drive isles, pathways, building and landscape lighting.				
5. Fully shielded bollards not greater than 42 inches in height may be permitted up to 20 foot-candles.				

e. Luminaire Heights

Table 5.E.4.E, Maximum Permitted Luminaire Height, identifies the maximum height for any freestanding or structure mounted luminaires.

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Table 5.E.4.E - Maximum Permitted Luminaire Height

Location	Maximum Height	
	U/S Tier	Rural, Exurban and AGR Tiers
Buildings and Accessory Structures		
a. Buildings	25 feet or eave overhang, whichever is lower (unless required by the Florida Building Code)	
b. Accessory Structures	10 feet	8 feet
Parking Lot		
a. Residential	20 feet	15 feet
b. Industrial	40 feet	-
c. Commercial, Civic and Institutional	30 feet, or equal to the height of the building up to a maximum of 40 feet	25 feet
Parking Structures		
a. Luminaires on top parking level.	20 feet or 25 feet (4)	15 feet
Property Boundary		
a. Luminaires within 100 feet of residential (2)	20 feet	15 feet
Specialty Lighting (3)		
a. Golf Courses	Per IESNA Lighting Handbook	
b. Outdoor Entertainment		
c. Parks		
[Ord. 2005-041]		
Notes:		
1. For the purposes of this table, residential parcel shall include any residential use, or any vacant parcel with a residential FLU designation.		
2. The height of any lighting luminaire within 100 feet of a parcel with a residential use or FLU designation shall be limited in accordance with the height limitations for Property Boundary, Residential.		
3. Applicable to outdoor recreation areas only, excluding areas such as parking lots, drive isles, pathways, building and landscape lighting.		
4. Minimum setback shall be 45 feet from exterior edge of wall for all luminaries, except luminaries mounted to interior face of perimeter wall, which do not exceed the height of the perimeter wall.		

f. Measurement

- 1) Illumination levels shall be measured in foot-candles with a direct-reading, calibrated, portable light meter. The light meter shall be placed not more than six inches above grade level. **[Ord. 2005-041]**
- 2) For the purpose of measuring light trespass, the light meter shall be placed at the property line of the subject parcel six feet above the grade level. **[Ord. 2005-041]**

Section 5 Hours of Operation

Hours of operation relate to the time during which the use is open to the public for business. For uses not open to the public, hours of operation shall be the time in which the use has employees working. **[Ord. 2017-007]**

A. Proximity to Residential

Any non-residential use shall be subject to the hours of operations indicated in Table 5.E.5.A, Hours of Operation, when located within 250 feet of a parcel of land with a Residential FLU designation or use, unless stated otherwise. Mixed uses located in the following zoning districts shall not be considered residential uses for the purposes of hours of operation: Neighborhood General (NG), Neighborhood Commercial (NC) and Urban General (UG) Sub-areas of the WCRAO and UC, UI, MXP, and TMD. **[Ord. 2017-007] [Ord. 2017-025] [Ord. 2018-018]**

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Table 5.E.5.A - Hours of Operation

Nonresidential Use Classification	Hours (1)
Commercial	6:00 a.m. to 11:00 p.m.
Recreation	6:00 a.m. to 11:00 p.m.
Institutional, Public and Civic	6:00 a.m. to 11:00 p.m.
Industrial with outdoor activities	7:00 a.m. to 7:00 p.m. (Monday – Saturday)
Industrial without outdoor activities	6:00 a.m. to 11:00 p.m. (Monday – Saturday)
Transportation	7:00 a.m. to 11:00 p.m.
Temporary	6:00 a.m. to 11:00 p.m.
Accessory Nonresidential Uses to Residential Uses	7:00 a.m. to 7:00 p.m.
[Ord. 2017-007] [Ord. 2018-018]	
Notes:	
1	Stocking activities or deliveries for nonresidential uses are subject to the hours listed above when located within 250 feet of a parcel of land with a residential use or FLU designation. Ord. 2018-018]

B. Measurement

Measurement shall be taken by drawing a straight line from the property line of the residential use or FLU designation to the closest point of the loading area, the exterior wall, structure, or bay housing the non-residential use. **[Ord. 2009-040] [Ord. 2017-007] [Ord. 2018-018]**

C. Existing Uses

Uses existing prior to this amendment may comply with the requirements existing at the time the use was established, unless modified by a subsequent Development Order. **[Ord. 2009-040] [Ord. 2017-007]**

D. Exemptions

Uses owned or operated by a governmental entity that provide essential services for the public, as determined by the Zoning Director, shall be exempt from these standards. **[Ord. 2009-040] [Ord. 2017-007]**

E. Type 2 Waiver

Hours of Operation may be altered pursuant to Art. 2.B.7.D, Type 2 Waiver. **[Ord. 2018-018]**

CHAPTER F LEGAL DOCUMENTS

Any legal documents requiring PBC approval shall be reviewed prior to submission by a licensed attorney. This shall include documents required by Code or as a condition of any land use approval. For the purposes of the provisions, “legal documents” shall include, but not be limited to, the following types of documents: restrictive covenants, easements, agreements, access agreements, removal agreements, unity of control, and unity of title. Any document that follows exactly the language of a PBC-approved form is exempt from this requirement.

Section 1 Maintenance and Use Documents

A. Purpose and Intent

This Chapter is established to ensure that adequate ownership and maintenance measures will be provided in residential and other developments to protect and perpetually maintain all common areas or other required areas (including improvements located upon or within the common areas) required pursuant to this Code or other applicable PBC ordinances or regulations. This Chapter is also established to ensure the continued availability and utility of the common areas for the residents or occupants of the development and to prevent such facilities or the need for such facilities from becoming an unnecessary burden or nuisance to the PBC or surrounding property. Nothing in this Chapter shall be construed as creating any obligation upon the PBC to maintain such common areas or their improvements or to otherwise ensure their availability and condition.

B. Applicability

This Chapter shall apply to all developments subject to review by the DRO as delineated elsewhere in this Code. Developments for which waivers of platting are administratively obtained shall also comply with the requirements of this Chapter. **[Ord. 2010-022]**

C. Exception

Generally, the maintenance and use documents requirement shall not apply to lands or improvements to be owned and maintained under a condominium or cooperative. The developer of any lands to be owned and maintained under a condominium or cooperative shall establish and regulate those in accordance with the requirements set forth by The State of Florida. If the condominium or cooperative is located within a PUD, though, additional PBC document requirements may apply.

D. General Requirements

A developer shall submit documents establishing maintenance and use of the common areas of a proposed development and other required areas at the point in the development process set forth in Art. 11.D, Platting, or as required as a condition of approval by any decision making or administrative body of PBC. All documents shall be reviewed and approved by the County Attorney's office prior to recording in the public records. The recording of the documents and all associated fees shall be the responsibility of the developer. All documents shall be recorded as approved by the County Attorney's office, and copies of the recorded documents shall be submitted to the PBC when requested.

E. Documents Establishing Maintenance and Use

The type of document required to establish use rights and responsibility for maintenance of the common areas and private preserve areas of a development depends upon the nature of the development.

1. Developments Including a Subdivision of Five or More Lots

A POA shall be required. Developer shall submit a Declaration of Covenants and Restrictions, Articles of Incorporation, and By-Laws. If there are to be party walls within the development, the Declaration of Covenants and Restrictions shall include a Declaration of Party Wall. This requirement applies to both residential and non-residential developments.

2. Subdivisions of a Maximum of Four lots

A POA may or may not be required depending upon the individual subdivision. The determination shall be made by the County Attorney's Office. If a POA is required, then the submittal requirement shall be as listed above. If a POA is not required, then the developer shall submit a Unity of Control. If there are to be party walls within the development, a Declaration of Party Wall shall be included in the submission.

3. Rental Projects

A Unity of Title shall be submitted for a development that will be owned and maintained by a landlord for the benefit of lessees residing on or occupying leaseholds on a Lot or Parcel.

F. Content Requirement for Documents

The following shall be the minimal content requirements for documents. Provisions which do not conflict with any PBC requirements may also be included.

1. Property Owner's Association (POA) Documents

a. Declaration of Covenants and Restrictions

1) Legal Description

a) For Master Property Owner's Associations

Where applicable, all property included within the Master Plan for a Development Order, regardless of how many phases, shall be subjected to the terms of the declaration at the time the first plat of the development is recorded. Property shall not be withdrawn from the terms of the declaration unless it is also withdrawn from the Master Plan. This shall also apply to any affected portion of an AGE Allocation Plan with a Development Order for a Rezoning, Conditional Use, or related Development Order Amendment subject to the requirements of the AGEO. [Ord. 2010-022] [Ord. 2017-007]

b) For Sub-Associations

All property included within a plat in which a sub-association is named in a dedication/reservation shall be subjected to the terms of the declaration for that sub-association at the time the plat is recorded.

2) Definition

There shall be a declaration in which, minimally, the following terms (or similar terms) are defined: association, common areas, member, properties, declarant/developer, unit/lot/parcel. The definition of association shall include the name of the POA responsible for maintaining the common areas of the development. The association named here must be the same association that accepts the dedications/reservations on any plat of the development. The association shall be a State of Florida corporation not for profit. The definition of common areas shall include the phrase "any area dedicated to or reserved for the association on any recorded plat or replat of the Properties".

The definition of member shall reflect the requirement that all persons or entities holding title to any portion of the properties shall be voting members of the association. In the case of a master association, this may be accomplished either by direct membership by all owners or by the owners' sub-association membership with the sub-association(s) being the voting member(s) of the master association. The definition must specifically allow direct membership for any owner who is not a member of a represented sub-association.

The definition of properties shall include all the property subject to the terms of the declaration including any added by amendment to the declaration. The definition of declarant/developer shall include successors and assigns. The definition of unit/lot/parcel shall identify the division of property by which membership in the association is defined and shall be consistent with the terms used to define member in the declaration.

3) Association Structure and Responsibilities

There shall be provisions for the following:

- a) All persons or entities owning any portion of the development shall automatically become members of the association;
- b) All members of the association shall be entitled to vote on association matters;
- c) The association shall have the authority to assess all members for association expenses including, but not limited to, the cost of maintaining the common areas;
- d) All members of the association, except any governmental entity, which may own property in the development, shall be subject to assessments by the association. The developer shall either pay assessments or fund the deficit in the association's operating budget until he has turned over control of the association. After he has turned over control of the association, he shall pay assessments for any lot(s) he may still own;
- e) The association shall have the authority to place a lien on a member's property for any unpaid assessment;
- f) The developer may control the association while development is ongoing. He must, however, establish in the declaration a definite time by which he will turn over control of the association to the owners; and
- g) The declaration shall provide that the association shall be responsible for the maintenance of the common areas and private preserve areas. Maintenance responsibility may be delegated to a sub-association or to an individual lot owner (in the case of certain limited use areas), but the delegating association shall be responsible in the event the sub-association or the lot owner fails to maintain any portion of the common area or other required areas.

4) Common Areas

The common areas shall be defined to include any area dedicated to or reserved for the association on any recorded plat of the properties. The developer shall state at what point he will deed the common areas to the association.

5) Easements

The following easements shall be granted or confirmed if already established by recorded plat or grant of easement:

- a) Ingress/egress easements for members, their guests, and licensees;
- b) Utility easements for installation, maintenance, and repair by any utility company, including cable, servicing the development;
- c) Drainage easements;
- d) Maintenance easements for maintenance of the common areas. If the association will need access to an owner's property to fulfill its maintenance obligation, the easement should be granted here;
- e) Encroachment easements for accidental encroachment onto the common area;
- f) Common area easement for use by all members of the association and their guests;
- g) Developer's easement to allow developer access as needed to complete construction of development;
- h) Public service for police protection, fire protection, emergency services, postal service, and meter reading;
- i) Zero-lot line (ZLL) easement, if applicable. An easement with a minimum of two feet in width, and contiguous to the ZLL boundary shall be established for the purpose of incidental encroachment, access and maintenance; or **[Ord. 2013-001]**
- j) All easements, with the exception of the developer's easement, shall be perpetual.

6) Architectural Control

Any provisions included in the declaration regarding architectural control should be consistent with PBC regulations. It should be noted in the declaration that nothing in the declaration should be interpreted as an exemption from compliance with PBC regulations.

7) General Provisions

There shall be provisions for the following:

a) Duration

The declaration shall run with the land for a minimum of 20 years with provision for automatic renewal;

b) Enforcement

The association, the individual members, and the developer shall all have the ability to enforce the terms of the declaration;

c) Amendment

The method by which the declaration may be amended shall be established. If the developer is given a separate right for amending the declaration, his right shall not survive the turnover of control. No amendment that withdraws property from the terms of the declaration shall be recorded unless approved in writing by the County Attorney's office. No amendment inconsistent with the requirements of this Chapter shall be recorded unless approved in writing by the County Attorney's office. Nothing contained herein shall create an obligation on the part of the County Attorney's office to approve any amendment.

d) Dissolution

Any owner may petition the Circuit Court for the appointment of a receiver to manage the affairs of the association in the event of dissolution of the association.

b. Articles of Incorporation

- 1) All terms shall be consistent with the terms of the Declaration and By-Laws.
- 2) The POA shall be a State of Florida corporation not-for-profit with, minimally, the authority to maintain common areas or other required areas, assess members for operating costs, place liens on members' property for failure to pay assessments, and enter into agreements with governmental entities.

c. By-Laws

All terms shall be consistent with the terms of the declaration and articles of incorporation.

2. Declaration of Party Wall

A declaration of party wall shall be recorded whenever there are shared walls in a development. The declaration may be a part of a declaration of covenants and restrictions or it may be recorded as a separate instrument. It should address the following:

- a. Repair of the wall is a joint obligation and expense unless damage is caused by the negligence of one party. In that case the cost of repair is the obligation of that party alone;
- b. Repair or replacement of the wall shall be to its original construction;
- c. Each party shall have the right to file a lien for the cost of repairs;
- d. The mortgagee shall have the same rights as the mortgagor;
- e. Structural changes in the wall are prohibited;
- f. If there is a common roof, the same provisions shall apply;
- g. If access and/or parking are to be shared, there should be an easement granted to accommodate that; and
- h. This shall be a covenant running with the land.

3. Unity of Control

A unity of control shall be recorded against a subdivision of a maximum of four lots if the County Attorney's Office has exempted the subdivision from the requirements for a POA. The unity of control shall contain the following:

- a. Legal description of the property subject to the terms of the unity of control. This shall include all property included in the master plan for the development;
- b. Creation of perpetual cross-access, parking, drainage, and utility easements for the benefit of all owners of the development;
- c. Maintenance responsibilities for all common areas of the development and method by which maintenance costs shall be shared; and
- d. Establishment of these provisions as covenants running with the land.

4. Unity of Title

The owner of a rental project shall record against his property a unity of title. The unity of title, which shall be a covenant running with the land, shall provide that the property shall be considered one plot and parcel and that no portion of the property may be conveyed to another owner. The County Attorney's office, after consulting with the Zoning and Land Development Divisions, may agree to release the unity of title provided that covenants establishing maintenance and use are recorded in its place. The cost of recording the unity of title and/or a release shall be the responsibility of the owner.

Section 2 Easements

A. Easement Encroachment

1. Minor Encroachments

Minor encroachments of buildings and structures may be allowed within an easement in accordance with this Chapter.

2. Major Encroachments

Buildings or structures designed for human occupancy, screen enclosures, pools, or spas shall not be permitted within any easement unless otherwise provided for in this Section. **[Ord. 2010-005]**

3. Incompatible Uses

No construction shall be permitted within any easement where such construction is incompatible with the use for which the easement was established. If the terms of the easement, statute, law, ordinance, rule, regulation, or approval pursuant to which the easement was established prohibits or excludes the use, such use shall be considered incompatible. The burden shall be on the applicant to demonstrate that the proposed construction is or will not become incompatible with the purpose for which the easement was established, or impair the rights of the easement holders and beneficiaries. The determination of whether a use is incompatible with the purpose for which an easement was established shall be made by the appropriate regulating agency(s) in accordance with this Chapter.

4. Application Process

Buildings and structures, which are not prohibited pursuant to Art. 5.F.2.A.2, Major Encroachments, shall be subject to the following:

- a. If an application for a building permit includes construction in an easement, the application shall include consent from all easement holders and beneficiaries. The consent shall be specific to the proposed construction and in a form acceptable to PZB; and
- b. Prior to the issuance of the building permit, the applicant shall record an executed removal and indemnification declaration. The removal and indemnification declaration shall inure to the benefit of the easement holders and beneficiaries.

5. All Other Approvals Required

- a. All other government permits, approvals, or consents necessary for the construction shall be obtained prior to commencement of the construction.
- b. Compliance with this Chapter shall not be construed to relieve the applicant from obtaining any required approvals, if applicable, for encroaching into the affected easement.
- c. Nothing herein shall be construed as affecting any right to construct except to the limited and strict extent of any approval granted hereunder. An approval granted in accordance with this Chapter is for the limited purpose of complying with this Chapter only.

6. Accountability

The applicant is responsible for providing and representing true, accurate and correct information. Except as specifically set forth herein, no PBC official, employee, or agent shall have the duty of

- a. searching the Official Records of the Clerk of the Circuit Court, or
- b. conducting any other investigation to determine whether a permit application or request for PBC approval is inconsistent with the use for which an easement was established; whether an easement exists in the area within which a permit for construction/development is sought; or **[Ord. 2005 – 002]**
- c. whether any other government or private approvals are required for construction or development for which the permit is sought. However, PZB, DEPW or any other department, official employee, or agent may undertake an investigation, search, or inquiry to determine the aforesaid. **[Ord. 2005 – 002]**

7. Modifications

- a. If, upon inspection, the construction is found to be materially different than that which was approved by PBC, then the approval shall be of no force and effect and the construction shall be removed immediately, unless the modification is approved by the department having jurisdiction pursuant to this Chapter.

B. Drainage Easement Encroachments

1. All construction in a drainage easement shall be subject to approval by the beneficiary of said easement. Further, the Land Development Division (LDD) shall approve all encroachments into easements which drain County roads. **[Ord. 2010-005] [Ord. 2010-022]**
2. If a building permit is required, the applicant shall obtain approval from the LDD or appropriate entity prior to submitting the building permit application to PZB. **[Ord. 2010-005] [Ord. 2010-022]**

3. When approval is required from LDD, the applicant shall submit a request to encroach a drainage easement in or on a form established by the LDD and include a copy of the recorded deed to the parcel on which the easement is located; the document creating the easement; a certified sketch of survey of the easement; a sketch or plans showing the proposed construction in relation to the location of existing drainage improvements in the easement; and such other documentation as the LDD reasonably deems appropriate **[Ord. 2010-005] [Ord. 2010-022]**
4. When encroachments are proposed in easements which drain County roads, the LDD may deny, approve, or approve with conditions the construction. **[Ord. 2010-005] [Ord. 2010-022]**
5. When approval is required from LDD, no approval shall be given before the LDD has received specific written consent from all easement holders, easement beneficiaries, and governmental entities or agencies having jurisdiction of the drainage easement. The LDD is hereby authorized to effect consent on behalf of PBC when PBC is the easement holder or beneficiary of a drainage easement. The LDD may require that consent be in or on a form established by the LDD. **[Ord. 2010-005] [Ord. 2010-022]**
6. For easements which drain County Roads, the LDD shall also have executed in proper form, and shall cause to be recorded against the applicant's land involved, a removal and indemnification declaration (with the necessary consents) on a form approved by County Attorney's Office. Said declaration shall provide that all direct and indirect costs related to removal shall be borne by the property owner, its heirs, successors, assignees, and grantees; that the aforesaid person(s) shall indemnify and hold PBC, its officers, employees, contractors, and agents harmless against any and all claims and liabilities of whatever nature (including personal injury and wrongful death) arising from any approval granted hereunder or the construction or installation approved hereunder. The removal declaration shall inure to the benefit of the easement holders and beneficiaries. It shall contain such other terms and covenants as the LDD or the County Attorney deems appropriate. Proof of the recording of the document shall be furnished to PZB with the application for a building permit. **[Ord. 2010-005] [Ord. 2010-022]**
7. Construction in or overlapping a drainage easement approved by the LDD shall comply with the provisions of Sections: 2.A.5, 2.A.6, and 2.A.7 of this Chapter. **[Ord. 2010-005]**

CHAPTER G DENSITY BONUS PROGRAMS

The WHP, AHP or the TDR Program are the required methods for increasing density above the maximum density permitted by a property's FLUA designation within unincorporated PBC, unless an applicant can both justify and demonstrate a need for a Site Specific FLUA Amendment and demonstrate that the current FLUA designation is inappropriate, as outlined in Art. 2.H, FLU Plan Amendments. **[Ord. 2008-003] [Ord. 2010-005]**

Section 1 Workforce Housing Program (WHP)

A. Purpose and Intent

The WHP implements HE Policies 1.1-o and 1.5-g of the Plan, among others, by establishing an Inclusionary WHP. The program mandates or encourages the development and equitable geographic distribution of workforce housing units for low, moderate 1 and Moderate 2, and middle-income households, ensures a minimum affordability period, and provides for a density bonus and other incentives. The program is intended to increase the supply of housing opportunities for persons employed in PBC in jobs that residents rely upon to make the community viable. **[Ord. 2006-055]**

B. Applicability

In cases of conflict between this Chapter and other Articles of this Code, the provisions of this Chapter shall apply. The WHP shall apply to all new developments with a residential component of 10 or more dwelling units. For existing projects proposing 10 or more dwelling units, the program shall apply to those units being added. Requirements and limitations are further defined in Table 5.G.1.B, Workforce Housing Program. **[Ord. 2006-055] [Ord. 2010-005]**

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Table 5.G.1.B - Workforce Housing Program

Applicability		
Location:	Threshold	Required > or = to 10 residential dwelling units
	Tier or Overlay	U/S
	FLU (1)	LR-1, LR-2, LR-3, MR-5, HR-8, HR-12, HR-18, UC and UI
Density Bonus Incentive		
LR-1 thru LR-3		up to 30%
MR-5 thru HR-18 (2)		up to 100% (Pre-App required for > 30%)
UC or UI		N/A
Required % of WHP Units (3)		
Standard Density		5%
Maximum Density		16%
WHP Density Bonus		34%
UC or UI		15%
Required WHP Ranges (4)(6)		
Low (60-80%)		25%
Moderate 1 (> 80-100%)		25%
Moderate 2 (> 100-120%)		25%
Middle (> 120 or ≤ 140%)		25%
Provision of Units		
Option 1	Construct units off site. (Art. 5.G.1.G.1)	
Option 2	Purchase existing market rate units and deed to the County or sell to eligible households and deed restrict. (Art. 5.G.1.G.2)	
Option 3	Donate build-able land acceptable to the County in an amount = or > than the buyout cost. (Art. 5.G.1.G.3)	
Option 4	In-lieu Payment. (Art. 5.G.1.G.4)	
[Ord. 2006-055] [Ord. 2007-013] [Ord. 2010-005] [Ord. 2010-022]		
Notes:		
<p>1. Shall also apply to mixed use projects with applicable underlying FLU designations for Commercial and Industrial Mixed Use Development. [Ord. 2006-055]</p> <p>2. A density bonus of > 30% shall be permitted subject to meeting the additional standards of Art. 5.G.1.H, Additional Requirements for > 30% Density Bonus. [Ord. 2006-055]</p> <p>3. Percentages shall be rounded up to the nearest whole number. [Ord. 2006-055]</p> <p>4. Based on County Median Income. Where assigning units to a category, priority may be given to middle income first, proceeding downward to low income (i.e. where 3 units are required, the first shall be middle [> 120 or ≤ 140%]; the 2nd Moderate 2 [> 100-120%]; and, the 3rd Moderate 1 [> 80-100%]). This does not prohibit allowing higher numbers of lower income units. [Ord. 2006-055] [Ord. 2007-013] [Ord. 2010-005]</p> <p>5. All units not located on site shall comply with requirements of onsite units. [Ord. 2006-055] [Ord. 2010-005]</p> <p>6. UC or UI applications: Consideration may be given to additional affordable housing household incomes in developments requesting all or a portion of the 15% unit requirement within their proposal be based on the programmatic requirements imposed by a governmental agency providing affordable housing funding or by an entity with programmatic requirements (e.g., Habitat for Humanity or a Community Land Trust). The final determination is to be made by the Planning Director or designee. [Ord. 2010-022]</p>		

1. Exemptions

- a. Projects utilizing the AHP shall not be subject to the requirements of the WHP. **[Ord. 2010-005]**
- b. All congregate living facilities (CLFs); and, nursing or convalescent facilities. **[Ord. 2006-055]**

2. Limitations

WHP units shall not be subject to restrictions beyond income qualifications. **[Ord. 2010-005]**

3. Income Ranges

There are four targeted income range categories in the WHP pursuant to Table 5.G.1.B, Workforce Housing Program. Applicants shall not be required to provide units in a category when the category price is greater than the median sales price for the County. These units would be eligible for the In-Lieu payment pursuant to Art. 5.G.1.G.4, Option 4 – In Lieu Payment, or distributed equally among the remaining targeted income ranges. **[Ord. 2010-005]**

4. When WHP and AHP Units are Proposed

The Planning Director shall make a determination as to which program shall be followed when projects include units targeting both income groups. **[Ord. 2010-005]**

C. Development Options

1. No Incentives

A proposal requesting no additional WHP density bonus; TDR units; WHP - TPS special methodology mitigation; WHP expedited review; WHP site plan regulation options; or any additional WHP incentive shall comply with the following: **[Ord. 2010-005]**

- a. All dwelling units proposed shall be required to target households with incomes from 60 percent to 140 percent of AMI. **[Ord. 2010-005]**

- b. To be eligible no more than 90 percent of the total project units can be built within any one of the four targeted income categories; all other units must be built in any one, or any combination thereof, of the remaining three income categories. **[Ord. 2010-005]**
- c. All for sale units which includes attached and detached housing types shall be required to be income restricted for a period of 7 years (non-recurring) **[Ord. 2010-005]**
- d. All units within a rental development utilizing this development option will be required to be income restricted for a period of 30 years (non-recurring). **[Ord. 2010-005]**
- e. Projects developed under this option shall not be permitted to utilize the payment in lieu of construction provisions as outlined in Art. 5.G.1.B.3, Income Ranges or Art. 5.G.1.I.5, Release of Obligation to Construct WHP For Sale Units. **[Ord. 2010-005]**

2. Limited Incentive

An applicant may receive no more than 50 percent of the potential density bonus as provided in this Chapter. **[Ord. 2011-001]**

- a. The required percentage of WHP units will also be limited to: 2.5 percent of Standard Density; 8 percent of PUD Density and 17 percent of the WHP density bonus. **[Ord. 2010-005]**
- b. 50% of the required WHP units shall be set aside for low income households (households that earn between 60 percent and 80 percent of the County's median income) and 50 percent of the required WHP units shall be set aside for moderate 1 income households (households that earn between 80 percent and 100 percent of the County's median income). **[Ord. 2010-005]**
- c. The WHP - TPS special methodology mitigation, the WHP expedited review, the WHP site plan regulation options and any additional WHP incentives will be available if requested. **[Ord. 2010-005]**
- d. All for sale units shall be income restricted for a period of 15 years (recurring). Each WHP unit shall be sold, resold, or rented only to Low or Moderate 1 income qualified households and the WHP restrictions remain in effect for 15 years from the date each unit is first purchased or rented, In the event a unit is resold before the 15 year period concludes, a new 15 year period shall take effect on the date of resale. **[Ord. 2010-005]**
- e. All units within a rental development utilizing this development option will be required to be income restricted for a period of 30 years (non-recurring). **[Ord. 2010-005]**

3. Full Incentive

A proposal requesting consideration for all available WHP incentives, as indicated in the following Table 5.G.1.B, Workforce Housing Program, and following text. **[Ord. 2010-005]**

D. Design Requirements

1. Design

WHP units shall be designed to be compatible with the overall project, as follows: **[Ord. 2006-055]**

- a. All WHP units shall be constructed on site, unless approved otherwise in accordance with Art. 5.G.1.G, WHP Off Site Options; **[Ord. 2006-055]** **[Ord. 2010-055]**
- b. All affordable units shall be designed to a compatible exterior standard as other units within the development or pod/phase and shall be comparable with the surrounding land uses; and **[Ord. 2006-055]** **[Ord. 2010-005]**
- c. Required WHP units may be clustered or dispersed throughout the project. **[Ord. 2006-055]**

E. WHP Incentives

All projects with 10 or more residential units shall be eligible for WHP Incentives. **[Ord. 2006-055]**

1. Density Bonus

Table 5.G.1.B, Workforce Housing Program, delineates the ranges of density bonus allowed for the WHP. For the purposes of this Section, permitted density shall be the number of units allowed by the standard density allowed by the Plan; or, the maximum density allowed by the Plan, where developed as a PDD, TDD or other density provision of the Plan. TDR units or any other density bonus shall not be included as part of the permitted density for purposes of calculating the WHP density bonus. To ensure compliance with the compatibility requirement of HE Objective 1.5 of the Plan, projects requesting a density bonus greater than 30 percent shall be subject to the requirements of Table 5.G.1.E, Review Process, and Art. 5.G.1.H, Additional Requirements for > 30% Density Bonus. **[Ord. 2006-055]**

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Table 5.G.1.E - Review Process

Density Bonus	DRO Approval	Class A Conditional Use
Standard District > 30% - 50%	X	
Standard District > 50% - 100%		X
PDD or TDD > 30% - 100%		X
[Ord. 2006-055] [Ord. 2017-007]		

2. Traffic Performance Standards Mitigation

a. WHP Special Methodologies

TPS mitigation shall be permitted for WHP projects in accordance with County Comprehensive Plan Transportation Element Policy 1.2-d (4). [Ord. 2006-055] [Ord. 2011-016]

b. WHP Traffic Concurrency Hall Pass

TPS mitigation shall also include the option of applying for a WHP Traffic Concurrency Hall Pass separate from a development order application. The WHP Traffic Concurrency Hall Pass serves as a provisional traffic concurrency approval for a period of not more than 90 days, during which it must be merged into an application submitted for a Concurrency Reservation approval. The WHP Traffic Concurrency Hall Pass is described further in Art. 2.F, Concurrency (Adequate Public Facility Standards). [Ord. 2006-055]

3. Expedited Review

The following expedited review processes may apply to a proposed WHP development: [Ord. 2006-055]

a. Design Review

Review of multifamily or townhouse structures by the Building Division and Fire Rescue shall be allowed concurrent with final DRO review, prior to permit application. [Ord. 2006-055]

b. Platting

- 1) If only a boundary plat is required for an existing single lot, building permits may be issued after submittal of the final plat for recordation. [Ord. 2006-055]
- 2) If a subdivision plat is required, permits will be concurrently reviewed, but only issued at recording of the plat. [Ord. 2006-055]
- 3) Pursuant to Art. 3.E.1.G.1.a, Permits, Building permits may be issued for sales offices, sales models, gate houses, entry features, and utilities may be issued prior to the recording of a final plat. [Ord. 2006-055]

4. Density Bonus Development Options

a. Purpose and Intent

To provide flexibility from property development and other related regulations in order to provide greater opportunity for cost effective development of WHP units. These provisions are not intended to supersede deviations that are normally addressed through the variance process. These options shall only be granted at the time of approval for the entire project, and shall not be granted on a lot-by-lot basis. [Ord. 2006-055]

b. Applicability

Projects with ten or more units that utilize a density bonus incentive and are subject to the requirements of the WHP may utilize the Development Options listed herein. [Ord. 2006-055]

c. Justification Report

Use of Density Bonus Development Options shall not be granted by right, and shall require submittal of a justification report that demonstrates that deviations are the minimum needed to allow for the use of density bonus incentives. The report shall include the following: [Ord. 2006-055]

- 1) The regulations that are proposed to be modified. [Ord. 2006-055]
- 2) The amounts and specifics of the requested deviation(s). [Ord. 2006-055]
- 3) The areas within the development that the deviation(s) will be applied to. [Ord. 2006-055]
- 4) Graphic representations such as, but not limited to, site plans, elevations, perspectives, and typical examples, showing how the deviations will meet the intent of the district and WHP with emphasis on open space, privacy, maintenance, and public health, safety and welfare. [Ord. 2006-055]

d. Site Plan Approval

All projects requesting Density Bonus Development Options, shall submit an application and site plan to the DRO for certification where applicable, and for final site plan approval for all others. The site plan shall indicate in the tabular data all Development Options requested and where

feasible, a regulating plan shall be included to provide typical examples. Approval shall be granted only for the minimum deviations needed to allow for the use of density bonus incentives and where the requirements of all applicable reviewing agencies have been met. **[Ord. 2006-055]**

e. Drainage

Any reduction in lot size or open space area, or increase in building coverage shall be subject to approval of a drainage study demonstrating that reduced pervious surface area will not create adverse drainage issues. **[Ord. 2006-055]**

f. Option 1 - RT District

The zoning for parcels electing to use this option must be in compliance with Table 3.A.3.B, Future Land Use (FLU) Designation and Corresponding Standard Zoning Districts. **[Ord. 2008-037]**

1) RT PDR Deviations

Deviations from the minimum PDRs for the RT district with a LR-2 or LR-3 FLU designation may be in accordance with Table 5.G.1.E, RT Deviations for WHP, only for those projects that qualify for maximum density in accordance with Table 2.1-1, Residential Categories and Allowed Densities, of the FLU Element of the Plan, and utilize a minimum density bonus of 20 percent. **[Ord. 2006-055]**

Table 5.G.1.E - RT Deviations for WHP (1)

Zoning District	Applicability	FLU	Lot Dimensions				Setbacks	
			Size	Width and Frontage	Building Coverage	Depth	Side	Rear
RT	Infill, TDR	LR-1	14,000 sf	ND	ND	ND	ND	ND
RT	Infill, TDR, WHP	LR-2	12,000 sf	85'	35%	100'	ND	ND
RT	Infill, TDR, WHP	LR-3	9,000 sf	65'	40%	80'	1st Floor 10'	1st floor – 15'
[Ord. 2006-055]								
Notes:								
ND No deviation.								
1. Eligible projects must qualify for maximum density in accordance with FLUE Table III.C.1, Residential Categories and Allowed Densities, of the FLU Element of the Plan, and use. [Ord. 2006-055]								

g. Option 2 - TND Regulations

Projects eligible for this option shall be permitted to utilize the PDRs of Table 3.F.3.D, TND Residential Lot Size and Setback Regulations, subject to meeting the requirements of Art. 3.F.3.D.5, Residential Uses and the following limitations: **[Ord. 2006-055]**

- 1) U/S Tier Only; **[Ord. 2006-055]**
- 2) Project does not qualify to be a TND or use Option 1 or 3; **[Ord. 2006-055]**
- 3) If the subject site has a LR-1, LR-2, LR-3 or MR-5 FLU designation, the project shall meet all requirements for and be approved as a PDD; **[Ord. 2006-055]**

h. Option 3 - Flexible Regulations

Projects with MR-5, HR-8, HR-12, HR-18 FLU designations, or if approved as a PDD or TDD, may deviate from the residential requirements of Table 3.D.1.A, Property Development Regulations, or Table 3.D.2.B, ZLL Property Development Regulations, as follows: **[Ord. 2006-055]**

- 1) SFD units may be permitted up to a maximum ten percent deviation for the following PDRs: lot size; width and frontage; building coverage; and, side, and rear setbacks. **[Ord. 2006-055]**
- 2) SFD units limited to one floor with no loft or other similar feature, may be permitted up to a maximum 20 percent deviation for the following PDR's: building coverage; and front and side street setbacks. **[Ord. 2006-055]**
- 3) ZLL lots may be permitted up to a maximum lot width reduction of five feet, and ten percent deviation from the minimum lot size, building coverage, and front setback for units with front loading garages. **[Ord. 2006-055]**

i. Option 4 - PDD Open Space Reduction

Projects which elect to utilize a density bonus of not less than 15 percent, may reduce the 40 percent open space requirement of Table 3.E.2.C, PUD Land Use Mix, to not less than 30 percent open space, provided the project incorporates common usable open space areas as defined in Art. 1.1.2.U.18, Usable Open Space for WHP. **[Ord. 2006-055]**

j. Option 5 – Internal Incompatibility Buffers

Required incompatibility buffers between SFD and MF units within a WHP development shall not be required. [Ord. 2006-055]

k. Option 6 – Relocation of Units to Civic Tracts

Residential units may be permitted in a civic pod subject to PREM approval. This may include collocating residential units with civic uses. The DRO shall have the following authority where PREM approval is obtained after BCC approval of the overall project: [Ord. 2006-055]

- 1) In the case of a civic site cash out, the deletion of the civic pod and increase in residential pod area; or, [Ord. 2006-055] [Ord. 2010-005]
- 2) The relocation of residential units to a civic pod, or the relocation of residential units where the civic pod is deleted. [Ord. 2006-055]

F. WHP On-site Construction

WHP units may be located on-site in accordance with the provisions of Art. 5.G.1.C, Workforce Development Alternatives; however, under no circumstances shall any site be permitted to develop at a density greater than that permitted by the Plan. Prior to final DRO approval, the applicant shall identify on the plan the total number of WHP units proposed for development within each pod or phase, as applicable. The plan shall also indicate the number of units in each applicable WHP income category. All of the WHP units shall not be constructed in the last phase of a multi-phased development except for a Development Order Amendment to a Development Order approved prior to WHP requirements. [Ord. 2010-005] [Ord. 2012-003]

G. WHP Off-site Options

WHP units may be located off-site using the options listed below and in accordance with the provisions of Table 5.G.1.B, Workforce Housing Program; however, under no circumstances shall any site be permitted to develop at a density greater than that permitted by the Plan. Prior to issuance of a building permit, or final DRO approval if applicable, all contracts or related agreements for any off-site option evidencing site control and necessary approvals shall be approved by the County Administrator, or designee. Prior to final DRO approval, the applicant shall identify the total number of WHP units proposed for development off-site including the number in each applicable WHP income category. Off-site options may be accommodated in municipalities located within Palm Beach County. [Ord. 2006-055] [Ord. 2010-005]

1. Option 1 – Off-site Construction

Building permits shall be issued for a minimum of 25-percent of the required WHP units to be constructed off-site prior to the issuance of no more than 25-percent of the building permits in the subject development. All off-site WHP units must receive CO prior to issuance of no more than 85-percent of the CO's in the subject development. [Ord. 2006-0455] [Ord. 2010-005]

a. **WCRAO** – Off-site construction of the required WHP units within the low income range shall be limited to ten percent. [Ord. 2008-037]

2. Option 2 – Purchase Market Rate Units

Purchase of an equivalent number of existing market rate units to be deeded to the County or sold to eligible households and deed restricted. The developer may retain the title to off site units subject to recordation of a deed restriction that meets the intent of this provision. A minimum of 50-percent of the units must be purchased and deeded to the County or deed restricted prior to the issuance of no more than 25-percent of the building permits in the subject development. All market rate units shall be purchased and deeded to the County or deed restricted prior to issuance of no more than 85-percent of the CO's in the subject development. [Ord. 2006-055] [Ord. 2010-005]

3. Option 3 – Donate Buildable Land

Donation of developable land acceptable to the County in an amount equal to the buyout costs of the affected units. Donated land must be deeded to the County prior to issuance of the first building permit in the subject development. [Ord. 2006-055]

4. Option 4 – In-lieu Payment (Prior to Issuance of First Residential Unit Building Permit)

The in-lieu payment for all WHP units shall be \$81,500 per for sale unit and \$50,000 per rental unit. The payment shall be deposited in the WHP Trust Fund maintained by the PBC Department of HCD at the time of issuance of the first residential unit building permit for the subject development. [Ord. 2006-055] [Ord. 2010-005]

H. Additional Requirements for >30% Density Bonus

Projects requesting a density bonus greater than 30 percent shall comply with the following: [Ord. 2006-055]

1. Sector Analysis

WHP projects, including relocated WHP units, shall be equitably distributed so that there is no undue concentration of very-low and low income households. Table 5.G.1.H, WHP Density Bonus Guide

indicates the maximum density bonus permitted and the concentration of very-low and low income housing within a sector will be one factor taken into consideration when determining the maximum density bonus permitted. Other factors to be considered include: the location of the proposed development and its relationship to the study area; the housing type(s) proposed; if the development site is located within 1/4 mile radius of a public park (neighborhood or regional park, not a golf course); civic uses (schools/libraries); a mass transit facility/route; child care facilities; medical facilities; a super market; a community commercial facility; employment opportunities; and within 1/2 mile radius of social services; a regional commercial facility; an industrial facility; additional civic uses and employment opportunities. Prior to submittal of a WHP pre-application, the applicant shall meet with the Planning Director or designee to establish the sector within which the distribution analysis shall be conducted. The boundaries of the sector shall be approved by the Planning Director or designee. The maximum density bonus permitted or a bonus in excess of the maximum shall be recommended by the Planning Director or designee. **[Ord. 2010-005]**

Table 5.G.1.H - WHP Density Bonus Guide

% of Very Low & Low Income Households in Sector	> 50%	40-50%	20-40%	0-20%
Maximum Density Bonus (1)	up to 40%	up to 60%	up to 80%	up to 100%
[Ord. 2009-01] [Ord. 2010-005]				
Notes:				
1. The Planning Director may recommend a density bonus in excess of the Maximum Density Bonus where the project serves to mitigate existing very low and low income concentrations by including a mix of higher income market rate units or Medium 1, Medium 2 and Middle Income WHP units. [Ord. 2006-055]				

- a. The sector shall be proportional to the size and character of the proposed development. At a minimum, the sector shall consist of one or more neighborhoods that include features such as schools, shopping areas, an integrated network of residential and collector streets bounded by arterial roads, civic uses, localized shopping, and employment opportunities. For data and analysis purposes, the sector shall be adjusted to accommodate census tracts or census block groups but shall not extend beyond important physical boundaries that may include a major arterial roadway or a wildlife refuge. **[Ord. 2006-055]**
 - b. Household income characteristics for the sector shall be derived from the most current available census data. The income level of a “family of four” shall be used for the determination of households within the low, moderate and middle income household categories. The analysis of housing and demographic data within the sector shall be in a manner and form approved by the Planning Director. **[Ord. 2006-055]**
- 2. Pre-Application**
- An application for density bonus greater than 30 percent shall require the submittal of a pre-application prior to submittal of a Zoning or Building permit application for purposes of establishing a density bonus determination. **[Ord. 2006-055]**
- a. Contents**
The pre-application shall be in a form established by the Planning Director, and made available to the public. **[Ord. 2006-055]**
 - b. Sufficiency Review**
The pre-application shall be subject to the provisions of Art. 2.B.2 or Art. 2.C.2, Sufficiency Review. **[Ord. 2006-055]**
 - c. Compliance**
The density bonus shall not be granted until the project is found in compliance with HE 1.5.h. in the Plan. **[Ord. 2006-055]**
 - d. Density Determination**
The Planning Director shall provide a written density determination letter within ten days of determining the pre-application is sufficient. The determination shall be based on the sector analysis, size, location and development characteristics of the project with consideration given towards affordability, accessibility, proximity to mass transit or employment centers, compatibility, quality of design, pedestrian and vehicular circulation, open space, and resource protection. The Planning Director shall prepare a report for the applicant, DRO, ZC, or BCC, whichever is appropriate, making a determination of compliance with this chapter, consistency with the Plan and recommend approval, approval with conditions, or denial of the request. **[Ord. 2006-055]**

I. Affordability Requirements

Where applicable, the required percentage, affordability ranges and provision of units, shall be in accordance with Table 5.G.1.B, Workforce Housing Program. **[Ord. 2006-055]**

1. Sales and Rental Prices of WHP Units

All required WHP units shall be offered for sale or rent at an attainable housing cost for each of the targeted income ranges. The sale and rent prices shall be updated annually by the Planning Director, or designee, with the sale prices based on the Area Median Income (AMI), and the household income limits for PBC (West Palm Beach/Boca Raton metropolitan statistical area) for a family of four, which pricing shall not be adjusted based on the number of occupants, as published annually by HUD (sale price: household income figure multiplied by three and priced at the middle of each of the four WHP income categories), and rental prices based on the annual Florida Housing Finance Corporation Multi-Family Rental Figures as adjusted for number of bedrooms in WHP rental units. The minimum WHP price initially established at the time of approval for each for sale unit within each WHP category range will be the sales floor. This sales floor shall serve as the minimum sales price point required throughout the applicable deed restriction time frame. The minimum WHP price initially established at the time of approval for each rental unit within each WHP income category range will be the rental floor. This rental floor shall serve as the minimum rental price point required throughout the thirty (30) year term of this Covenant. Any utility allowances applied against gross maximum WHP unit rents shall also be adjusted based on a number of bedrooms in WHP rental units. A chart with the sales and rent prices will be maintained and updated annually by the County. **[Ord. 2006-055] [Ord. 2010-005] [Ord. 2012-003] [Ord. 2012-027]**

a. Utility Allowance

Utilities shall include, but not be limited to, water, sewer, gas and electric. When one or more utility cost(s) are included within the WHP unit rent price, and reasonable, reliable and verifiable documentation is provided that indicates the total utility cost included within the WHP unit rent price meets or exceeds the stated utility allowance cost, then the utility allowance requirement would be waived. If the information provided constitutes an amount less than the prescribed utility allowance, the value may be applied against the utility allowance and the remaining balance shall be credited to the WHP resident's rent cost. **[Ord. 2012-003]**

2. Master Covenant

Prior to issuance of the first building permit, the applicant shall record in the public records of Palm Beach County a Covenant binding the entire project, in a form provided for by the County, which identifies each required WHP unit. **[Ord. 2006-055] [Ord. 2010-005]**

a. For Sale Units

The Covenant shall include but not be limited to restrictions requiring: that all identified WHP units shall be sold, resold or rented only to low, moderate 1, moderate 2, or middle-income qualified households at an attainable housing cost for each of the targeted income ranges; that these restrictions remain in effect for 15 years recurring from the date of the certificate of occupancy for each unit; and that in the event a unit is resold before the 15 year period concludes, a new 15 year period shall take effect on the date of resale. The Covenant shall further provide monitoring and compliance requirements including but not limited those set forth below to ensure compliance with the WHP. Every deed for sale of a WHP housing unit shall incorporate by reference the controlling Covenant. **[Ord. 2006-055] [Ord. 2010-005]**

b. Rental Units

The Covenant shall include but not be limited to restrictions requiring: that all identified WHP units shall be rented only to low, moderate 1, moderate 2, or middle-income qualified households at an attainable housing cost for each of the targeted income ranges; that these restrictions remain in effect for a period of 30 years (non-recurring) from the date of occupancy of the first WHP unit; and that in the event a rental complex is resold before the 30 year period concludes, the new owner assumes the requirement for the number of remaining years; and the number of years remaining shall be determined by the Planning Director or his designee; and shall take effect on the date of resale. The Covenant shall further provide monitoring and compliance requirements including but not limited to those set forth below to ensure compliance with the WHP. Every deed for a rental development with WHP housing units and every rental agreement for each WHP unit shall incorporate by reference the controlling Covenant. **[Ord. 2010-005]**

3. Monitoring and Compliance

Prior to the sale, resale, or at the time of the rental of any WHP unit established pursuant to this program, the seller of a for-sale unit or the owner of a rental development shall provide the Planning Director, or designee, documentation sufficient to demonstrate compliance with the WHP. Such

documentation shall include but not be limited to information regarding the identity and income of all occupants of the WHP unit. The owner of the WHP unit shall submit to the Planning Director, or designee, on a form provided by the County, an annual report containing information and documentation to demonstrate continued compliance with the WHP and a copy of any monitoring information provided to and received from the appropriate funding agency/source. The County may conduct site visits at reasonable times, or perform other independent investigation to verify continued compliance with the WHP. **[Ord. 2006-055] [Ord. 2010-005]**

4. Enforcement

The County may enforce the requirements of the WHP through any cause of action available at law or equity, including but not limited to seeking specific performance, injunctive relief, rescission of any unauthorized sale or lease, reclassification of a lesser unit to another income category, and tolling of the 15-year recurring term of for sale units or the 30 year non-recurring term for rental units of the WHP. **[Ord. 2006-055] [Ord. 2010-005]**

5. Release of Obligation to Construct WHP For-Sale Units

It is not the intent of the WHP provisions to require a developer to commence construction on any WHP for sale unit for which a valid and binding contract for purchase between developer and buyer has not been executed. It is intended that all WHP units will be marketed in the same manner as the market-rate units within a development. In the event a WHP unit eligible for contract: (i) has been available for purchase for a period not less than 180 days and no contract to purchase that unit has been executed during the 180 day period; and, (ii) is located within a development pod/phase in which not less than 80 percent of the for sale market rate units (i.e. non WHP units) have binding purchase contracts; then that specific WHP unit is eligible to be released from the WHP obligations indicated in the Covenant. **[Ord. 2006-055] [Ord. 2010-005] [Ord. 2012-027]**

a. For Sale Units

When a WHP unit is not purchased in accordance with the provisions above, an In-Lieu cash payment shall be permitted as follows: **[Ord. 2010-005]**

Upon payment of the required In-Lieu cash payment, the WHP unit/lot shall thereafter be released from any and all obligations of the WHP requirements of the ULDC and the County shall provide written confirmation that the unit/lot has been released, inclusive of release from the Covenant. The County shall utilize cash payments for the express purpose of providing down payment assistance to eligible households seeking to purchase WHP units. To the greatest extent possible, the down payment assistance provided by the County shall be utilized for the purchase of WHP units from the project from which the cash payment was provided. The payment shall be deposited in a WHP Trust Fund maintained by the PBC Department of HCD, and designated for the above referenced purpose. **[Ord. 2010-005] [Ord. 2012-027]**

- 1) if the price differential between the required WHP unit and the contract price for the market rate unit is less than or equal to \$20,000, then the In-Lieu cash payment shall be \$10,000; **[Ord. 2010-005]**
- 2) if the price differential between the required WHP unit and the contract price for the market rate unit is greater than \$20,000 and less than \$81,250, then the In-Lieu cash payment shall be one half (50 percent) of the difference; and, **[Ord. 2010-005]**
- 3) if the price differential between the required WHP unit and the contract price for the market rate unit is greater than or equal to \$81,250, then the In-Lieu cash payment shall be \$40,750. **[Ord. 2010-005]**

The contract price of any for sale market rate unit shall be the base price of the unit and shall not include any lot premium and/or buyer purchased upgrades that are in addition to the base price of the unit. The Developer shall provide written notice to the Department of Planning, Zoning and Building requesting confirmation of the In-Lieu cash payment amount, which request shall include: a copy of the executed purchase contract between seller and purchaser denoting the purchase price of the unit, but shall not be required to submit any information relative to any lot premium and upgrades that are in addition to the base price of the unit; the project name, zoning control number, PCN, and address of the lot; and, the calculation as to the amount of the In-Lieu cash payment amount being requested. **[Ord. 2010-005]**

The County shall provide written confirmation to the Developer, within ten 10 business days of receipt, as to the County's agreement/disagreement with the In-Lieu cash payment amount requested by the Developer. **[Ord. 2010-005]**

Upon payment of the required In-Lieu cash payment, the WHP unit/lot shall thereafter be released from any and all obligations of the WHP requirements of the ULDC and the County shall provide written confirmation that the unit/lot has been released, inclusive of release from the Covenant. Units

which are not required to be constructed pursuant to Art. 5.G.1.B.3, Income Ranges are not eligible for this reduced in-lieu payment. These units must provide in-lieu payment consistent with Art. 5.G.1.G.4, Option 4 – In Lieu Cash Payment. The County shall utilize cash payments for the express purpose of providing down payment assistance to eligible households seeking to purchase WHP units. To the greatest extent possible, the down payment assistance provided by the County shall be utilized for the purchase of WHP units from the project from which the cash payment was provided. The payment shall be deposited in a WHP Trust Fund maintained by the PBC Department of HCD, and designated for the above referenced purpose. **[Ord. 2010-005]**

b. “Available for purchase” shall be defined as:

- 1) written notice is provided to the Planning Director and the Department of Housing and Community Development and to a list of interested parties provided to the developer by the County that developer has a project approved which requires the construction of WHP units and the developer is ready to commence sales of the required WHP unit within the development. The written notice shall include the location of the subject property, the location of the sales office, the hours of the sales office, the floor plan and construction specifications for the WHP unit available for contract; and the pricing of the WHP unit available for contract; **[Ord. 2010-005]**
- 2) developer shall include in the sales office displays and WHP unit promotional brochures produced as of and during the entire duration of the effective period as defined in Art. 5.G.1.I.5 Release of Obligation to Construct WHP For Sale Units, (i) and (ii) above, that certain units within the project are subject to the WHP provisions of Palm Beach County and are available for purchase for qualified households; **[Ord. 2010-005]**
- 3) the inclusion of informational packets in the sales center for those interested in purchasing a WHP unit which provides the qualification standards, terms of the Covenant, where to go to get qualified, and other relevant information regarding the WHP units (note this packet to be provided by or approved by Palm Beach County prior to placement on the sales floor); **[Ord. 2010-005]**
- 4) at the time WHP units become available for purchase the developer shall provide to the Palm Beach County Department of Planning, Zoning and Building proof of out-reach to local housing advocacy groups and others on the interested parties list. **[Ord. 2010-005]**
- 5) the developer acts in good faith to market and sell the unit during the effective period as defined in Art. 5.G.1.I.5 Release of Obligation to Construct WHP For Sale Units, above. **[Ord. 2010-005]**

6. Event of Default of for sale WHP unit following execution of binding contract:

In the event of default by the purchaser of a for sale WHP unit after execution of a binding contract and prior to closing, the developer shall be permitted to provide the In-Lieu cash payment (in the amount as determined using for formula outlined in Section 5.G.1.I.6. above) and shall be permitted to be released from the WHP obligations for the defaulted unit, inclusive of the release from the Covenant, upon the later of either of the two events having occurred: **[Ord. 2010-005]**

- a. the first inspection of the WHP unit subject to the default occurred not less than one hundred and eighty (180) days prior to the request to provide the In-Lieu cash payment; or **[Ord. 2010-005]**
- b. the WHP unit subject to the default is located within a development pod/phase in which not less than 80% of the for sale market rate units (i.e. non WHP units) have binding purchase contracts. The Developer shall provide written notice upon the event of default on a required WHP unit to the Palm Beach County Department of Planning, Zoning and Building, the Department of Housing and Community Development and to the list of interested parties indicating that: **[Ord. 2010-005]**
 - 1) a default occurred on a required WHP unit; **[Ord. 2010-005]**
 - 2) the specifics of the defaulted lot (WHP income category, location of the project, PCN for the WHP unit, WHP price of the unit, square footage of the unit, and floor plan of the unit); and, **[Ord. 2010-005]**
 - 3) that the unit remains available for purchase to an eligible WHP household until such time as an In-Lieu cash payment is made pursuant to the later of the two timing mechanism having been met. **[Ord. 2010-005]**

7. Compatibility

The resulting development shall be compatible with surrounding residential land uses, as described herein. **[Ord. 2005 – 002]**

J. Annual Report

The Executive Director of PZB shall submit an annual report to the BCC indicating the status of the WHP. **[Ord. 2006-055]**

Section 2 Affordable Housing Program (AHP)

A. Purpose and Intent

The AHP implements HE Policies 1.1-o and 1.5-g of the Plan, among others, by establishing an AHP. The AHP is a voluntary program used by an applicant seeking additional density for an affordable housing development. An AHP applicant elects to provide at a minimum 65 percent of the total number of dwelling units targeted to households at incomes of 60 percent of Area Median Income (AMI) and below. In any proposal a maximum of 20 percent of all units will target incomes of 30 percent and below AMI. The program ensures a minimum affordability period, and provides for a density bonus and other incentives. The program is intended to increase the supply of housing opportunities for persons employed in PBC in jobs that residents rely upon to make the community viable. Consideration may be given to developments requesting income percentage targets that are different from those previously indicated, based on programmatic requirements imposed by a governmental agency providing affordable housing funding or another entity with different programmatic requirements, with the final determination made by the Executive Director of Planning, Zoning and Building or designee. **[Ord. 2009-040] [Ord. 2012-003]**

B. Applicability

In cases of conflict between this Chapter and other Articles of this Code, the provisions of this Chapter shall apply. The AHP shall apply to developments with a residential component of 10 or more dwelling units with all units being built on site. This shall include the expansion of existing projects that add 10 or more dwelling units, where the program shall apply to those units being added. Requirements and limitations are further defined in Table 5.G.2.B, Affordable Housing Program. **[Ord. 2009-040]**

1. Exemptions

Congregate living facilities (CLFs); and, nursing or convalescent facilities. **[Ord. 2009-040]**

2. Limitation on Restrictions

AHP units shall not be subject to restrictions beyond income qualifications except those restrictions imposed by a governmental agency providing affordable housing financing. **[Ord. 2009-040]**

Table 5.G.2.B - Affordable Housing Program

Applicability		
Location:	Tier or Overlay	U/S
	FLU (1)	LR-1, LR-2, LR-3, MR-5, HR-8, HR-12, HR-18
Density Bonus Incentive		
LR-1 thru LR-3		0 – 30% (3)
MR-5 thru HR-18 (2)		0 – 100% (3)
[Ord. 2009-040]		
Notes:		
1. Shall also apply to mixed use projects with applicable underlying FLU designations for Commercial and Industrial Mixed Use Development. [Ord. 2009-040]		
2. A density bonus of >30% shall be permitted subject to meeting the additional standards of Art. 5.G.1.H, Additional Requirements for >30% Density Bonus. [Ord. 2009-040]		
3. Percentages shall be rounded up to the nearest whole number. [Ord. 2009-040]		
Affordability: A minimum of 65% of all units at 60% of AMI or below and a 20% maximum of all units at 30% and below AMI. [Ord. 2009-040]		

C. Design Requirements

AHP units shall be designed to be compatible with the overall project, as follows: **[Ord. 2009-040]**

- All AHP units shall be constructed on site; **[Ord. 2009-040]**
- All units shall be designed to a compatible exterior standard as other units within the development or pod; and **[Ord. 2009-040]**
- AHP units may be clustered or dispersed throughout the project. **[Ord. 2009-040]**

D. AHP Incentives

All projects with 10 or more residential units shall be eligible for AHP Incentives. **[Ord. 2009-040]**

1. Density Bonus

Table 5.G.2.B, Affordable Housing Program, delineates the ranges of density bonus allowed for the AHP by land use category. For the purposes of this Section, permitted density shall be the number of units allowed by the standard density allowed by the Plan; or, the maximum density allowed by the Plan, where developed as a PDD, TDD or other density provision of the Plan. TDR units or any other density bonus shall not be included as part of the permitted density for purposes of calculating the AHP density bonus. To ensure compliance with the compatibility requirement of HE Objective 1.5 of

the Plan, projects requesting a density bonus shall be subject to the requirements of Table 5.G.2.D, Review Process, and Art. 5.G.2.E, Additional Requirements for Density Bonus. **[Ord. 2009-040]**

Table 5.G.2.D – Review Process

Density Bonus	DRO Approval	Class A Conditional Use
Standard District >30% - 50%	X	
Standard District >50% - 100%		X
PDD or TDD >30% - 100%		X
[Ord. 2009-040] [Ord. 2017-025]		

2. Traffic Performance Standards Mitigation

a. AHP Special Methodologies

TPS mitigation shall be permitted for AHP projects in accordance with County Comprehensive Plan Transportation Element Policy 1.2-d (4). **[Ord. 2009-040] [Ord. 2011-016]**

b. AHP Traffic Concurrency Hall Pass

TPS mitigation shall also include the option of applying for an AHP Traffic Concurrency Hall Pass separate from a development order application. The AHP Traffic Concurrency Hall Pass serves as a provisional traffic concurrency approval for a period of not more than 90 days, during which it must be merged into an application submitted for a Concurrency Reservation approval. The AHP Traffic Concurrency Hall Pass is described further in Art. 2.F, Concurrency . **[Ord. 2009-040]**

3. Expedited Review

The following expedited review processes may apply to a proposed AHP development: **[Ord. 2009-040]**

a. Design Review

Review of multifamily or townhouse structures by the Building Division and Fire Rescue shall be allowed concurrent with final DRO review, prior to permit application. **[Ord. 2009-040]**

b. Platting

- 1) If only a boundary plat is required for an existing single lot, building permits may be issued after submittal of the final plat for recordation. **[Ord. 2009-040]**
- 2) If a subdivision plat is required, permits will be concurrently reviewed, but only issued at recording of the plat. **[Ord. 2009-040]**
- 3) Pursuant to Art. 3.E.1.G.1.a, Permits, Building permits for sales offices, sales models, gate houses, entry features, and utilities may be issued prior to the recording of a final plat. **[Ord. 2009-040]**

4. Density Bonus Development Options

a. Purpose and Intent

To provide flexibility from property development and other related regulations in order to provide greater opportunity for cost effective development of AHP units. These provisions are not intended to supersede deviations that are normally addressed through the variance process. These options shall only be granted at the time of approval for the entire project, and shall not be granted on a lot-by-lot basis. **[Ord. 2009-040]**

b. Applicability

Projects with ten or more units that utilize a density bonus incentive and are subject to the requirements of the AHP may utilize the Development Options listed herein. **[Ord. 2009-040]**

c. Justification Report

Use of Density Bonus Development Options shall not be granted by right, and shall require submittal of a justification report that demonstrates that deviations are the minimum needed to allow for the use of density bonus incentives. The report shall include the following: **[Ord. 2009-040]**

- 1) The regulations that are proposed to be modified. **[Ord. 2009-040]**
- 2) The amounts and specifics of the requested deviation(s). **[Ord. 2009-040]**
- 3) The areas within the development that the deviation(s) will be applied to. **[Ord. 2009-040]**
- 4) Graphic representations such as, but not limited to, site plans, elevations, perspectives, and typical examples, showing how the deviations will meet the intent of the district and AHP with emphasis on open space, privacy, maintenance, and public health, safety and welfare. **[Ord. 2009-040]**

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d. Site Plan Approval

All projects requesting Density Bonus Development Options shall submit an application and site plan to the DRO for certification where applicable, and for final site plan approval for all others. The site plan shall indicate in the tabular data all Development Options requested and where feasible, a regulating plan shall be included to provide typical examples. Approval shall be granted only for the minimum deviations needed to allow for the use of density bonus incentives and where the requirements of all applicable reviewing agencies have been met. **[Ord. 2009-040]**

e. Drainage

Any reduction in lot size or open space area, or increase in building coverage shall be subject to approval of a drainage study demonstrating that reduced pervious surface area will not create adverse drainage issues. **[Ord. 2009-040]**

f. Option 1 - AR, and RT Districts

The zoning for parcels electing to use this option must be in compliance with Table 3.A.3.B, Future Land Use (FLU) Designation and Corresponding Standard Zoning Districts. **[Ord. 2009-040]**

1) AR FAR Calculations

New SFD lots in the AR district shall be permitted to calculate FAR based on the acreage of the FLU designation. **[Ord. 2009-040]**

2) RT PDR Deviations

Deviations from the minimum PDRs for the RT district with a LR-2 or LR-3 FLU designation may be in accordance with Table 5.G.1.D, RT Deviations for WHP, only for those projects that qualify for maximum density in accordance with Table 2.1-1, Residential Categories and Allowed Densities, of the FLU Element of the Plan, and utilize a minimum density bonus of 20 percent. **[Ord. 2009-040]**

Table 5.G.2.D - RT Deviations for AHP (1)

Zoning District	Applicability	FLU	Lot Dimensions				Setbacks	
			Size	Width and Frontage	Building Coverage	Depth	Side	Rear
RT	Infill, TDR	LR-1	14,000 sf	ND	ND	ND	ND	ND
RT	Infill, TDR, WHP AHP	LR 2	12,000 sf	85'	35%	100'	ND	ND
RT	Infill, TDR, WHP AHP	LR 3	9,000 sf	65'	40%	80'	1st Floor 10'	1st' floor – 15'
[Ord. 2009-040]								
Notes:								
ND No deviation.								
1. Eligible projects must qualify for maximum density in accordance with FLUE Table III.C.1, Residential Categories and Allowed Densities, of the FLU Element of the Plan, and use.								

g. Option 2 - TND Regulations

Projects eligible for this option shall be permitted to utilize the PDRs of Table 3.F.3.E, TND Residential Lot Size and Setback Regulations, subject to meeting the requirements of Art. 3.F.3.D.5, Residential Uses and the following limitations: **[Ord. 2009-040]**

1) U/S Tier Only; **[Ord. 2009-040]**

2) Project does not qualify to be a TND or use Option 1 or 3; **[Ord. 2009-040]**

3) If the subject site has a LR-1, LR-2, LR-3 or MR-5 FLU designation, the project shall meet all requirements for and be approved as a PDD; **[Ord. 2009-040]**

h. Option 3 - Flexible Regulations

Projects with MR-5, HR-8, HR-12, HR-18 FLU designations, or if approved as a PDD or TDD, may deviate from the residential requirements of Table 3.D.1.A, Property Development Regulations, or Table 3.D.2.B, ZLL Property Development Regulations, as follows: **[Ord. 2009-040]**

1) SFD units may be permitted up to a maximum ten percent deviation for the following PDRs: lot size; width and frontage; building coverage; and, side, and rear setbacks. **[Ord. 2009-040]**

2) SFD units limited to one floor with no loft or other similar feature, may be permitted up to a maximum 20 percent deviation for the following PDR's: building coverage; and front and side street setbacks. **[Ord. 2009-040]**

3) ZLL lots may be permitted up to a maximum lot width reduction of five feet, and ten percent deviation from the minimum lot size, building coverage, and front setback for units with front loading garages. **[Ord. 2009-040]**

i. Option 4 - PDD Open Space Reduction

Projects which elect to utilize a density bonus of not less than 15 percent, may reduce the 40 percent open space requirement of Table 3.E.2.C, PUD Land Use Mix, to not less than 30 percent open space, provided the project incorporates common usable open space areas as defined in Art. 1.I.2.U, Usable Open Space for AHP. **[Ord. 2009-040]**

j. Option 5 - Internal Incompatibility Buffers

Required incompatibility buffers between SFD and MF units within an AHP development shall not be required. **[Ord. 2009-040]**

k. Option 6 - Relocation of Units to Civic Tracts

Residential units may be permitted in a civic pod subject to PREM approval. This may include collocating residential units with civic uses. The DRO shall have the following authority where PREM approval is obtained after BCC approval of the overall project: **[Ord. 2009-040]**

- 1) In the case of a civic site cash out, the deletion of the civic pod and increase in residential pod area; or, **[Ord. 2009-040]**
- 2) The relocation of residential units to a civic pod, or the relocation of residential units where the civic pod is deleted. **[Ord. 2009-040]**

E. Additional Requirements for Density Bonus

Projects requesting a density bonus shall comply with the following: **[Ord. 2009-040]**

1. Sector Analysis

AHP projects shall be equitably distributed so that there is no undue concentration of very-low and low income housing throughout the County. Table 5.G.2.E, AHP Density Bonus Guide indicates the Step 1 density bonus permitted. The concentration of very-low and low income housing within a sector will be taken into consideration when determining the Step 1 density bonus permitted. Additional density may be added in accordance with Table 5.G.2.E, AHP Density Bonus Multipliers (Step 2). This Step 2 analysis considers the proposed development and its location to neighborhood amenities; a public transit option; employment and shopping opportunities; grocery store (excluding convenience store); public school; medical facilities; social services; and, public recreation facilities. Prior to submittal of an AHP pre-application, the applicant shall meet with the Planning Director or designee to establish the sector within which the distribution analysis shall be conducted. The boundaries of the sector shall be approved by the Planning Director or designee. The maximum AHP density bonus, total Step 1 plus Step 2, not to exceed a 100% bonus as recommended by the Planning Director or designee. **[Ord. 2009-040]**

Table 5.G.2.E - AHP Density Bonus Guide (Step 1)

% of Very Low & Low Income Housing (60% of AMI & below) in Sector	> 40%	40-30%	30-20%	20-0%
Step 1 Density Bonus	up to 30%	up to 50%	up to 80%	up to 100%
[Ord. 2009-040]				

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Table 5.G.2.E - AHP Density Bonus Multipliers (Step 2)

Proximity to Proposed Development	Public Transit Option	Employment & Shopping Opportunities 150,000 sf, guide (Office, Industrial, Business, Govt., Community/ Regional Commercial, Retail Center)	Grocery Store (excluding Convenience Store)	Public School (Elementary, Middle, High School or Community College)	Medical Facilities (Hospital, Health Care, Urgent Care, Medical Offices)	Social Services (Daycare, Full-Service Community Centers, Public Library)	Public Recreation Facilities Off-Site (Public Parks, Ballfields, etc.)	Maximum AHP Density Bonus
> 0 up to 1/4 Mile *	20%	20%	20%	20%	20%	10%	10%	100%
> 1/4 up to 1/2 Mile *	15%	15%	15%	15%	15%	5%	5%	
> 1/2 up to 1 Mile *	0	10%	10%	10%	10%	2.5%	2.5%	
> 1 up to 2 Miles *	0	5%	5%	5%	5%	0%	0%	
[Ord. 2009-040]								
Notes:								
* For each multiplier column, only one of the four options (the closest amenity) may apply.								

- a. The sector shall be proportional to the size and character of the proposed development. At a minimum, the sector shall consist of one or more neighborhoods that include features such as schools, shopping areas, an integrated network of residential and collector streets bounded by arterial roads, civic uses, localized shopping, and employment opportunities. For data and analysis purposes, the sector shall be adjusted to accommodate census tracts or census block groups but shall not extend beyond important physical boundaries that may include a major arterial roadway or a wildlife refuge. **[Ord. 2009-040]**
- b. Housing characteristics, (such as household family incomes and affordable housing stock data) for the sector shall be derived from the most current available census data. The analysis of housing and demographic data within the sector shall be in a manner and form approved by the Planning Director. **[Ord. 2009-040]**

2. Pre-Application

An application for density bonus shall require the submittal of a pre-application prior to submittal of a Zoning or Building permit application for purposes of establishing a density bonus determination. **[Ord. 2009-040]**

a. Contents

The pre-application shall be in a form established by the Planning Director, and made available to the public. **[Ord. 2009-040]**

b. Sufficiency Review

The pre-application shall be subject to the provisions of Art. 2.B.2, or Art. 2.C.2, Sufficiency Review. **[Ord. 2009-040]**

c. Compliance

The density bonus shall not be granted until the project is found in compliance with Policy HE 1.5.h. in the Plan. **[Ord. 2009-040]**

d. Density Determination

The Planning Director or designee shall provide a written density determination letter within ten working days of determining the pre-application is sufficient. The determination shall be based on the sector analysis, size, location and development characteristics of the project with consideration given towards affordability, accessibility, proximity to mass-transit or employment centers, compatibility, quality of design, pedestrian and vehicular circulation, open space, and resource protection. The Planning Director shall prepare a report for the applicant, DRO, ZC, or BCC, whichever is appropriate, making a determination of compliance with this chapter, consistency with the Plan and recommend approval, approval with conditions, or denial of the request. **[Ord. 2009-040]**

F. Affordability Requirements

1. Sales and Rental Prices of AHP Units

All AHP units shall be offered for sale or rent at an attainable housing cost for the targeted AHP income range (60% of AMI or below). The sale and rent prices will be based on the (AMI), and the household income limits for PBC (West Palm Beach/Boca Raton metropolitan statistical area) as published annually by HUD and based on the annual Florida Housing Finance Corporation Multi-Family Rental Figures. **[Ord. 2009-040]**

2. Master Covenant

Prior to final DRO approval, the applicant shall record in the public records of Palm Beach County a Covenant binding the entire project, in a form provided for by the County, which identifies each AHP unit. An extension of up to 6 additional months to record the Covenant may be requested only in order to secure government funding for the proposed development. **[Ord. 2009-040]**

a. For Sale Units

The Covenant shall include but not be limited to restrictions requiring: that all identified AHP units shall be sold or resold only to an income qualified purchaser at an attainable housing cost for the targeted AHP income range (60 percent of Area Median Income (AMI) or below). The sale prices will be based on the AMI and the household income limits for PBC (West Palm Beach/Boca Raton metropolitan statistical area) as published annually by HUD; that these restrictions remain in effect for 15 years recurring from the date of the certificate of occupancy for each unit; and that in the event a unit is resold before the 15 year period concludes, a new 15 year period shall take effect on the date of resale. The Covenant shall further provide monitoring and compliance requirements including but not limited to those set forth below to ensure compliance with the AHP. Every deed for each AHP for sale housing unit shall incorporate by reference the controlling Covenant. **[Ord. 2009-040] [Ord. 2011-001]**

b. Rental Units

The Covenant shall include but not be limited to restrictions requiring: that all identified AHP units shall be rented only to an income qualified renter at an attainable housing cost for the targeted AHP income range (60 percent of AMI or below). The rental prices will be based on the AMI and the household income limits for PBC (West Palm Beach/Boca Raton metropolitan statistical area) as published annually by HUD and based on the annual Florida Housing Finance Corporation Multi-Family Rental Figures; that these restrictions remain in effect for a period of 30 years (non-recurring) from the date of occupancy of the first AHP unit; and that in the event a rental complex is resold before the 30 year period concludes, the new owner assumes the requirement for the number of remaining years; and the number of years remaining shall be determined by the Planning Director or his designee; and shall take effect on the date of resale. The Covenant shall further provide monitoring and compliance requirements including but not limited to those set forth below to ensure compliance with the AHP. Every deed for a rental development with AHP housing units and every rental agreement for each AHP unit shall incorporate by reference the controlling Covenant. **[Ord. 2009-040] [Ord. 2011-001]**

3. Monitoring and Compliance

At the time of sale, resale, or rent of any AHP unit established pursuant to this program, the seller shall provide the County Administrator, or designee, documentation sufficient to demonstrate compliance with the AHP. Such documentation shall include but not be limited to information regarding the identity and income of all occupants of the AHP unit. The owner or lessee of the AHP unit shall submit to the County Administrator, or designee, on a form provided by the County, an annual report containing information and documentation to demonstrate continued compliance with the AHP and a copy of any monitoring information provided to and received from the appropriate funding agency/source. The County may conduct site visits at reasonable times, or perform other independent investigation to verify continued compliance with the AHP. **[Ord. 2009-040]**

4. Enforcement

The County may enforce the requirements of the AHP through any cause of action available at law or equity, including but not limited to seeking specific performance, injunctive relief, rescission of any unauthorized sale or lease, and tolling of the 15-year term (for-sale units) or the 30-year term (rental units) of the AHP, or the term required by the funding agency/source if more restrictive. **[Ord. 2009-040]**

5. Compatibility

The resulting development shall be compatible with surrounding residential land uses, as described herein. **[Ord. 2009-040]**

G. Annual Report

The Executive Director of PZB shall submit an annual report to the BCC indicating the status of the AHP. [Ord. 2009-040]

Section 3 Transfer of Development of Rights (TDRs) – Special Density Program

A. Purpose and Intent

The purpose of this Chapter is to provide for a TDR Program, including the establishment of a TDR Bank, to facilitate both the protection of environmentally sensitive lands, the preservation of agriculture on lands designated as AGR on the FLUA, and to promote orderly growth in PBC. This is accomplished by allowing development rights to be severed from environmentally sensitive lands and lands designated as AGR and transferred to sites where additional development can be accommodated. The TDR program is designed to redistribute population densities, or development potential, to encourage the most appropriate and efficient use of resources, services and facilities.

Further, it is the purpose and intent of this Chapter to provide an alternative to the development of environmentally sensitive lands and lands designated as AGR on the FLUA by establishing a mechanism to seek economic relief from the limitation of development imposed on these lands. TDR can mitigate inequities in the valuation of land by providing a means of compensating landowners whose property is restricted, by permitting the sale of development rights, and making landowners in more intensively developed areas pay for the right to develop beyond the existing density, by purchasing development rights.

The TDR Program allows a property owner to achieve a density bonus by purchasing the increase in density from the PBC TDR Bank, or from a property owner with land in a designated sending area, without going through the land use amendment process. In order to increase density, the site must meet the requirements to become a designated receiving area and follow the procedures as described in this Chapter. After development rights have been transferred from the sending area to the receiving area, an appropriate conservation easement or an agricultural conservation easement shall be attached to the sending area and recorded in the public records of PBC, restricting future development potential. [Ord. 2005 – 002] [Ord. 2008-003]

B. Authority

The BCC has the authority to adopt this pursuant to Art. VIII, Sec. 1, Fla. Const., the PBC Charter, F.S. §125.01, et seq. and F.S. §163.3161, et seq.

C. Applicability

This Chapter shall apply to property in unincorporated PBC which is located within designated sending areas, as defined in Art. 5.G.3.F, Sending Areas. Development rights may be transferred from sending areas pursuant to the procedures contained in this Chapter, to property which meets the qualifications to receive such density according to Art. 5.G, Density Bonus Programs, and the standards contained herein. The use of TDR shall be allowed in all residential zoning districts within the U/S Tier and shall be approved pursuant to this Chapter. TDR units may be utilized for all housing types. Additionally, TDR units may be converted to CLF beds subject to the provisions of Art. 4.B.1.C.1, Congregate Living Facility, whereby the total approved density, including TDR units, is utilized when calculating permissible CLF occupants per Table 4.B.1.A-4, Maximum Permissible Occupancy in Type 3 Congregate Living Facilities.

D. Previous Approvals

All previously approved transfers of development rights, as long as they remain in force, shall remain valid and shall not be affected nor changed by subsequent revisions to the TDR Program.

E. Administration

1. General

Except as otherwise specified, the TDR Program shall be administered by the Executive Director of PZB or designee. [Ord. 2010-005]

2. Responsibilities

The Executive Director of PZB shall be responsible for:

- a. Establishing, administering and promoting PBCs TDR Program;
- b. Establishing and administering the TDR Bank;
- c. Ensuring the orderly and expeditious processing of TDR applications under this Chapter;
- d. Executing contracts for sale and purchase of TDR units being purchased from the County's TDR Bank, including related escrow or similar bonding agreements, and TDR deeds as part of the DRO approval process; [Ord. 2010-005]

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- e. Ensuring the contracts for sale and purchase of development rights are executed and all deeds and conservation easements are filed in the public records of PBC;
- f. Ensuring that the Property Appraisers Office is notified of all TDRs;
- g. Ensuring that the densities approved through the TDR Program are placed on the FLUA as notations following approval of the TDR receiving area; and, [Ord. 2008-003]
- h. Ensuring that the FLUA is amended by a staff initiated Site Specific Plan amendment to reflect an appropriate land use designation for land acquired by PBC whose units are placed in the TDR bank. [Ord. 2008-003]

F. Sending Areas

1. General

Sending areas represent those areas of PBC that are designated by the BCC to warrant protection. The owner of property in a designated sending area may transfer the development rights to a parcel of land in a designated receiving area, subject to the provisions of this Chapter.

2. Eligible Sending Areas

- a. Lands designated RR-20 on the FLUA;
- b. Lands designated as priority acquisition sites by the Environmentally Sensitive Lands Acquisition Selection Committee (ESLASC) or the Conservation Land Acquisition Selection Committee (CLASC) that meet the criteria listed below:
 - 1) Rarity in PBC of native ecosystems present on the environmentally sensitive lands site;
 - 2) Diversity of the native ecosystems present on the environmentally sensitive lands site; or
 - 3) Presence of species listed as endangered, threatened, rare or of special concern by the U.S. Fish and Wildlife Service, the Florida Fish and Wildlife Conservation Commission, the Florida Committee on Rare and Endangered Plants and Animals, or the Florida Department of Agriculture.
- c. Lands designated AGR on the FLUA;
- d. Privately owned lands designated CON on the FLUA; and
- e. Other sites determined by the BCC to be worthy of protection, provided that the sites:
 - 1) Further the purpose of the TDR Program in keeping with the criteria listed above; or
 - 2) Further other PBC Goals, Objectives, and Policies. At such a time that the BCC determines that a parcel of land is environmentally sensitive, or preservation of the site is in the public interest, the parcel is eligible to become a sending area. The site shall be designated by resolution of the BCC.

3. Overlap in Sending Areas

In such cases where a parcel of land is both a priority acquisition site and designated RR-20 or AGR on the FLUA, all provisions in this Chapter pertaining to the priority acquisition sites shall prevail.

4. Transfer Rate

The owner of land which is designated as a sending area may elect to transfer development rights as provided in this Chapter. Development rights may be transferred from sending areas according to the following schedule. For the purposes of this Subsection, acres means gross acreage.

- a. Development rights may be transferred from property designated RR-20 on the FLUA at the rate of one development right per five acres. The minimum land area eligible for the TDR as a sending area shall be ten acres.
- b. Development rights may be transferred from property designated AGR on the FLUA at the rate of one development right per one acre. The minimum land area eligible for the transfer of development rights as a sending area shall be 20 acres unless the sending area parcel is located adjacent to other preserved properties, in which case the minimum land area shall be five acres.
- c. Development rights may be transferred from priority acquisitions sites (both residential and non-residential) located outside of the U/S Tier at a transfer rate of one development right per five acres. The minimum land area eligible for the TDR as a sending area shall be five acres.
- d. Development rights may be transferred from privately owned lands designated CON on the FLUA at a rate of one development right per ten acres. The minimum land area eligible for the transfer of development rights as a sending area shall be ten acres.
- e. Development rights may be transferred from all environmentally sensitive sites described in Art. 5.G.3.F.2, Eligible Sending Areas, at a rate which equals the maximum density permitted by the future land use designation for the property. The minimum land area eligible for the transfer of development rights as a sending area shall be determined by the BCC, upon a recommendation from PZB and ERM.

5. Computation of Development Rights

The number of development rights assigned to a sending area parcel of land shall be determined by the Executive Director of PZB pursuant to Art. 5.G.3.F.2, Eligible Sending Areas, and Art. 5.G.2.I, TDR: Sending Area Procedure, as calculated below:

- a. All development rights shall be in whole numbers, no fractions shall be permitted. Any fractional residential unit that may occur during calculations shall be converted upward, if one-half or more of a whole unit, or downward, if less than one-half of a whole unit, to the nearest whole unit.
- b. The amount of development rights assigned to a sending area parcel shall be reduced by one dwelling unit for every conforming residential structure situated on the property at the time of approval.

6. Restriction on Future Use

Upon BCC or DRO approval of the TDR transfer, a conservation easement or agricultural conservation easement shall be recorded in the public records of PBC. The BCC or DRO shall determine which easement is appropriate for the sending area as part of the approval of the TDR transfer. Prior to recordation of the easement, a legally enforceable maintenance plan providing for perpetual maintenance of the sending area shall be established by the property owner and approved by ERM. No further development permit or development order for the designated receiving area shall be issued by PBC until the applicable easement is recorded in the public records of PBC. The easement shall restrict the use of the sending area in perpetuity. In particular, a conservation easement shall require that the sending area be maintained in its natural state while an agricultural conservation easement shall restrict the use of the sending area to bona fide agriculture, fallow land, or uses permitted in the Conservation Water Resources Area (WRA) future land use category; all other development rights of the subject property shall be considered transferred in perpetuity.

7. Existing Uses

Conforming residential dwelling units which existed prior to making application to transfer development rights shall be permitted to remain as legal conforming uses. All other existing uses on the sending area shall cease.

8. Remaining Land Area

If all of the development rights assigned to a sending area are not transferred off the site, the remaining land, if proposed for development, shall be developed in accordance with this Code and in a manner which is compatible with the surrounding area. This provision shall not apply to sending areas designated AGR on the FLUA; these parcels are required to transfer all development rights off the site.

If the owner of land in a sending area only transfers a portion of the development rights available for the property, PBC, upon a recommendation from PZB and ERM, reserves the right to determine which portion of the land is subject to the applicable conservation easement. The intent is to link environmentally sensitive land, to link agricultural land, and to link open space areas, when feasible, and allow compatible development to occur on the remainder of such sites.

G. Transfer of Development Rights (TDRs) Bank

1. General

The purpose of this Chapter is to authorize the establishment of a TDR Bank. The TDR Bank is hereby created in order to, among other things, facilitate the purchase and transfer of development rights as hereinafter provided and maintain an inventory of those development rights purchased by PBC.

2. Establishment of Development Rights for the Bank

Development rights for the TDR Bank shall be generated from environmentally sensitive lands purchased by PBC, including the priority acquisition sites meeting the criteria in Art. 5.G.3.F.2, Eligible Sending Areas, through August 30, 1999. Priority acquisition sites in the unincorporated area of PBC which are not purchased as part of the acquisition program shall maintain the opportunity to transfer development rights on the private market. The TDR Bank shall be maintained by the Executive Director of PZB and shall be reviewed in accordance with the FLUE of the Plan to determine the need for additional units.

Development rights in the TDR Bank generated under the TDR Program shall remain in the TDR Bank until sold by PBC, the TDR Bank is dissolved, or the units are otherwise disposed of.

3. Transfer Rate From the Purchase of Environmentally Sensitive Lands

a. Land Purchased Inside the U/S Tier

The number of development rights within the bank shall equal the maximum density allowed by the FLU designation as established by the applicable PBC or municipal Comprehensive Plan.

b. Land Purchased Outside the US Tier

The number of development rights severed, or generated for the bank, shall equal the TDR transfer rate established in Art. 5.G.3.F, Sending Areas.

4. The Application, Sale, and Value of Development Rights

PBC may sell development rights to property owners who meet the receiving area criteria pursuant to this Chapter.

- a. A property owner seeking an increase in density must apply to become a receiving area and submit a draft Contract for Sale and Purchase of Development Rights. **[Ord. 2011-001]**
- b. The value and price of a development right shall be set annually by the BCC. No TDR price or price reduction other than those included in this Section shall be permitted. The County shall utilize the median sales price data established by the Realtors Association of the Palm Beaches, using data for the month of March to set the price each year: **[Ord. 2011-001]** **[Ord. 2012-027]**
 - 1) For single-family units (single family, zero-lot-line and townhouse) the price shall be ten percent of the median sales price of FRA single-family, existing homes data; **[Ord. 2011-001]**
 - 2) For multi-family units the price shall be ten percent of the median sales price of FRA existing condominiums data. **[Ord. 2011-001]**
- c. For proposals including a mix of single family and multi-family units the TDR units shall proportionally reflect the unit mix of the non TDR units. **[Ord. 2011-001]**
- d. Additional prices for TDR units shall be as follows: **[Ord. 2011-001]**
 - 1) For TDR units located within an area that has a BCC accepted Neighborhood Plan, and the proposed density increase is identified within or supported by the Neighborhood Plan, the TDR price shall be 75 percent of full TDR price as established in 4.b.1 and 2 above; **[Ord. 2011-001]** **[Ord. 2012-003]**
 - 2) For TDR units located within a CCRT area the TDR price shall be 25 percent of full TDR price as established in 4.b. 1 and 2 above; **[Ord. 2011-001]**
 - 3) Workforce Housing TDR units shall be five percent of full TDR price as established in 4.b. 1 and 2 above; and, **[Ord. 2011-001]**
 - 4) Affordable Housing TDR units shall be one percent of full TDR price as established in 4.b.1 and 2 above. The dollar difference between the TDR price and the Affordable Housing TDR price can be used as a price waiver to be counted as part of the local government contribution for housing funding application purposes. **[Ord. 2011-001]**
- e. Applicants may request Workforce Housing TDR units at greater than the required percentage (35 percent), however in order to receive the Workforce Housing TDR price, those additional Workforce Housing TDR units (>35 percent) must be priced for WHP low income (60-80 percent of AMI) households only. **[Ord. 2011-001]**

5. Revenue from the Sale of TDRs

The revenue generated from the sale of development rights from the TDR Bank shall be allocated to the Natural Areas Fund administered by ERM for acquisition and management of environmentally sensitive lands and wetlands.

H. TDR Receiving Areas

Development rights shall only be transferred to those parcels which meet the qualifications for designation as receiving areas.

1. Eligible Receiving Areas

- a. PDDs and TDDs. The total density of the project, including the TDR units, shall be utilized for calculating the minimum PDD or TDD acreage threshold; and
- b. Residential Subdivisions which are not within a PDD or TDD.

2. Qualify as a Receiving Area

- a. Be located within the U/S Tier; **[Ord. 2004-040]** **[Ord. 2008-003]**
- b. Be compatible with surrounding land uses and consistent with the Plan;
- c. Meet all concurrency requirements;
- d. Meet all requirements as outlined in this Code; and
- e. Be compatible with adjacent Environmentally Sensitive Lands.

3. Compatibility with Adjacent Environmentally Sensitive Lands

A receiving area shall not degrade adjacent environmentally sensitive lands. Receiving areas, therefore, shall reduce the intensity/density of that portion of the development which is contiguous to any regionally significant natural resource as defined by the Treasure Coast Regional Planning Council, environmentally sensitive land as defined by the ESLASC or CLASC, or sites designated as preserve areas according to Art. 14.C, Vegetation Preservation and Protection, so that the

development is compatible with, and does not negatively impact the environmentally sensitive area, by providing a buffer zone of native vegetation according to the following table.

Table 5.G.3.H - Required Buffer Zone

Density of Adjacent Pod/ Development Area	Required Buffer Zone of Native Vegetation
Net density less than or equal to three units per acre	50 foot buffer
Net density greater than three and less than or equal to five units per acre	100 foot buffer
Net density greater than five units per acre	200 foot buffer

4. Applicability TDR Increased Buffer and Setbacks for LR-1, LR-2 and LR-3PDD

The perimeter buffer and building setbacks for a TDR receiving area in a PDD with a LR-1, LR-2 or LR-3 FLU designation shall be upgraded where ZLL, TH, MFD or SFD using RS PDRs are located within 125 feet of any SFD with a lot size of 14,000 feet or greater, or any vacant parcels with a LR-1, LR-2 or LR-3 FLU designation. **[Ord. 2008-037]**

a. Increased Buffer Widths

Where applicable, the perimeter buffer shall be increased by 15 feet for projects having ZLL or SFD units, and 20 feet for TH and MFD units. **[Ord. 2008-037]**

b. Upgraded Landscaping

Where an increased buffer width is required, an additional native palm or tree shall be provided for each 30 linear feet, with a maximum spacing of 90 feet between clusters. **[Ord. 2005 – 002] [Ord. 2008-037]**

c. Increased Setbacks

Where applicable, when a development has a more intense housing classification, an additional ten-foot rear setback shall be required. For the purposes of this Section, housing classification shall be ordered from least intense to most intense, as indicated in Table 5.G.3.H, Housing Classification. **[Ord. 2005 – 002] [Ord. 2008-037]**

Table 5.G.3.H - Housing Classification

Intensity by Group	Housing Type
1 - Low	Single-family residential (RT PDRs); or Zero lot line homes.
2 - Medium	Single family residential (RS PDRs); Mobile homes; Townhouses; or Multi-family.
3 - High	Type 2 or 3 Congregate Living Facilities.
[Ord. 2005-002] [Ord. 2008-037]	

5. Prohibitions

Under no circumstances shall a receiving area contain a sending area as defined in Art. 5.G.3.F.2, Eligible Sending Areas. This shall not apply if the project is providing all of the units at prices attainable by persons making between 30%-120% of AMI. The County shall establish the actual prices for each unit and each unit shall be deed restricted consistent with Art. 5.G.2.F, Affordability Requirements. **[Ord. 2008-003]**

I. TDR Density Bonus Limitations

1. WHP 35 Percent Requirement

In accordance with FLUE Policy 2.6-a.5 of the Plan, 35 percent of all TDR density bonus units shall be provided as WHP units. These units shall be constructed on site; comply with the affordability range requirements of Table 5.G.1.B, Workforce Housing Program and Art. 5.G.2.F, Affordability Requirements; and, Art. 5.G.1.C, Development Options. The project shall only be eligible to apply for the following WHP incentives: Art. 5.G.1.E.2, Traffic Performance Standards Mitigation; Art. 5.G.1.E.3, Expedited Review; and, Art. 5.G.1.E.4, Density Bonus Development Options. **[Ord. 2008-003] [Ord. 2011-001]**

2. AHP 100 Percent Requirement

When using the voluntary AHP, all TDR density bonus units shall be provided as AHP units. These AHP units shall be constructed on site; comply with the affordability range requirements of Table 5.G.2.B, Affordable Housing Program and Art. 5.G.2.F, Affordability Requirements; and, Art. 5.G.2.C, Design Requirements. The project shall only be eligible to apply for the following AHP

incentives: Art. 5.G.2.D.2, TPS Mitigation; Art. 5.G.2.D.3, Expedited Review; and, Art. 5.G.2.D.4, Density Bonus Development Options. [Ord. 2009-040]

3. WHP and AHP Units

Consideration may be given to developments requesting both WHP and AHP units within the proposal. In this instance, the Planning Director or designee will determine which program's (WHP or AHP) density bonus criteria will be utilized based on the programmatic requirements imposed by a governmental agency providing affordable housing funding or another entity with programmatic requirements (e.g., Habitat for Humanity or a Community Land Trust). [Ord. 2009-040]

4. Permitted Density Ranges

The maximum number of development rights which may be transferred to the receiving parcel shall be determined in accordance with Art. 5.G.3.H, Receiving Areas, Art. 5.G.3.K, TDR: Receiving Area Procedure, and the following: [Ord. 2008-003]

a. Standard Density Bonus

Approved receiving areas may receive a bonus density as follows: [Ord. 2008-003] [Ord. 2008-037]

- 1) Receiving areas in the U/S Tier west of Florida's Turnpike: up to two du/acre; or, [Ord. 2008-003]
- 2) Receiving areas in the U/S Tier east of the Florida Turnpike, but not in a Revitalization and Redevelopment and Infill Overlay: up to three du/acre; or, [Ord. 2008-003] [Ord. 2009-040]
- 3) Receiving areas in a Revitalization Redevelopment and Infill Overlay: up to four du/acre. [Ord. 2008-003] [Ord. 2009-040]
- 4) The bonus density may be less than the total bonus density indicated in 1, 2 and 3 above when an additional WHP or AHP density bonus has also been utilized. (See item d. below). [Ord. 2009-040]

b. Additional Density Bonus

Receiving areas meeting one or both of the following criteria shall be eligible for an additional one du/acre density bonus above the aforementioned density bonus ranges. [Ord. 2008-003] [Ord. 2008-037]

- 1) Receiving areas within 1/4 mile radius of a public park, (excluding golf courses), community commercial facility or mass transit facility within the U/S Tier; and [Ord. 2008-003] [Ord. 2009-040]
- 2) Receiving areas within 1/4 mile radius of a regional commercial facility or a major industrial facility within the U/S Tier. [Ord. 2008-003]

In order to be eligible for the additional one du/acre density bonus, at least 25 percent of the receiving area must be located within the required radius. The density bonus shall apply to the entire receiving area. [Ord. 2008-003]

c. LR-1, 2 and 3 FLU Density Limitation

To mitigate any potential adverse impacts in low-density residential neighborhoods (as determined by residential FLU designation), the maximum TDR density bonus in the LR-1, LR-2 and LR-3 FLU designations shall not exceed 100 percent of the standard or maximum density, exclusive of any other density bonus allowed on the subject site. Exceptions shall be permitted for any project that is located in the URA or entirely surrounded by one or more of the following: [Ord. 2008-037]

- 1) Parcels with an MR-5 or higher FLU designation; or [Ord. 2008-037]
- 2) Parcels with a non-residential FLU designation or use; or [Ord. 2008-037]
- 3) Open space 100 feet in width or greater; or [Ord. 2008-037]
- 4) A major street. [Ord. 2008-037]

d. A development's WHP or AHP density bonus increase will be given consideration when assigning the number of TDR units recommended to the development. Other factors to be considered include: the location of the proposed development and its relationship to the study area; the housing type(s) proposed; if the development site is located within 1/4 mile radius of a public park (neighborhood or regional park, not a golf course); civic uses (schools/libraries); a mass transit facility; child care facilities; medical facilities; a super market; a community commercial facility; employment opportunities; and within 1/2 mile radius of social services; a regional commercial facility; an industrial facility; additional civic uses and employment opportunities. [Ord. 2009-040]

J. TDR: Sending Area Procedure

1. Sending Parcel Application

The property owner of lands which are designated sending areas as defined under Art. 5.G.2.F.2, Eligible Sending Areas, must make application to PZB for an administrative determination in order to

be formally designated as a sending area. The purpose of this administrative determination is to ascertain the exact number of development rights the property owner is entitled to. The application shall include, at a minimum:

- a. Proof of ownership;
- b. A legal description of the property; and,
- c. Contract, or option, for the purchase and sale of development rights (unless requesting a TDR Certificate, as outlined in Art. 5.G.3.J.6, Development Rights Certificates. The application shall be submitted to the Executive Director of PZB. Applications for a sending area designation may be accepted for review and processing at any time.

2. Review Process

a. Environmentally Sensitive Lands and Lands Designated RR-20 or CON on the FLUA

Prior to the first scheduled DRO meeting to consider the TDR application, the Executive Director of PZB shall review the sending area application and make a determination regarding the number of units associated with the parcel. As part of review of the application, the Executive Director of PZB shall notify ERM of the application and request that a site check be conducted.

ERM shall complete a site check to ensure that the site has not been altered and the site meets the criteria provided in Art. 5.G.3.F.2, Eligible Sending Areas, ERM shall complete a written recommendation to the Executive Director of PZB regarding the site.

b. Land Designated AGR on the FLUA

Prior to the first scheduled DRO meeting to consider the TDR application, the Executive Director of PZB shall review the sending area application and make a determination regarding the number of units associated with the parcel. As part of review of the application, the Executive Director of PZB shall complete a site check to ensure that the site is suitable for bona fide agricultural or other open space purposes consistent with the AGR provisions in the Plan.

Sending area applications which are not submitted in conjunction with a receiving area application shall be reviewed and acted upon within 25 days.

3. Written Determination

The property owner shall receive a written determination from the Executive Director of PZB indicating how many development rights can be transferred from the property. The number of development rights for the site shall be documented and be kept on file in the PZB Department.

The written document shall be valid for a period of 12 months. If any modifications or alterations are made to the property during the 12 month period, the property owner shall not be permitted to participate in the TDR Program.

4. Easement Agreement/Restriction

Prior to site plan certification, the applicable conservation easement, in a form and content acceptable to the County Attorney shall be recorded in the public records of PBC. The easement shall restrict future use of the land consistent with the requirements in Art. 5.G.2.F.6, Restriction on Future Use. Prior to recordation of the easement, a legally enforceable Maintenance Plan providing for perpetual maintenance of the sending area shall be established by the property owner and approved by ERM.

5. Re-Submittal of Application

The owner of a sending parcel may re-apply until all development rights have been severed from the property.

6. Development Rights Certificates

Environmentally sensitive lands and lands designated as CON or RR-20 on the FLUA must be deeded to, and accepted by PBC, subject to the discretion of the BCC, before the Certificate can be issued. Environmentally sensitive lands and lands designated as CON or RR-20 on the FLUA deeded to, and accepted by PBC, shall be managed by PBC or its designee. AGR lands shall be managed by the property owner in perpetuity as provided in the Maintenance Plan.

a. Eligibility

Development Rights Certificates shall only be issued to property owners of ESL or RR-20 land that deed without compensation environmentally sensitive land to PBC or property owners of AGR land that record an agricultural conservation easement, and follow the procedures in this Chapter. The development rights certificate shall require that restrictions be placed on the sending area prior to the sale of those development rights. A minimum transfer of five acres is required.

b. Issuance of the Certificate

Upon completion of the application process, and recordation of the deed transferring ownership of the property to PBC, or recordation of the agricultural conservation easement and approval by

ERM of a legally enforceable maintenance plan providing for perpetual maintenance of the sending area, the property owner shall be issued a Development Rights Certificate. The Certificate shall indicate the exact number of development rights which can be sold, transferred, or traded, by the holder of such Certificate. The Certificate shall remain in effect until applied to a TDR receiving area in accordance with provisions of this Chapter.

c. Unused Certificates

A property owner of AGR land, with an agricultural conservation easement recorded, may reassociate development rights to the original sending parcel provided that no development rights have been sold. A written request to reassociate the development rights shall be submitted to the Executive Director of PZB along with proof of ownership and a legal description of the property. Prior to approval of a request to the reassociate development rights, the applicant must petition and receive BCC approval to release the easement recorded against the sending area parcel.

7. Limitations

The amount of development rights assigned to a sending area parcel, or indicated on a certificate, shall be reduced by one for every conforming residential structure situated on the property at the time of application.

K. TDR: Receiving Area Procedure

1. General

Receiving areas shall be approved concurrent with issuance of a Development Order for a PDD, TDD or a residential subdivision. The following procedures shall be followed in order to become a receiving area to obtain the density bonus. **[Ord. 2005-002] [Ord. 2010-005]**

2. Pre-application Conference

Prior to submittal of an application requesting a receiving area density bonus, the applicant must attend a pre-application conference with the appropriate PZB staff, pursuant to Art. 2.A.5, Pre-application Conference (PAC) or Pre-application Appointment (PAA), to review the proposed development, and the requirements and procedures of the TDR Program.

3. Review Process

The review process for TDR applications is based upon the density and type of residential development proposed.

- a. The transfer of two units per acre or less to a residential subdivision is reviewed by the DRO and shall be subject to the provisions of Art. 2.C, Administrative Processes, except as provided below. Parcels which meet the minimum acreage thresholds for a PDDs or TDD shall not utilize this Chapter option;
- b. The transfer of more than two units per acre to a residential subdivision is reviewed as a Class A conditional use and shall be subject to the provisions of Art. 2.B, Public Hearing Processes, except as provided below. Parcels which meet the minimum acreage thresholds for a PDDs or TDD are allowed to utilize the option contained in this paragraph, provided the parcel meets the PDDs PDRs contained in Art. 3.E, Planned Development Districts (PDDs), or contained in Art. 3.F, Traditional Development Districts (TDDs);
- c. The transfer of any density to a planned development is reviewed as a Conditional Use and shall be subject to the provisions of Art. 3.E, Planned Development Districts (PDDs). A general application by a property owner for receiving area status and a density bonus shall be accepted for review and processing. **[Ord. 2005-002] [Ord. 2010-005] [Ord. 2017-007]**
- d. BCC approval is required for any project that is requesting a combined density increase/transfer through the WHP and TDR programs that exceeds two units per acre. **[Ord. 2005-041]**

4. Contents of Application

In conjunction with the general application for a Rezoning, Development Order Amendment, or Development Review Officer approval, an applicant for receiving area status and a density bonus must submit a supplemental TDR Application. The application shall: **[Ord. 2011-001]**

- a. be submitted in a form established by the Zoning Director of PZB; **[Ord. 2011-001]**
- b. submit a Preliminary Plan; and **[Ord. 2011-001]**
- c. submit Preliminary Architectural Elevations for TDR applications that exceed DRO thresholds prior to certification of the application for public hearing pursuant to Art. 5.C.1.B, Threshold. Elevations shall not be required for single family dwellings or multi-family dwellings less than 16 units as they are exempt from the provisions of Art. 5.C, Design Standards. However, the applicant shall ensure these units are architecturally compatible with the other units in the development by using consistent colors, materials, layouts, etc. **[Ord. 2011-001]**

5. Standards

In addition to fulfilling the requirements of Art. 5.G.3.H, Receiving Areas, to qualify as a receiving area and be eligible for an increase in density, all applications requesting receiving area designation shall comply with these standards:

- a. The transfer of development rights is by deed, and the deed shall be recorded before final site plan approval;
- b. The transfer is to a parcel of land which meets all the requirements of this Code and within which the transferred densities have been included and amended;
- c. The proposed development meets all concurrency requirements at the level of impact calculated to include the TDR density;
- d. If the transfer is between two private parties, at the time the transfer is approved, the sending area from which the transfer will occur shall be subject to a conservation easement and shall be identified on the Zoning Map. Pending recording of the conservation easement, no Development Order approvals shall be issued for the sending area or receiving area; **[Ord. 2010-022]**
- e. If the transfer of rights is from the PBC TDR Bank, all rights have been accounted for and there are enough development rights in the bank to cover the project;
- f. The proposed development and density are compatible with the surrounding area and land use; and
- g. The proposed development and density do not negatively impact adjacent environmentally sensitive lands.

6. Contract for Sale and Purchase of Development Rights

A contract for sale and purchase of development rights is required. A deed of TDR shall also be required as part of the approval of a TDR transfer. The contract shall be executed prior to Final DRO approval of a TDR receiving area. One hundred percent of the funds must be received by PBC prior to subdivision approval or issuance of first building permit, whichever occurs first. The deed must be recorded before issuance of the first building permit for a project designated as a receiving area. This paragraph shall not apply to building permits for sales models or temporary real estate sales and management offices permitted pursuant to this code. **[Ord. 2009-040] [Ord. 2011-001]**

L. Notification to Property Appraisers Office

Upon recordation of the deed of transfer, the Executive Director of PZB shall notify, within 20 days, the Property Appraiser's Office in writing that development rights have been transferred from the sending area or TDR Bank to the receiving area in perpetuity.

M. County Initiated Land Use Amendment

Following recording of the deed, the Planning Division, upon direction from the BCC, shall initiate a Site Specific Plan Amendment to designate the property with a CON designation or place a notation which reflects the use of the property as an Agricultural Reserve Preservation Area (AGR/P). Densities obtained through the TDR Program shall be placed on the FLUA as notations following approval of the TDR receiving area.

N. Overall Accounting System for TDR Density

PZB shall maintain an overall accounting system for monitoring density availability and density transfers in the TDR Program. The accounting system shall include both private development rights and development rights in PBC's TDR Bank.

Density needed for the TDR Program may be derived from different sources including, but not limited to:

1. Density Reduction

Approved Site Specific Plan Amendments since 1990 which resulted in a density reduction; and,

2. PUD Unused Density

At such a time that the TDR Program, any subsequent density bonus programs, or amendments to the Plan requesting an increase in density, deplete the number of units available from previous amendments, PZB shall begin to monitor the PUD units which have been approved through the zoning process, but which have remained unused. The later units may at that time be considered as a source for density for the TDR Program.

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CHAPTER H MASS TRANSIT STANDARDS

Section 1 General

A. Authority

The Executive Director of Palm Tran shall be responsible for implementing, applying, interpreting, and modifying the standards of this Chapter. **[Ord. 2008-003]**

B. Purpose and Intent

The purpose and intent of this Chapter is to ensure adequate, and consistent mass transit infrastructure/facilities are available to accommodate development concurrent with their associated impacts. The specific objectives of this Chapter are as follows: **[Ord. 2008-003]**

1. Establish Mass Transit infrastructure/facilities standards for unincorporated PBC. **[Ord. 2008-003]**
2. Provide Mass Transit infrastructure/facilities in accordance with the objectives of the Mass Transit element of the Plan. **[Ord. 2008-003]**
3. Ensure that necessary Mass Transit infrastructure/facilities will be provided concurrently with development. **[Ord. 2008-003]**

Section 2 Applicability and Standards

The standards of this Chapter shall apply to all residential and non-residential development or redevelopment in unincorporated PBC, as follows: **[Ord. 2008-003]**

A. Modifications to Previous Approvals

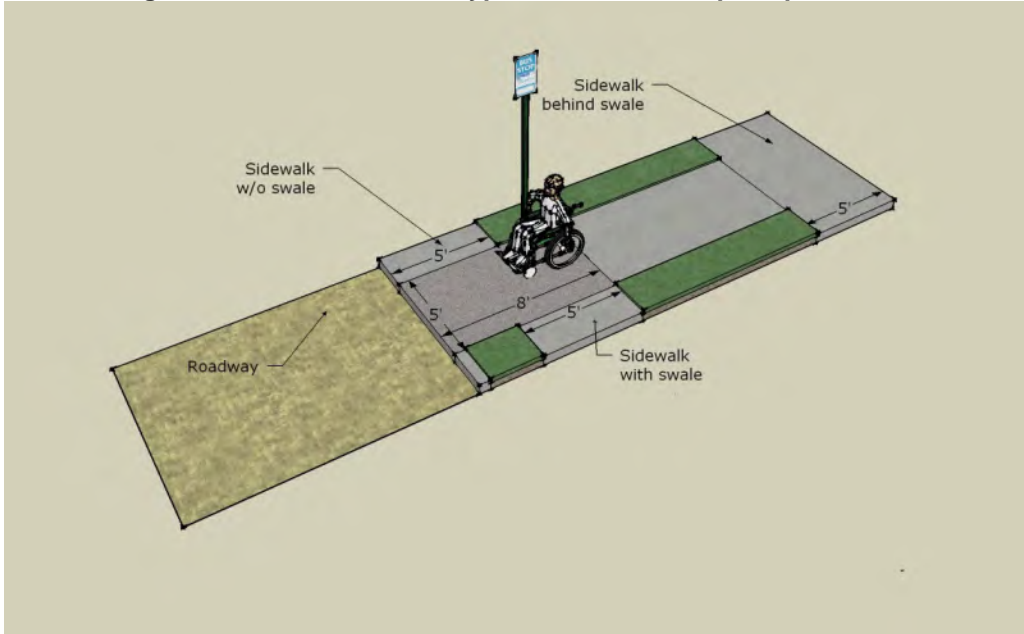
Modifications to previous approvals shall comply with this Chapter for un-built projects without an approved DRO plan, or to the greatest extent possible in the affected area without the loss of density, intensity or parking, for un-built projects with a DRO approved plan, built projects that have constructed less than eighty percent of approved density or intensity, structural renovations in excess of 75 percent or more of the current Improvement Value of the structure, and parking lot alternations or additions. **[Ord. 2008-003] [Ord. 2013-001]**

B. Thresholds and Standards

For the purposes of this Chapter, non-residential development shall be defined as all commercial, civic/public, recreation and industrial uses that are open to the public. Unmanned or minimal commuter generating facilities, such as Commercial Communication Towers or Electric Transmission Substation, or as determined by Palm Tran shall be excluded from this definition. Where applicable, the requirements of this Chapter shall be approved by Palm Tran and shown on all Preliminary Development Plans, Preliminary Subdivision Plans, Preliminary Site Plans, Final Master Plans, Final Subdivision Plans and Final Site Plans, prior to DRO certification or approval. Palm Tran Transit Design Manual provides an understanding of transit operating criteria and, access requirements (www.pbcgov.com/palmtran/library). Section 810 of the ADA and ABA Accessibility Guidelines provides curbside ADA requirements for Transportation Facilities (www.access-board.gov/ada-aba/final.htm). FDOT Transit Facilities Guidelines provides more detail requirements for the location transit infrastructure (www.dot.state.fl.us/transit/Pages/TRANSIT%20Facilities%20GUIDELINES.PDF). **[Ord. 2008-003] [Ord. 2017-007]**

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Figure 5.H.2.B – Minimum Typical ADA Bus Stop Requirements

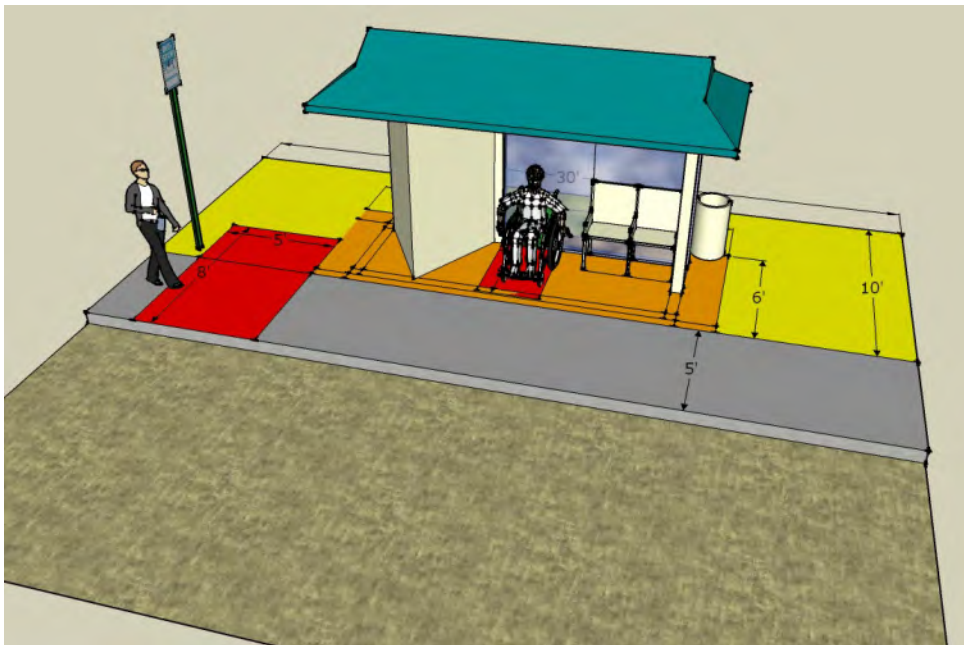


[Ord. 2008-003]

1. **All residential developments of at least 50-units and all non-residential of at least 5-acres or 50,000 square feet**

All development exceeding this threshold shall provide a minimum 10-foot by 30-foot easement for Bus Stop Boarding and Alighting Area(s) spaced no less than 0.1 miles along all public R-O-W, or at intersections or recognizable landmarks. Easements shall be dedicated by plat in accordance with Art. 5.H.2, Applicability and Standards [Ord. 2008-003]

Figure 5.H.2.B – 10-foot by 30-foot Bus Stop Boarding and Alighting Area with Typical Bus Shelter Alignment



[Ord. 2008-003]

a. Standards

The following types of bus stop and alighting areas may be used to meet the requirements of this section. **[Ord. 2008-003]**

1) Near Side

Near Side Bus Stops are located immediately before an intersection. Associated Bus Stop Boarding and Alighting Areas are located before the intersection, no closer than 5-feet from the corner clip. The bus stop zone requires a minimum 100-foot no parking zone. The length of the Bus Stop Zone shall be increased by 50-feet in length for each additional bus expected to stop simultaneously. **[Ord. 2008-003]**

2) Far Side

Far Side Bus Stops are located immediately after an intersection. Associated Bus Stop Boarding and Alighting Areas are located after the intersection, no closer than 15-feet from the corner clip. The bus stop zone requires a minimum 90-foot no parking zone for a single bus. This is also applicable to far side bus stops after a turn. The length of the Bus Stop Zone shall be increased by 50-feet in length for each additional bus expected to stop simultaneously. **[Ord. 2008-003]**

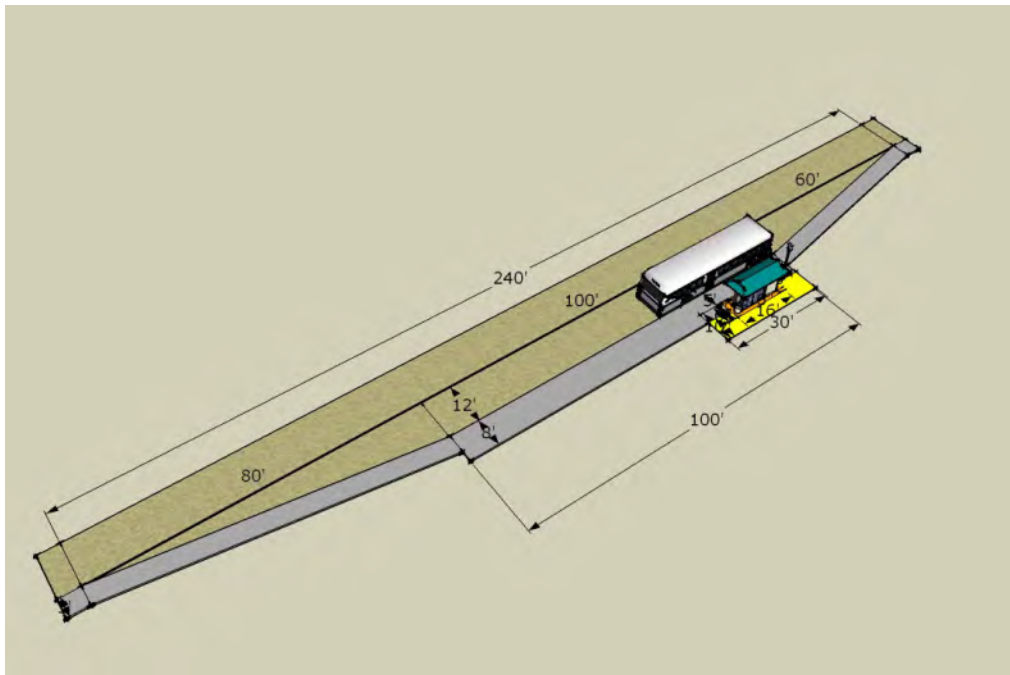
3) Mid-Block/Landmark

Mid-Block/Landmark Bus Stops are located between intersections where distance or other restrictions limit intersection placement. Associated Bus Stop Boarding and Alighting Areas are located at landmarks that take advantage of perpendicular Wheel Chair Accessible Routes into the development. The bus stop zone requires a minimum 150-foot no parking zone. The length of the Bus Stop Zone shall be increased by 50-feet in length for each additional bus expected to stop simultaneously. **[Ord. 2008-003]**

b. Additional site specific requirements

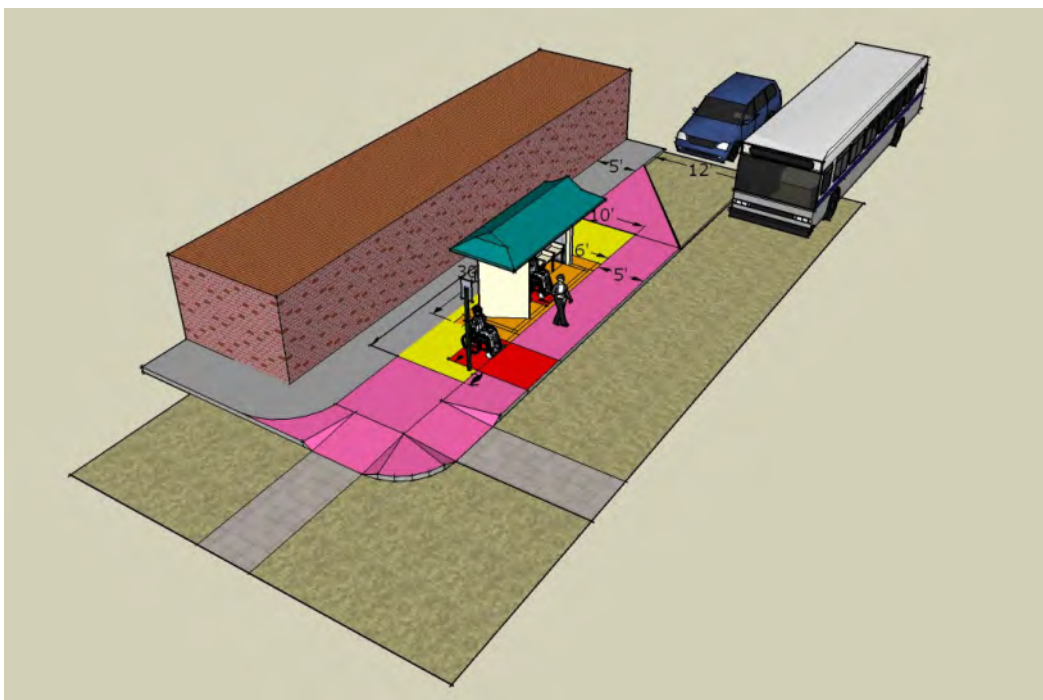
Where applicable additional street side infrastructure (bus bays, bulb outs, exclusive transit treatments) and curbside infrastructure (to meet ADA and other requirements) shall be specified by Palm Tran and shall be required at major intersections and mass transit traffic generators. **[Ord. 2008-003]**

Figure 5.H.2.B. – Bus Bay with Typical Bus Shelter Alignment



[Ord. 2008-003]

Figure 5.H.2.B - Bulb Out with Typical Bus Shelter Alignment



[Ord. 2008-003]

2. Non-residential developments of 100,000 square feet or more

In addition to the above requirements, all non-residential development of 100,000 square feet or more shall provide a Mass Transit Circulation Plan prior to final DRO approval. Mass Transit Circulation Plans apply to an area inside a development designated for internal Mass Transit circulation, bus stop(s), bus access, bus recovery and any or all of the above Mass Transit Infrastructure/Facilities on or adjacent to the development. Bus access or bus stops should include, at a minimum, provisions for a covered or sheltered bus boarding and alighting, continuous paved pedestrian and bicycle access from the bus stop to the use(s) it is intended to serve, and bicycle rack. Bus recovery area should accommodate all bus routes within a six to eight mile radius including a 25 percent growth ratio factor. [Ord. 2008-003]

3. Development of Regional Impact (DRI)

In addition to the above requirements, an Inter-modal Transfer Center requirement to promote public transportation shall be applicable to DRI projects. Prior to final DRO approval, the property owner shall consult with Palm Tran to ensure a suitable Inter-modal Transfer Center is provided on the Master Site Plan. In addition, provisions shall be made to fund any necessary improvements to accommodate Palm Tran specifications for the following: [Ord. 2008-003]

a. When Design Guidelines are provided, the property owner shall describe the optimal characteristics of a fixed route transit (Palm Tran) and community based (shuttle/trolley) circulator system to include: [Ord. 2008-003]

- 1) Bus stops with unrestricted pedestrian access within ¼ mile of all structures. [Ord. 2008-003]
- 2) Community circulator service for movement within the site and interconnected with the fixed-route service and the inter-modal transfer center. [Ord. 2008-003]
- 3) The location (spacing every 1/10 mile), timing, size, and appearance of bus stops and stations as well as details facilitating integration of bus stops with adjacent development. [Ord. 2008-003]

b. Construction of an inter-modal transfer center (typically 2-3 acres) shall commence with the first building permit and shall include, at a minimum, the following: [Ord. 2008-003]

- 1) Park-N-Ride (typically 100-car capacity, convenient and adjacent commuter parking). [Ord. 2008-003]

- 2) Accommodation for fixed route transit and community based circulator service for intermodal connections to include bus bays and access to major roadway(s) **[Ord. 2008-003]**
- 3) Convenient and adjacent public restrooms (in accordance with Florida Building Code-Plumbing paragraphs 403.1 and 403.6, and Table 403.1.A-3) **[Ord. 2008-003]**
- 4) Transit shelters (minimum 50 commuter accommodation). **[Ord. 2008-003]**
- 5) Kiosks for mass transit schedule information **[Ord. 2008-003]**
- 6) Trash receptacles **[Ord. 2008-003]**
- 7) Lighting **[Ord. 2008-003]**
- 8) Bicycle storage **[Ord. 2008-003]**
- 9) Other seating and related infrastructure **[Ord. 2008-003]**
- 10) Adjacent newspaper and other vending facilities that no not impede commuter movements and connections. **[Ord. 2008-003]**

Section 3 Site Plan and Plat Dedication Language

A. Site Plan Language:

All site plans meeting or exceeding the minimum thresholds identified in Section 2.C. above shall include the following language: **[Ord. 2008-003]**

1. Bus Stop Boarding and Alighting Area(s):

“Proposed 10’x30’ Palm Tran Bus Stop Boarding & Alighting Area Easement” with arrow to designated area measuring 10-feet inside and perpendicular to the property line and 30-foot parallel and along the property line. **[Ord. 2008-003]**

2. Mass Transit Circulation Plan:

“Proposed Mass Transit Circulation Route” with arrow to the designated route identified by a dashed line “Palm Tran may exercise the right of Mass Transit Circulation, Bus Access, and or Bus Stops on or adjacent to major ingress/egress and building entrances” should also appear on the site plan. **[Ord. 2008-003]**

B. Plat Dedication Language:

Prior to Plat Recordation or issuance of the first Building Permit, whichever occurs first, the property owner shall convey and/or dedicate to Palm Beach County an easement for Bus Stop Boarding and Alighting Area(s) in a form with terms and conditions approved by Palm Tran. Supporting documentation, shall include but not be limited to, a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran. All recorded plats meeting or exceeding the minimum thresholds identified in Section 1.C. above shall include the following language: The Mass Transit Easement as shown hereon is dedicated in perpetuity, by Owner, to the Board of County Commissioners of Palm Beach County, its successors and assigns (hereafter "County"), for the construction, installation, maintenance and use of a public transit boarding and alighting area, which use includes but is not limited to a public transit bus shelter, transfer station, and advertising. The Owner, its successors and assigns (hereafter "Owner"), shall maintain the easement area until such time as the County constructs improvements in the easement area for its intended use and purposes, at which time the County will assume maintenance of the easement area so long as the improvements are located thereon and County uses the easement area for its intended purposes. The maintenance obligation shall automatically revert to the Owner upon County’s temporary or permanent cessation of use of the improvements or removal of the improvements. **[Ord. 2008-003]**

C. Easement Language (if dedicating as a separate document):

Standard Easement document language has been developed by PBC Attorney’s Office. Required supporting documentation includes an original signed and sealed legal description of the Bus Stop Boarding and Alighting Area consistent with the State of Florida Technical Standards for surveys and legal descriptions; an Opinion of Counsel letter from the Grantor’s legal counsel certifying title and authority; and an Affidavit of Managing Member of Limited Liability Company. Other supporting documentation may be required. **[Ord. 2008-003]**

D. Property Owned by Palm Beach County

All mass transit infrastructure/facilities shall be located, referenced and established in a form and manner that is mutually agreeable to Palm Tran and the applicable Palm Beach County department(s). **[Ord. 2008-037]**

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CHAPTER I MURALS

Section 1 Purpose and Intent

The purpose of this Chapter is to establish standards, and review and approval procedures for murals. Murals are intended to contribute to and advance: streetscape aesthetics; architectural features or character of a building; a unique identity; sense of place; civic pride; community interaction; or the preservation of local history or culture. **[Ord. 2013-021]**

Section 2 Restrictions on Placement

A. Non-residential Buildings and Structures

Murals shall be limited to non-residential buildings or structures supporting commercial, industrial, civic, recreational, cultural, or utilities uses, as identified in the Use Matrices in Art. 4.B, Use Classification. **[Ord. 2013-021]**

B. Adjacent to Interstate Highways

Murals in the vicinity of any Interstate highways shall comply with the Federal Highway Beautification Act as implemented through Chapter 10-14, FAC, as amended. **[Ord. 2013-021]**

C. Adjacent to Residential

Murals shall not be located on a mural surface within 200 feet of any property line adjacent to a parcel with a residential use, district or FLU designation, unless: **[Ord. 2013-021]**

1. oriented so it cannot be seen from an adjacent residential parcel; **[Ord. 2013-021]**
2. the adjacent parcel supports nonresidential uses; **[Ord. 2013-021]**
3. separated by a collector or arterial street; or, **[Ord. 2013-021]**
4. separated from view by a building, structure, or incompatibility buffer. **[Ord. 2013-021]**

Section 3 Application Procedures

A. General

No murals may be placed on any buildings or structures unless in compliance with this Chapter, and approved by the County Administrator. **[Ord. 2013-021]**

B. Application Requirements

An application form and requirements shall be specified by the County Administrator, and shall include, but not be limited to, the following: **[Ord. 2013-021]**

1. Scale drawing depicting the proposed mural, including color and materials. **[Ord. 2013-021]**
2. A scale drawing of the site depicting which building or structure elevation(s) will act as the mural surface(s). **[Ord. 2013-021]**
3. A detailed written and graphic description of the method which will be used to securely affix the mural to the mural surface, including any drawings or specifications deemed necessary by the Building Official, or designee. **[Ord. 2013-021]**
4. A notarized letter from the property owner: **[Ord. 2013-021]**
 - a. authorizing the placement of the mural on the building or structure; and, **[Ord. 2013-021]**
 - b. stating that the owner of the property will maintain, repair or remove the mural if deemed necessary, in the event the artist fails to complete the installation of the mural, or due to deterioration or damage to the mural. **[Ord. 2013-021]**
5. A proposed timeline for completion of the mural, upon approval of a mural application (not to exceed six months). **[Ord. 2013-021]**

C. Review

Mural applications shall be reviewed in accordance with procedures established in the Public Art Committee Resolution R-2010-2092, as amended, and the following: **[Ord. 2013-021]**

1. Unless determined to be insufficient, within ten days of accepting a mural application, the Building Division shall forward to FDO for review by the Public Art Committee. **[Ord. 2013-021]**
2. FDO shall schedule a meeting of the Public Art Committee. **[Ord. 2013-021]**
3. The Public Art Committee shall conduct a public meeting and make a recommendation to the County Administrator, to approve, approve with conditions, continue pending submittal of additional materials or clarification, or deny, in accordance with the following: **[Ord. 2013-021]**
 - a. Not less than ten or more than 60 days after submittal of a complete application, the Public Art Committee shall meet and review the application. Once the public meeting is scheduled, the following public notice requirements shall be satisfied: **[Ord. 2013-021]**

1) Public Notice Boards

The applicant shall provide public notice of the meeting by the posting of the property with signs in the following fashion; **[Ord. 2013-021]**

a) The subject property shall have notices posted by the applicant with information provided by FDO regarding the public hearing on one or more signs at least 15 days in advance of any public meeting. One sign shall be posted for each 250 feet of frontage along a street up to a maximum of ten signs. All signs shall be: **[Ord. 2013-021]**

- (1) Evenly spaced along the street when more than one sign per property is required; **[Ord. 2013-021]**
- (2) Setback no more than 25 feet from the property line; and, **[Ord. 2013-021]**
- (3) Erected in full view of the public. **[Ord. 2013-021]**

Where the property does not have sufficient frontage on a street, signs shall be in a location acceptable to FDO. The applicant shall submit photographs confirming the signs have been posted. The failure of any such posted notice to remain in place after it has been posted shall not be deemed a failure to comply with this requirement or be grounds to challenge the validity of any decision made by the approving authority. The applicant shall also be required to ensure the signs have been removed no later than five days after the final meeting. **[Ord. 2013-021]**

b) Exceptions

Signs posted by a public agency or the BCC may be posted on the nearest street or at major intersections leading to and within the subject property. **[Ord. 2013-021]**

b. The Public Art Committee recommendation to the County Administrator shall be based upon the following findings: **[Ord. 2013-021]**

- 1) The mural will accomplish the stated Purpose and Intent of this Chapter; **[Ord. 2013-021]**
- 2) The artist is capable of completing the work in accordance with the plans and specification; **[Ord. 2013-021]**
- 3) The durability and expected maintenance requirements are appropriate; and, **[Ord. 2013-021]**
- 4) The materials to be used and the manner of application will not require excessive maintenance by its owner. **[Ord. 2013-021]**

c. In making its determination, the Public Art Committee may consider evidence and the opinions of the owners and occupants of affected properties. Absent favorable findings as required hereby, the Public Art Committee shall recommend that a mural permit not be issued by the County Administrator. **[Ord. 2013-021]**

4. Within 30 days of the Public Art Committee rendering a final recommendation, FDO shall forward the Committee's recommendation and application to the County Administrator for final action. The County Administrator shall approve, approve with conditions or deny the application based upon the completeness and accuracy of the application materials and the reasonableness of the Public Art Committee's findings. The Administrator shall have 30 days from receipt of Committee action to render a decision. The decision of the County Administrator shall be final. **[Ord. 2013-021]**
5. When a mural application is initiated by FDO, FDO staff shall forward the Public Art Committee's recommendation and application to the BCC on the Zoning Hearing agenda for final action. **[Ord. 2013-021]**

Section 4 Design Criteria

A. Placement

1. Murals may be located on any mural surface (except as limited in the following subsections) of a building or structure; and **[Ord. 2013-021]**
2. Murals may wrap around from one side of a building to the next. **[Ord. 2013-021]**

B. Size

Murals may cover the entire plane of the side of a building or structure, but shall not extend beyond the edge of the façade surface or roofline. **[Ord. 2013-021]**

C. Obstructions

No mural may obstruct: **[Ord. 2013-021]**

1. The proper function of any exterior mechanical or electrical equipment; or, **[Ord. 2013-021]**
2. Any emergency exits. **[Ord. 2013-021]**

D. Restrictions

Except as stipulated in provisions for Signs within Murals below, no mural shall contain the following: **[Ord. 2013-021]**

1. Any commercial content such as logos, icons, trademarks or brand name. **[Ord. 2013-021]**
2. Any moving, mechanical or electrical parts, or any material creating the illusion of movement or flashing. **[Ord. 2013-021]**
3. Any material projecting more than six inches from the vertical face of the mural surface. **[Ord. 2013-021]**
4. Any content that may be construed as a commercial message for the owner of the building or business, or the artist. The artist may sign the mural with their full name or initials, within an area limited to five percent of the area of the mural, excluding any imbedded signage, or up to four square feet in size, whichever is less. **[Ord. 2013-021]**
5. Anything that alters the intended purpose or function of an improvement (or element thereof) expressly required by the ULDC or the Florida Building Code. **[Ord. 2013-021]**

E. Signs within Murals

Murals may contain or encompass a sign. Signage shall be permitted separately in accordance with Art. 8, Signage. Signage shall be clearly delineated on all applicable Mural drawings as being separate and distinct from the mural. **[Ord. 2013-021]**

F. Illumination

Murals shall only be illuminated in accordance with Art. 8.F.5, Illumination. **[Ord. 2013-021]**

G. Applicability of Art. 8, Signage

Unless otherwise specified, Murals approved in accordance with this Chapter, shall be exempt from all other standards of Art. 8, Signage. **[Ord. 2013-021]**

Section 5 Installation and Time for Completion of Mural

A. Installation

Murals shall be installed in compliance with the drawings and specifications reviewed by the Public Art Committee and approved by the County Administrator. **[Ord. 2013-021]**

B. Time for Completion

An applicant shall adhere to the timeline approved by the County Administrator. Time for the completion and successful inspection of the mural shall not exceed six months from the issuance of the mural permit. After six months, the mural site improvement permit will expire, and the work may not continue, unless the applicant requests, and is granted a mural permit renewal by the Building Division. In no case shall a mural permit be renewed more than one time without reconsideration of the renewal by the County Administrator. In the event the time for completion has exceeded the approved timeline, and a request for a renewal has not been requested and granted, the County Administrator may declare the approval of the mural void, and the project to be abandoned. If declared abandoned the surface(s) of the building shall be restored to a condition consistent with the PBC Property Maintenance Code. **[Ord. 2013-021]**

Section 6 Inspection

Upon completion of the mural, the applicant shall contact FDO staff to arrange for an inspection for compliance with the drawings contained in the approved mural application. **[Ord. 2013-021]**

Section 7 Enforcement

In the event the County Administrator declares the project abandoned, or the mural as installed or maintained fails to materially comply with the drawings and specifications approved by the County Administrator, or with the permit or permit conditions, the owner of the property on which the mural is located shall be subject to enforcement proceedings before the PBC Code Enforcement Special Masters pursuant to Art. 10, ENFORCEMENT. Should the owner be found non-compliant, the Special Master may order the mural removed, or impose fines and penalties under Art. 10.B.3, Administrative Fines; Costs; Liens. The remedies contained in this section shall be in addition to any other remedy available at law. **[Ord. 2013-021]**

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CHAPTER J BEST MANAGEMENT PRACTICES FOR LIVESTOCK WASTE RECEIVED FROM OFFSITE SOURCES

Section 1 Purpose and Intent

The purpose and intent of these regulations is to mitigate potential adverse environmental impacts, pathogens and other nuisances associated with the inappropriate use or disposal of livestock waste received from off-site sources. Adverse impacts include but are not limited to: ground and surface water pollution due to excessive nutrient discharge, specifically nitrogen or phosphorus; odors or other nuisance from improperly stored, composted or spread livestock waste. **[Ord. 2013-021]**

Section 2 Applicability

The standards shall apply to the storage or receiving of livestock waste that is received from offsite sources. **[Ord. 2013-021]**

A. Exemptions

1. Where pre-empted by State law, including but not limited to, the Right to Farm Act. Where applicable, documentation of implemented Best Management Practices or other method of pre-emption shall be required; **[Ord. 2013-021]**
2. A SWA Designated Disposal Facility; **[Ord. 2013-021]**
3. The commercial application of fertilizer on non-agricultural property when in compliance with the Palm Beach County Fertilizer Ordinance (Ord. 2012-039); **[Ord. 2013-021]**
4. Composted manure applied by a homeowner or tenant to residential lawns or gardens; and, **[Ord. 2013-021]**
5. Ten cubic yards per acre up to a maximum of 20 cubic yards in any 12 month period, with all requirements being met, as listed under Section 3 below. **[Ord. 2013-021]**

Section 3 Storage or Spreading of Livestock Waste

The storage or spreading of livestock waste that is received from off-site sources is prohibited, unless in compliance with the following: **[Ord. 2013-021]**

A. Storage

Storage areas shall be covered or contained to prevent run-off or seepage of liquids or materials from the storage area. Storage of livestock waste shall comply with the following: **[Ord. 2013-021]**

1. Shall not be located within five feet of any structure, unless placed within a structure intended for the storage or composting of such waste; **[Ord. 2013-021]**
2. Shall not be located within 25 feet of any property line, with exception to internal lot lines of parcels owned by the same entity; and, **[Ord. 2013-021]**
3. Shall not be within 100 feet of a potable water supply well, a storm drainage system, wetland, pond, canal or other water body. **[Ord. 2013-021]**

B. Spreading

Livestock waste received from off-site sources shall be spread within 72 hours of delivery, except for less than 10 cubic yards that is actively being composted, or as otherwise approved in a Nutrient Management Plan. Storage shall comply with any applicable livestock waste Storage and Separation requirements. Spreading of livestock waste shall comply with the following: **[Ord. 2013-021]**

1. Nutrient Management Plan

Prior to receiving livestock waste, an application shall be submitted to the Cooperative Extension Service (CES) for review. Upon completion of the review, the CES shall develop a Nutrient Management Plan which indicates whether application of any livestock waste is appropriate for the soil condition, and if so, in what amount. **[Ord. 2013-021]**

a. Application Form and Requirements

The application form and requirements shall be in a manner established by the CES. **[Ord. 2013-021]**

b. Validity of Nutrient Management Plan

The Nutrient Management Plan shall remain current for three years after its issuance by the CES. A current Nutrient Management Plan must be in place prior to receiving of livestock waste at any time. It shall be a violation of the ULDC, if livestock waste is stored or spread in a manner inconsistent with the current Nutrient Management Plan. **[Ord. 2013-021]**

2. Separation

The spreading of livestock waste shall not occur: **[Ord. 2013-021]**

- a. Within 25 feet of any property line, with exception to internal lot lines of parcels owned by the same entity; and, **[Ord. 2013-021]**
- b. Within 100 feet of a potable water supply well, a storm drainage system, wetland, pond, canal or other water body. **[Ord. 2013-021]**

Amendment History:

[Ord. 2005-002; February 2, 2005] [Ord 2005-041; September 1, 2005] [Ord. 2006-004; March 1, 2006] [Ord. 2006-036; August 29, 2006] [Ord. 2006-055; December 1, 2006] [Ord. 2007-001; January 31, 2007] [Ord. 2007-013; September 4, 2007] [Ord. 2008-003; January 30, 2008] [Ord. 2008-037, September 4, 2008] [Ord. 2009-040; October 28, 2009] [Ord. 2009-047; December 18, 2009] [Ord. 2010-005; February 2, 2010] [Ord. 2010-022] [Ord. 2011-001; February 4, 2011] [Ord. 2011-016; September 6, 2011] [Ord. 2012-003; February 1, 2012] [Ord. 2012-027; August 31, 2012] [Ord. 2013-001; January 31, 2013] [Ord. 2013-018; July 2, 2013] [Ord. 2013-021; August 30, 2013] [Ord. 2014-001; February 3, 2014] [Ord. 2014-025; September 3, 2014] [Ord. 2015-006; February 3, 2015] [Ord. 2014-031; July 7, 2015] [Ord. 2016-016; February 2, 2016] [Ord. 2016-042; September 27, 2016] [Ord. 2017-007; March 2, 2017] [Ord. 2017-025; August 28, 2017] [Ord. 2018-002; February 1, 2018] [Ord. 2018-018; August 29, 2018]

Attachment 2
Palm Beach County Comprehensive Plan
Housing Element

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HOUSING ELEMENT

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History: Adopted: 08/31/89, Ord. No. 89 - 17, Effective 09/11/89
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Revised: 04/20/92, Ord. No. 92 - 06, Effective 05/01/92
Revised: 06/14/93, Ord. No. 93 - 09, Effective 06/28/93
Revised: 10/04/96, Ord. No. 96 - 32, Effective 11/22/96
Revised: 12/20/96, Ord. No. 96 - 51, Effective 01/29/97
Revised: 09/22/97, Ord. No. 97 - 32, Effective 12/03/97
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HOUSING ELEMENT

I. INTRODUCTION

A. Purpose

The purpose of the Housing Element is to: 1) identify existing and projected deficits in the supply of housing to meet the needs of the County's population, particularly the very low and low income families; 2) analyze housing trends and the causes, scope and nature of any housing problems, 3) develop appropriate plans, programs and policies to bring about the accomplishment of the necessary housing, whether through private-sector efforts, non-profit, public/private partnerships or the public sector, and 4) to guide and coordinate all housing activities to eliminate duplications and increase efficiency of the housing delivery system.

The Housing Element of the Comprehensive Plan has several other characteristics that distinguish it from other Plan elements. First, housing is primarily provided by the private sector, and market demand largely dictates the type and location of housing projects. The County's development regulations (e.g., Zoning and Building Codes) only guide the private sector in the development and construction of housing. Second, because housing is an essential human need, the public sector has the responsibility to ensure adequate, safe housing, especially for low, and very low income families, elderly and other disadvantaged groups. Third, the primary criterion for those seeking housing is not local jurisdiction except for those families who can afford to choose a specific location. Factors determining housing selection include personal choice, financial limitation, value, safety and rent.

Much of the planning and coordination of affordable housing services delivery is done through other documents, required as part of State and federal funding programs. As a result the Housing Element does not establish separate targets and approaches, but primarily utilizes the housing needs targets and reflects the strategies identified in the Five-Year Consolidated Plan and supports its efforts to meet the need of very low, low and moderate income households, the homeless and non-homeless special needs populations.

Every five years Palm Beach County is required to submit a Five-Year Consolidated Plan to the US Department of Housing and Urban Development which describes how the County will pursue the overall goals of the community planning and development programs, as well as housing programs. The Consolidated Plan addresses both the unincorporated County and the jurisdiction of the 29 municipalities who possess inter-local agreements with the County for affordable housing and community development purposes. The Palm Beach County Five-Year Consolidated Plan, October 2015–September 2020 (July 2015) identifies affordable housing issues and certain housing program's expected resources and goals for the period of 2015-2020. In addition, the Consolidated Plan also includes data on substandard housing, special needs populations, homeless populations, and those at risk of homelessness.

Every three years, Palm Beach County is required to submit a Local Housing Assistance Plan (LHAP) to the Florid Housing Finance Corporation as a condition of receiving an annual funding allocation from the State Housing Initiatives Partnership (SHIP) Program. The LHAP establishes the program strategies through which the County will use SHIP funding to serve local housing needs during the three-year period for households with incomes up to 140% of Area median Income.

The affordable housing needs through the 2020 planning period, as well as data pertaining to rural and farmworker housing and substandard housing, are based on data provided by the Shimberg Center for Housing Studies (University of Florida).

Terms used in the Housing Element are defined in the definitions section of the Introduction and Administration Element of the Comprehensive Plan.

B. Assessment and Conclusions

Housing Affordability

Housing is typically considered to be affordable if monthly rents including utilities, or monthly mortgage payments including property taxes, insurance and utilities (“gross housing costs”), do not exceed thirty percent (30%) of the median adjusted gross annual income for very low, low and moderate income households. Households are considered “cost-burdened” when a household’s gross housing cost exceeds thirty percent (30%) of gross household income, resulting in less available income for other necessities such as food, clothing, and transportation. Severe cost burden is the situation wherein a household’s gross housing cost exceeds fifty percent (50%) of gross household income. In accordance with typical lending standards, debt-to-income ratios such as front end and back end ratios are also considered when determining affordability. Typical front end ratios allow up to 35% of household income to be committed for mortgage and related expenses, and typical back end ratios allow up to 42% of household income to be committed to the mortgage and all other credit related debt.

The focus of County efforts is on affordable housing options for households in the very low to low income range (0-80% AMI), and on moderate and middle income range workforce housing, which the County’s program defines as households from 60% up to 140% of AMI.

Housing Needs for Very Low and Low Income Households

Based on data provided by the Shimberg Center for Housing Studies (University of Florida), approximately 104,245 renter and owner households with very low (0-50% of AMI) and low incomes (50%-80% of AMI) countywide were cost-burdened or severely cost burdened in 2015. Further, the Schimberg Center projects a countywide increase from 2015 through 2025 of 14,278 severely cost burdened households, including 8,288 owners and 5,990 renters.

Workforce Housing Needs

Data provided by the Shimberg Center offer an assessment of housing cost burden estimates for Workforce Housing households with low (60%-80% of AMI), moderate (80%-120% of AMI) and middle incomes (120%-140% of AMI) located in the unincorporated portion of Palm Beach County in 2010, 2015 and 2020.

The 2010 analysis identified that 38,894 households in the unincorporated area experience a housing cost burden of exceeding 30%, or a severe housing cost burden exceeding 50% of their household income. For the period from 2010-2020, the Shimberg Center data identified that an additional 3,897 households located in the unincorporated area will experience a housing cost burden or a severe housing cost burden. From 2010 through 2020 nearly 16% of the households (42,563) within the unincorporated County with low, moderate and middle incomes (60%-140% of AMI) will experience a housing cost burden of exceeding 30%, or a severe housing cost burden exceeding 50% of their household income.

Housing Needs for Special Needs Populations

Special needs populations can include the homeless, the elderly or frail elderly, the physically disabled, persons with mental illness, persons with developmental disabilities, alcohol or other drug addiction, persons with HIV/AIDS and their families, abused/neglected children, victims of domestic violence, veterans, youth aging out of foster care, and ex-offenders. The Community Services Department is the County's lead entity regarding special needs issues and assistance.

The County's 2017 Point in Time Count indicated 1,607 persons were homeless on the day of the county, of which 780 of those individuals were sheltered and 827 unsheltered.

The Shimberg Center estimates that as of 2015 countywide there are 31,866 cost burdened households with a disabled member and income less than 50% AMI.

Need Resulting from Overcrowded and Substandard Units

In addition to addressing the identified demand, efforts are also directed toward maintaining existing housing units through policies to eliminate substandard housing and provide for relocation.

The Shimberg Center's 2015 estimates indicated that countywide:

- 15,344 (2.49%) of the units have more than one person per room (an indication of overcrowding)
- 10,108 (1.9%) of the occupied units in the unincorporated area use no home heating fuel source
- 8,576 (1.3%) of the units lack complete kitchen facilities
- 5,335 (0.8%) of the units lack complete plumbing facilities

Addressing Housing Needs

The Five-Year Consolidated Plan is considered the best available data source to determine the housing needs and targets for Palm Beach County when considering the housing funding that is reasonably expected to be available to the County for the FY 2015-2016 through 2019-2020 time period. The Plan addresses households that will experience cost burden issues in its jurisdiction, both in the unincorporated County and within the 29 municipalities who possess inter-local agreements with the County for affordable housing and community development purposes.

The Department of Housing and Economic Sustainability (HES) administers the Five Year Consolidated Plan and the federal funds covered thereunder, including the Community Development Block Grant (CDBG), Home Investment Partnership (HOME), and the Neighborhood Stabilization Programs. These various programs are reflected within the Five-Year Consolidated Plan's estimates of available funding and the housing goals for the period from 2015-2020. Additionally, HES administers the County's Local Housing Assistance Plan which establishes housing strategies and funding allocations for the State Housing Initiatives partnership (SHIP) program.

The County's Planning, Zoning, and Building Department (PZB) administers the Affordable Housing Program (AHP) assisting primarily in serving some of these cost burdened very low and low income (60% of AMI and below) households. With the AHP, builders of residential developments receive certain development incentives in order to provide the housing units attainable to qualified income eligible households for at least 15 years (for-sale) and 30 years (rental).

In addition, Palm Beach County through PZB's Workforce Housing Program (WHP) assists in serving some of the households that will experience cost burden issues. The WHP is designed to serve low and moderate income households (60-120% of AMI) and also middle income (120-140% of AMI) by requiring a component of housing units in new development in certain unincorporated areas of the county be provided for these income groups at rents and sale prices that are to remain affordable for periods of at least 15 years (for-sale) and 30 years (rental).

In September 2008, the Board of County Commissioners adopted the Ten Year Plan to End Homelessness in Palm Beach County. The Plan outlines a strategy to design, fund and develop permanent housing solutions for the County's homeless population. The objective of the Ten Year Plan to End Homelessness in Palm Beach County is to create a local homeless response system that will completely eliminate homelessness in ten years. A key step toward that objective was the 2012 opening of the County's first Homeless Resource Center, located in the City of West Palm Beach, which is designed to provide initial services and short-term housing to homeless persons residing in the County.

There are various agencies and facilities serving special needs populations in Palm Beach County. Some of the providers deal only with a single, discrete population; others may serve multiple populations. Some of the agencies only address only housing and shelter needs, while others may provide a range of services, including advocacy, case management, and direct services.

Geographic dispersal must also be addressed in order to avoid the concentration of affordable housing in specific areas of the County, and at the same time consideration must also be given to the availability of public services and employment opportunities when locating affordable housing.

II. GOAL, OBJECTIVES AND POLICIES

It is the **GOAL** of Palm Beach County to facilitate the provision of an adequate supply of safe, sanitary and affordable housing to meet the needs of the County's residents, with special attention to the needs of very low, and low income households in addition to special needs populations.

OBJECTIVE 1.1 Provision of Affordable Housing

The County through the Department of Housing and Economic Sustainability, shall provide ongoing implementation and monitoring of programs, and shall pursue and secure additional funding sources. The Commission on Affordable Housing shall have responsibilities as defined in the Palm Beach County Affordable Housing Ordinance (Palm Beach County Code, Section 12-242 – Section 14-248).

Policy 1.1-a: For the period 2015-2020, Palm Beach County shall utilize the strategies identified in the Five-Year Consolidated Plan for Palm Beach County in its efforts to meet the need of very low and low income households.

Policy 1.1-b: The Commission on Affordable Housing shall have responsibility for reviewing progress and making recommendations on affordable housing policies in the County through an annual report and special reports in accordance with the Palm Beach County Affordable Housing Ordinance (Palm Beach County Code, Section 12-242 – Section 14-248).

The Department of Housing and Economic Sustainability shall continue to evaluate the County's progress in encouraging affordable housing for very low, low and moderate income persons.

Policy 1.1-c: The Department of Housing and Economic Sustainability shall continue to provide for the administration of local activities related to the State Housing Initiative Partnership (SHIP) program, and the Robert Pinchuck Memorial Affordable Housing Trust Fund (the "Affordable Housing Trust Fund").

Policy 1.1-d: The Department of Housing and Economic Sustainability shall continue to provide for the administration of formula grants for the Community Development Block Grant Program (CDBG), the HOME Investment Partnership, and the Neighborhood Stabilization Program. The Community Services Department shall provide administration of the Emergency Solutions Grant Program (ESG).

Policy 1.1-e: The Department of Housing and Economic Sustainability shall pursue additional funding and utilize all available federal state and local programs and resources to meet the housing needs of very low, low, and moderate income households, including rural and farmworker households.

Policy 1.1-f: The County shall continue to expand the housing stock through the utilization of the Affordable Housing Trust Fund and other efforts to identify and secure additional funding sources; including:

The Affordable Housing Trust Fund will continue to provide funding to programs as approved by the Board of County Commissioners and pursuant to the Local Housing Assistance Plan and F.S. 420.975.

Policy 1.1-g: The Department of Housing and Economic Sustainability in coordination with the Planning, Zoning, and Building Department shall provide the ongoing monitoring and tracking of affordable housing units being funded and built through County programs, and the evaluation of progress being made in meeting the current and projected affordable housing need.

Policy 1.1-h: The County shall continue the review and streamlining as needed, of those ordinances, codes and regulations related to the permitting process, in order to continue the reduction of excessive requirements and amend or add other provisions that increase private sector participation in adding to the supply of affordable housing. The County shall designate the Planning, Zoning, and Building Department as the lead agency, with assistance from the Department of Housing and Economic Sustainability, Engineering and other appropriate Departments.

Policy 1.1-i: The County shall inventory all surplus County-owned land and foreclosed properties that could be used to promote affordable housing provision and production. The Property and Real Estate Management Division shall coordinate identification of such lands with municipalities, the Palm Beach County School Board, the South Florida Water Management District and other public land owners in Palm Beach County, to produce a list of viable sites for affordable housing developments and special needs housing, including rural and farmworker households. The County's Property and Real Estate Management Division, in coordination with the Department of Housing and Economic Sustainability, shall be responsible for the review of the inventory. The County may also provide direct land grants to private not-for-profit agencies and may make land available for exchange with developers and property owners, securing land for public purposes while offering exchange sites for affordable housing.

Policy 1.1-j: Planning, Zoning and Building shall establish a Task Force to establish principals and criteria to guide the location and development of single room occupancy units, including accessory apartments, as alternatives for affordable housing in the unincorporated County.

Policy 1.1-k: The County shall increase its effectiveness addressing Housing needs by:

1. designating the Planning, Zoning and Building Department as the lead department for all data efforts for the Housing Element;
2. coordinating housing policy objectives with all County agencies, such as the Department of Planning, Zoning and Building; the Department of Housing and Economic Sustainability, the Housing Finance Authority, and other public and private entities.
3. The County shall also assist and encourage public/private partnerships with private community-based non-profit agencies and other private sector agencies that further County housing policy objectives, in order to improve cooperation among participants involved in housing production and to enhance the feasibility of producing and delivering affordable housing.

Policy 1.1-l: The Department of Housing and Economic Sustainability with the assistance of the Commission on Affordable Housing shall continue to coordinate with the municipalities in the provision of affordable housing within their city limits, to assist

the County with the provision of affordable housing. Among the strategies to be explored are:

1. Tax abatements;
2. Provision of infrastructure for affordable projects by practices such as tax increment financing;
3. Conveyance of public property;
4. Payment into the County's Affordable Housing Trust Fund; and
5. Incentives and interlocal agreements with municipalities that will assist the County with the provision of affordable housing affordable housing units within the Revitalization and Redevelopment Overlay and CDBG Target Areas.

The feasibility of these strategies shall be evaluated and recommendations will be made by the Department of Economic Sustainability in coordination with the Commission on Affordable Housing.

Policy 1.1-m: The Department of Housing and Economic Sustainability with the assistance of Planning, Zoning and Building shall provide for the coordination, outreach and information dissemination of all aspects of the housing delivery system including availability and location of affordable housing assisted with Federal, State, or County funds.

Policy 1.1-n: The County shall provide education-awareness programs, so that the public can gain a better understanding of the need for affordable housing. These programs should also address residents' aversion to the proximity of affordable housing and the general negative public perception regarding affordable housing.

Policy 1.1-o: The County shall preserve affordability of affordable housing units developed through the Workforce Housing Program and the Affordable Housing Program as follows:

1. The Workforce Housing Program will target households with incomes ranging from 60%-140% of area median income.
2. The Affordable Housing Program will target households at or below 60% of area median income.

The Workforce Housing Program and Affordable Housing Program units shall be made available at a rate affordable to the specified income groups, and only to income-eligible households for a period of time to be set forth in the Unified Land Development Code (ULDC). All Workforce Housing Program and Affordable Housing Program criteria shall be subject to the review and approval of the Board of County Commissioners.

Policy 1.1-p: Planning, Zoning and Building shall continue to ensure the Unified Land Development Code contains minimum standards and specifications for the construction of manufactured structures, mobile homes or buildings in residential zoning districts, and include supporting infrastructure and public facilities. To ensure the availability of adequate sites manufactured structures or buildings shall be permitted in all residential zoning districts, subject to the limitations set forth in the Future Land Use Element, and further restricted by the Palm Beach County Unified Land Development Code.

Policy 1.1-q: Planning, Zoning and Building, and the Engineering Department shall provide for the continuation of the Traffic Performance Standards Methodology for affordable housing pursuant to the Transportation Element.

Policy 1.1-r: Planning, Zoning and Building shall encourage through the development review process, affordable and public housing developments to include day care and adult care facilities, and basic accommodations for the provision of job training, empowerment training and entrepreneurial training programs.

Policy 1.1-s: The County shall develop a program to address the housing needs of the elderly and other special needs groups with very low, low, and moderate incomes.

Policy 1.1-t: *Deleted in Amendment Round 03-1*

Policy 1.1-u: *Deleted in Amendment Round 18-B*

Policy 1.1-v: *Deleted in Amendment Round 18-B*

Policy 1.1-w: The County shall identify sites (County owned properties) that are suitable for the Workforce Housing and/or Affordable Housing Programs.

OBJECTIVE 1.2 Substandard Housing

The County shall provide for the elimination of substandard housing through code enforcement and shall establish principles to guide housing conservation, rehabilitation and demolition.

Policy 1.2-a: The County shall provide for increased code enforcement activities and designate the Code Enforcement Division responsible for the following:

1. Provide annual inspections of the housing stock in the County's most blighted unincorporated neighborhoods where code violations are most prevalent; and
2. Provide for continued special concentrated code enforcement activities such as "target area programs" and the utilization of the "Community Support Team", where warranted.

Policy 1.2-b: *Deleted in Amendment Round 18-B*

Policy 1.2-c: The County shall provide for the input and assistance of private, not-for-profit community-based organizations and other private interests to coordinate activities designed to eliminate or rehabilitate substandard housing stock, and shall encourage public/private partnerships to accomplish this objective. The County shall target these activities within its most blighted districts. The Department of Housing and Economic Sustainability shall participate in these activities.

Policy 1.2-d: The County shall continue to permit mixed-use and other innovative reuses, including single room occupancies (SRO's) of the existing housing stock that result in the removal of substandard housing units.

Policy 1.2-e: The County shall facilitate quality affordable housing, through stabilization of neighborhoods and identification and improvement of existing housing and

neighborhoods, including those of historical significance, through rehabilitation and adaptive reuse strategies, in order to increase affordable housing stock.

Policy 1.2-f: Planning, Zoning and Building, shall continue to locate, identify and evaluate additional historically significant housing properties associated with the archeological, architectural, historical, engineering and cultural development of the unincorporated portion of Palm Beach County through the update of its historic sites survey, and list the sites in the Florida Master Site File (FMSF).

Policy 1.2-g: The Department of Housing and Economic Sustainability shall continue to pursue federal and state funding, including CDBG funds, for the rehabilitation or demolition of substandard housing. Allocation of funds from the Affordable Housing Trust Fund should also be provided.

OBJECTIVE 1.3 Relocation Housing

The County shall provide for relocation housing and minimize the displacement of very low and low-income households.

Policy 1.3-a: The County, within its Community Development Block Grant (CDBG) areas, and to the extent required by regulations of the funding sources being utilized (CDBG and/or HOME), and shall assist in the relocation of displaced persons as funds are available. The County shall pursue all available sources of funding to assist in the relocation of those persons of very low and low income.

Policy 1.3-b: The County shall require that developers, following development approval, facilitate the relocation of very low and low income families displaced by a proposed project, through, at a minimum, the provision of information on available, affordable units in the area, to the displaced very low and low income households and service agencies.

OBJECTIVE 1.4 Provision of Special Needs Housing

The County shall provide for the creation and preservation of housing and programs to adequately address the needs of all households with “special needs”, including the homeless, the elderly or frail elderly, the physically disabled, persons with mental illness, alcohol or drug addiction, persons with HIV/AIDS and their families, abused/neglected children, victims of domestic violence, veterans, youth aging out of foster care, and ex-offenders, and including rural and farmworker populations. The County and shall ensure the provision of foster care, group homes and other special needs facilities in a range of land use categories. The efforts indicated in the following policies shall be directed toward the meeting the needs identified by the Palm Beach County Five-Year Consolidated Plan, 2015-2020, the “Ten Year Plan to End Homelessness in Palm Beach County,” and the farmworker housing deficit needs identified by the Shimberg Center in Policy 1.4-a.

Policy 1.4-a: Palm Beach County shall utilize the strategies identified below in its efforts to meet the need for special needs housing. The Shimberg Center (University of Florida) estimates a total of 31,866 cost-burdened households countywide which have a disabled member and income less than 50% AMI, including 16,232 owners and 15,564

renters. The Shimberg Center also estimates a need for 165 multi-family units countywide to meet farmworker housing needs.

1. The Department of Housing and Economic Sustainability and with recommendations from the Commission on Affordable Housing shall continue to help address the county's special needs housing deficiencies by establishing policies and procedures that will provide continued financial assistance to proposed eligible housing projects that will produce affordable rental and homeownership opportunities for households with special needs. Special Needs housing and services shall remain a priority in the Department of Housing and Economic Sustainability's Five Year Consolidated Plan. Also, the Department of Housing and Economic Sustainability shall market its housing assistance programs in order to facilitate participation by eligible special needs individuals and households.
2. The Department of Housing and Economic Sustainability and the Community Services Department shall provide technical and financial assistance to providers of special needs housing and services. Local funding sources shall continue to include the Community Development Block Grant (CDBG) program, the Home Investment Partnership Program, the Emergency Solutions Grant Program (ESG), and the State Housing Initiative Partnership (SHIP) program, and the Affordable Housing Trust Fund. The above mentioned county agencies shall also continue to directly apply for state and federal special needs housing funds when warranted.
3. The Department of Housing and Economic Sustainability and the Community Services Department shall provide coordination and outreach with agencies involved in the development of housing for all special needs populations, including rural and farmworker populations.
4. The Community Services Department shall continue to serve as the County's lead agency for implementation of the Ten Year Plan to End Homelessness in Palm Beach County adopted by the Board of County Commissioners in September 2008.

Policy 1.4-b: The County, through the Building Division and the Department of Housing and Economic Sustainability, where applicable, shall provide for the compliance of housing projects, including special needs housing projects, with the Americans with Disabilities Act (ADA).

Policy 1.4-c: The County shall provide for foster care, group homes and other special needs facilities to be permitted in residential neighborhoods. Farmworker housing is currently permitted in the Agriculture Reserve (AGR), Agriculture Production (AP) and Special Agriculture (SA) land use categories.

Policy 1.4-d: The location of special needs and farmworker housing shall be guided by the following principals and criteria. Special needs housing shall be located in proximity to the appropriate support infrastructure, services and facilities including Palm Tran and existing transportation disadvantaged programs. Special needs housing shall be permitted in all appropriate residential, commercial and institutional land use categories, through the use of group homes, Congregate Living Facilities (CLF's), accessory apartments and rental housing associated with places of worship. Farmworker housing

shall be located in proximity to areas of agriculture employment and shall require a minimum of twenty-five (25) acres. The Planning, Zoning, and Building Department and the Community Services Department, shall be responsible for establishing any additional principles and criteria as may be necessary.

Policy 1.4-e: The Department of Housing and Economic Sustainability, in coordination with the Planning, Zoning, and Building Department shall to the extent feasible provide the ongoing tracking of the number of units being funded and built through both County and private sector efforts, and the evaluation of progress being made in meeting the housing needs of special needs populations.

Policy 1.4-f: *Deleted in Amendment Round 18-B*

Policy 1.4-g: The County shall participate with non-profit agencies and other support groups to plan and coordinate arrangements for low-cost rental housing and non-housing support services such as information services, technical assistance and financial assistance for farmworkers and their families.

Policy 1.4-h: The County shall coordinate with, and use the resources of the State of Florida, United States Department of Agriculture Rural Development, and the Department of Housing and Urban Development to administer programs to improve housing opportunities for farmworkers.

Policy 1.4-i: The County shall continue to provide information and referral services to migrant workers for legal assistance to obtain adequate housing.

Policy 1.4-j: *Deleted in Amendment Round 18-B*

OBJECTIVE 1.5 Concentrations of Affordable Housing

The County shall make adequate provisions to enable the public, private and not-for-profit sectors to provide affordable housing, and shall support the distribution of housing for very low, low, moderate and middle income households, to avoid undue concentrations of very low and low income housing throughout the County through the Workforce Housing Program and the Affordable Housing Program.

Policy 1.5-a: The County shall provide for a sufficient amount of land for residential use to meet future housing needs, including very low, low, and moderate income, and to accommodate the projected population. The Planning Division shall be responsible for analysis and recommendations to the BCC for this task.

Policy 1.5-b: *Deleted in Amendment Round 04-1.*

Policy 1.5-c: *Deleted in Amendment Round 04-1.*

Policy 1.5-d: *Deleted in Amendment Round 18-B*

Policy 1.5-e: The County may provide incentives to increase the presence of moderate, or higher income households within areas of high concentrations of affordable housing. These incentives may include subsidy programs to reduce the purchase cost of units, and/or to facilitate the rehabilitation of housing units.

Policy 1.5-f: The Planning, Zoning and Building Department shall revise the Unified Land Development Code (ULDC) to eliminate processing fees for residential Zoning petitions, which are for the purpose of providing affordable housing units in areas of low concentrations of very low, and low income households.

Policy 1.5-g: The County's mandatory Workforce Housing Program requires new residential developments to provide a percentage of housing units for households with incomes from 60% to 140% of area median income as a means to meet affordable housing needs and to disperse that needed housing in the unincorporated County.

For land use LR1, the PUD density does not apply. The Agricultural Reserve Tier is exempt from this program.

The Workforce Housing development evaluation shall address specific criteria, including but not limited to:

1. Eligible developments must have a minimum number of 10 permitted units;
2. Workforce units can be both rental units and for sale units;
3. Workforce units built on site will be designed to be compatible with the overall development;
4. Workforce units built on-site can be clustered or integrated within the development;
5. Rental unit and resale unit affordability controls shall be guaranteed for a period to be set forth in the Unified Land Development Code (ULDC);
6. Workforce units may be allowed based on location, and land use compatibility, in any of the following land use categories: Commercial (mixed use); Industrial (mixed use); Economic Development Center; Institutional and Public Facilities, Traditional Town Development (TTD); and Multiple Land Use (MLU).

Incentives shall include:

1. For LR-1, LR-2, and LR-3, a density bonus of up to 30%.
2. Traffic performance standards mitigation,
3. An expedited permit, zoning, and land use site plan approval process including engineering platting procedures.
4. A method to effectively offset impact fees and other development fees for the Workforce units only may be included.

Density Bonus Greater than 30%

For land uses MR-5, HR-8, HR-12, and HR-18 a density bonus greater than 30%, up to 100%, shall be permitted when all program criteria are met and the increased density creates no compatibility issues with adjacent properties.

When a density bonus of greater than 30% is sought, the Workforce Housing development evaluation shall address the specific criteria (#1 - 6.) listed above and in addition the following criteria:

1. Eligible developments must be located inside the Urban/Suburban Tier;
2. Developments are required to be located near mass transportation and/or employment centers in order to receive a 100% density increase;

3. Existing very-low and low income concentrations in order to discourage undue concentrations; and
4. Review of County Housing Study Sector.

The specific program criteria including developer incentives will be set forth within the Unified Land Development Code (ULDC).

Policy 1.5-h: The Planning Division shall prepare an annual report that describes all Workforce Housing Program and the Affordable Housing Program activities during the previous year. The annual report shall be provided to the Board of County Commissioners.

Policy 1.5-i: The County shall establish a Affordable Housing Program to allow new residential developments within the Urban/Suburban Tier only, the opportunity to provide housing units for households with incomes at 60% of area median income and below, as a means to meet affordable housing needs and to disperse that needed housing in unincorporated Palm Beach County. Incentives shall be offered that will generally mirror the benefits of the Workforce Housing program criteria. Density bonus units will be allowed only when consistent with Housing Element Objective 1.5 to discourage the undue concentration of very low and low income housing in the County.

Consideration will be given to specific proposals that target households with incomes that crossover both the Workforce Housing and the Affordable Housing Programs. The Agricultural Reserve Tier is exempt from this Program.

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Attachment 3
Palm Beach County Workforce Housing Program
Approved Projects through August 2018

Attachment 3: Breakdown of Residential Projects with Workforce Housing Program Units - Palm Beach County Planning, Zoning & Building- August 2018

Number	Name	WHP Units	Status	Single Family Approved	Single Family Built	Multi Family Approved	Multi Family Built	Total Approved	Total Built	Total Remaining
1	Abbington	3/3*	Builtout	55	55	0	0	55	55	0
2	Andalucia	8/8*	Developing	204	54	42	26	246	80	166
3	Aqualina (PGA Waterfront)	4/4**	Approved DO - Unbuilt	0	0	88	0	88	0	88
4	Arden (Highland Dunes)	60	Developing	1,880	40	120	0	2,000	40	1,960
5	Atlantic Commons PUD	22	Builtout	458	458	395	395	853	853	0
6	Auburn Park (Veritas)	1/1*	Builtout	23	23	0	0	23	23	0
7	Avalon Trails at Villages of Oriole	13/13**	Approved DO - Unbuilt	104	0	417	0	521	0	521
8	Aviara Green	18	Approved DO - Unbuilt	0	0	60	0	60	0	60
9	Aviara Lake Worth (Vivendi Homes)	6	Developing	0	0	36	4	36	4	32
10	Berkeley Boca (Collier PUD)	4/4*	Developing	57	7	0	0	57	7	50
11	Blu Atlantic Apartments	62	Builtout	0	0	171	171	171	171	0
12	Boca Del Mar (Golf Course)	6/6**	Approved DO - Unbuilt	115	0	137	0	252	0	252
13	Boca Dunes	5/5*	Developing	0	0	211	36	211	36	175
14	Boca Lago	3/3*	Approved DO - Unbuilt	0	0	130	0	130	0	130
15	Boca Reserve	5/5*	Builtout	44	44	0	0	44	44	0
16	Briella PUD	23	Builtout	0	0	230	230	230	230	0
17	Cambria Parc (Flavor Pict Townhomes)	34	Developing	0	0	256	139	256	139	117
18	Casa del Sol	2	Developing	0	0	34	5	34	5	29
19	Colonial Lakes	12	Builtout	0	0	132	132	132	120	12
20	Colony Reserve (Colony at LW)	11	Builtout	1	1	190	190	191	191	0
21	Cypress Royal	10	Developing	74	20	0	0	74	20	54
22	Elysium (Osprey Oaks)	37	Builtout	171	171	37	37	208	208	0
23	Fields at Gulfstream Polo	36	Developing	457	37	516	110	973	147	826
24	Green Cay Village	320	Developing	286	0	420	420	706	420	286
25	Green Lake Apartments	2	Builtout	0	0	8	8	8	8	0
26	Gulfstream Preserve PUD	37	Developing	211	211	37	0	248	211	37
27	Gulfstream Villas	3	Builtout	0	0	6	6	6	6	0
28	Hamlet Estates at Lake Worth	9	Approved DO - Unbuilt	103	0	0	0	103	0	103
29	Hampton Cove (Juno Landings)	2/2*	Builtout	0	0	32	32	32	32	0
30	Herbetz Apartments	11	Developing	0	0	11	6	11	6	5
31	In the Pines North	30	Builtout	0	0	30	30	30	30	0
32	Kindred Cove (Hendrick Property)	1/1**	Builtout	33	33	0	0	33	33	0
33	Lake Point Condominiums	1	Approved DO - Unbuilt	0	0	34	0	34	0	34
34	Mango Cove	2	Approved DO - Unbuilt	0	0	36	0	36	0	36
35	Oasis (Cameron Park PUD)	5	Builtout	0	0	324	324	324	324	0
36	Palazzo at Casa Brea (Toscana Isles)	142	Developing	208	0	206	206	414	206	208
37	Pioneer Royale	1/1**	Approved DO - Unbuilt	34	0	0	0	34	0	34
38	Pointe 100 (Boca Pointe)	3/3*	Builtout	100	100	0	0	100	100	0
39	Pointe of Woods PUD (Cheney Ranch)	3/3**	Approved DO - Unbuilt	109	0	0	0	109	0	109
40	Polo Trace	26/26**	Developing (389 pre-existing)	713	389	0	0	713	389	324
41	Purdy Royale PUD (Angelocci)	1/1**	Approved DO - Unbuilt	52	0	0	0	52	0	52
42	Ranchette Lake (Auchmuty)	1/1**	Approved DO - Unbuilt	44	0	0	0	44	0	44
43	Ranchette Royale	2/2*	Approved DO - Unbuilt	41	0	0	0	41	0	41
44	Reflection Bay	30	Approved DO - Unbuilt	0	0	689	0	689	0	689
45	Serafica	11	Approved DO - Unbuilt	0	0	11	0	11	0	11
46	Silverleaf (Lantana Farms)	2/2**	Developing	141	15	0	0	141	15	126
47	Silverwood Estates (Marquez-Jones)	32	Developing	222	150	0	0	222	150	72
48	Sunset Drive Duplex	1	Builtout	0	0	6	6	6	6	0

49	The Atlantic at Delray (Stonybrook on the Lake)	63	Builtout	0	0	346	346	346	346	0
50	The Groves (Sabal Grove)	7	Builtout	0	0	67	67	67	67	0
51	Town Commons PUD	18	Approved DO - Unbuilt	0	0	132	0	132	0	132
52	Uptown Boca Raton (Johns Glades West)	114	Approved DO - Unbuilt	0	0	456	0	456	0	456
53	Vista Village Park (Mirzadeh Apartments)	14	Builtout	0	0	34	34	34	34	0
54	Wellington Club (Woodwind PUD)	156	Builtout	0	0	202	202	202	202	0
55	Windsor Place MXP	18	Approved DO - Unbuilt	0	0	320	0	320	0	320
Grand Total		1456		5,940	1,808	6,609	3,162	12,549	4,958	7,591

Affordable Housing Incentive Strategies:

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



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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.

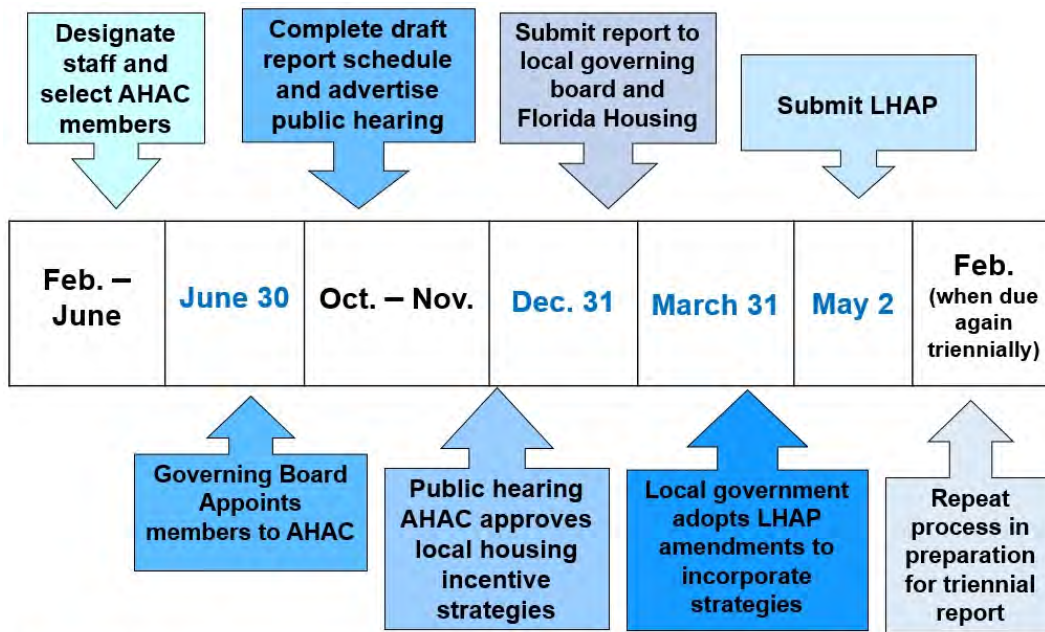
VI. The AHAC Report Timeline

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 purposes, 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 deferral: 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.

Achua 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				19	SANTA ROSA	6/30/2019
	WASHINGTON	2017				20	SEMINOLE	6/30/2019
	<u>Cities</u>	<u>LHAP</u>		<u>Cities</u>	<u>LHAP</u>	21	SUMTER	6/30/2019
20	BRADENTON	2017	17	BOYNTON BEACH	6/30/2018	22	VOLUSIA	6/30/2019
21	DAYTONA BEACH	2017	18	CLEARWATER	6/30/2018	23	WALTON	6/30/2019
22	GAINESVILLE	2017	19	FORT PIERCE	6/30/2018			
23	LAKELAND	2017	20	ORLANDO	6/30/2018			
24	NORTH MIAMI	2017	21	PANAMA CITY	6/30/2018			
25	PALM BAY	2017	22	POMPANO BEACH	6/30/2018			
26	WINTER HAVEN	2017	23	ST. PETERSBURG	6/30/2018	24	BOCA RATON	6/30/2019
			24	WEST PALM BEACH	6/30/2018	25	CAPE CORAL	6/30/2019
						26	COCOA	6/30/2019
	<u>Interlocals</u>	<u>LHAP</u>		<u>Interlocals</u>	<u>LHAP</u>	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
				<u>Total Due 2018</u>	<u>27</u>	30	FORT LAUDERDALE	6/30/2019
	<u>Total Due 2017</u>	<u>30</u>				31	FORT MYERS	6/30/2019
						32	HIACLEAH	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
							<u>Interlocals</u>	<u>LHAP</u>
						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
							<u>Total Due 2019</u>	<u>62</u>

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.